

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

**Enacted or Adopted by the  
SIXTY-THIRD LEGISLATURE  
IN REGULAR SESSION**

**Held at Helena, the Seat of Government  
January 7, 2013, through April 24, 2013**

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

**Susan Byorth Fox  
Executive Director**

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

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



# Table of Contents

## Volume I

Officers and Members of the Montana Senate  
Officers and Members of the Montana House of Representatives  
Title Contents of Bills and Resolutions  
Chapters 1-266

## Volume II

Chapters 267-423  
House Joint Resolutions  
House Resolutions  
Senate Joint Resolutions  
Senate Resolutions  
2012 Ballot Issues  
Tables  
    Code Sections Affected  
    Session Laws Affected  
    Senate Bill to Chapter Number  
    House Bill to Chapter Number  
    Chapter Number to Bill Number  
    Effective Dates By Chapter Number  
    Effective Dates By Date  
    Session Law to Code  
    2012 Ballot Issues to Code  
Index to Appropriations  
General Index

## Volume II

Chapters 267-423 .....	989
House Joint Resolutions .....	1811
House Resolutions .....	1824
Senate Joint Resolutions .....	1852
Senate Resolutions .....	1897
2012 Ballot Issues.....	1963
Tables	
Code Sections Affected.....	2001
Session Laws Affected.....	2037
Senate Bill to Chapter Number.....	2039
House Bill to Chapter Number.....	2040
Chapter Number to Bill Number .....	2041

Effective Dates By Chapter Number .....	2044
Effective Dates By Date .....	2051
Session Law to Code .....	2059
2012 Ballot Issues to Code.....	2074
Index to Appropriations.....	Appendix
General Index .....	Appendix

**CHAPTER NO. 267**

[SB 351]

AN ACT REVISING LAWS RELATED TO CRIMINAL BACKGROUND CHECKS; PROVIDING FOR CRIMINAL BACKGROUND CHECKS OF RESIDENTS IN HOMES WHERE A POTENTIAL EMERGENCY PLACEMENT MAY BE MADE; PROVIDING REQUIREMENTS FOR EMERGENCY PLACEMENT OF A CHILD IN A HOME; PROVIDING REQUIREMENTS FOR CONDUCTING BACKGROUND CHECKS; AND PROVIDING RULEMAKING AUTHORITY.

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

**Section 1. Criminal background checks of adults residing in potential emergency placements authorized.** (1) (a) If a child is removed from the child's parental or custodial home for protective care pursuant to this part and an emergency placement is offered, the department or an authorized tribe may request, in accordance with the procedures set forth in 28 CFR 901.1 through 901.4, that each adult 18 years of age or older who is residing in a home where the potential emergency placement is to be made consent to a preliminary state and federal name-based background check that must be followed within 15 calendar days from the date that the name-based background search was conducted with the submission of fingerprints to the state repository, as defined in 44-5-103, for a fingerprint-based background check conducted in accordance with subsection (2) of this section.

(b) If a name-based background check demonstrates that none of the adults residing in the home where the emergency placement is to be made has been convicted of a disqualifying criminal offense, the department or authorized tribe may place the child in the home pending the outcome of the fingerprint-based background check.

(c) If an adult refuses to consent to the department's or an authorized tribe's request for a name-based and fingerprint-based background check, the department or authorized tribe may not place the child in a home in which the adult resides, or if the child was already placed in the home, the department or authorized tribe shall immediately remove the child from the home.

(2) An adult who consents to a name-based and fingerprint-based background check pursuant to subsection (1) shall submit to the department or an authorized tribe a complete set of fingerprints and written permission authorizing the department or the authorized tribe to submit the fingerprints to the state repository for processing of the state and federal background check. Results of the name-based and fingerprint-based background check must be provided to the quality assurance division of the department of public health and human services or to an authorized tribe.

(3) If the department or an authorized tribe elects to perform an initial name-based background check and a fingerprint-based background check pursuant to this section, the department or the authorized tribe may not make an emergency placement or continue an emergency placement in a home in which an adult resident has been convicted of a disqualifying criminal offense.

(4) The state repository and the federal bureau of investigation may charge a reasonable fee for processing a fingerprint-based criminal background check.

(5) If an emergency placement is denied as a result of a name-based background check of a resident and the resident contests the denial, the resident may within 15 calendar days of the denial submit to the department or

authorized tribe a complete set of fingerprints with written permission allowing the department or authorized tribe to submit the fingerprints to the state repository for processing of the state and federal background check.

(6) The department shall by rule designate those criminal offenses that constitute a disqualifying criminal offense under this section, which may include but are not limited to felony convictions for violent crimes, crimes involving children, family members, or the elderly or disabled, and crimes involving drugs in which the conviction occurred within a certain period of time.

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

(a) "Authorized tribe" means the tribal child services unit and its approved designees responsible for overseeing foster care licensing for an Indian tribe located within the borders of Montana that has in place a valid tribal fingerprint program user agreement with the Montana department of justice.

(b) "Emergency placement" means an instance in which the department or an authorized tribe provides protective services and places a child in the home of private individuals, including but not limited to family, neighbors, or friends of the child.

**Section 2. Notification to tribal governments.** The secretary of state shall send a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell Chippewa tribe.

**Section 3. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 41, chapter 3, part 3, and the provisions of Title 41, chapter 3, part 3, apply to [section 1].

Approved April 22, 2013

## CHAPTER NO. 268

[SB 361]

AN ACT REVISING THE NAMES OF THE "CORPORATION LICENSE TAX" AND THE "CORPORATION INCOME TAX"; CHANGING THE NAME OF THE "CORPORATION LICENSE TAX" TO THE "CORPORATE INCOME TAX"; CHANGING THE NAME OF THE "CORPORATION INCOME TAX" TO THE "ALTERNATIVE CORPORATE INCOME TAX"; AMENDING SECTIONS 5-4-104, 15-1-121, 15-1-205, 15-6-138, 15-30-2110, 15-30-2328, 15-30-3301, 15-30-3312, 15-30-3313, 15-31-101, 15-31-102, 15-31-111, 15-31-112, 15-31-113, 15-31-114, 15-31-115, 15-31-117, 15-31-125, 15-31-143, 15-31-161, 15-31-401, 15-31-402, 15-31-404, 15-31-406, 15-31-511, 15-31-522, 15-31-523, 15-31-531, 15-31-543, 15-31-551, 15-32-107, 15-50-207, 15-68-815, 20-9-630, 33-17-407, AND 33-27-103, MCA; AND PROVIDING AN APPLICABILITY DATE.

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

**Section 1.** Section 5-4-104, MCA, is amended to read:

**"5-4-104. Tax expenditure criteria — legislation.** (1) The legislature recognizes the value of relevant information when making determinations regarding tax policy and tax expenditures. The legislature also recognizes the need to reevaluate tax expenditures after enactment. In consideration of these policy goals, the legislature encourages a policy of providing an explicit purpose of a tax expenditure and termination dates of no more than 6 years in any legislation creating, expanding, or continuing a tax expenditure.

(2) As used in this section, the term “tax expenditures” means those revenue losses attributable to provisions of Montana tax laws that allow a special exclusion, exemption, or deduction from gross income or that provide a special credit, a preferential rate of tax, or a deferral of tax liability including:

- (a) personal income and ~~corporation license~~ *corporate income* tax exemptions;
- (b) property tax exemptions for which application to the department is necessary;
- (c) deferral of income;
- (d) credits allowed against Montana personal income tax or Montana ~~corporation license~~ *corporate income* tax;
- (e) deductions from income; and
- (f) any other identifiable preferential treatment of income or property.”

**Section 2.** 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 Title 77, chapter 1, part 5.

(3) (a) Except as provided in subsection (3)(b), the total amount received by each local government in fiscal year 2010 as an entitlement share payment under this section is the base component for the fiscal year 2011 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.

(b) The total amount received by each local government in fiscal year 2011 as an entitlement share payment under this section is the base component for fiscal year 2012 and 2013 distributions, 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) With the exception of fiscal years 2012 and 2013, 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, with the exception of fiscal years 2012 and 2013.

(b) By October 1 of each year, the department shall calculate the growth rate of the entitlement share pool for the current 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 subsection (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 ~~corporation~~ *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 subsection (4)(b)(iii), 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. The entitlement share growth rate is applied to the most recently completed fiscal year entitlement payment to determine the subsequent fiscal year payment.

(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. Except for the distribution made under 15-1-123(2)(b), the distributions must be made on a quarterly basis.

(b) (i) The growth amount is the difference between the entitlement share pool in the current fiscal year and the entitlement share pool in the previous fiscal year. 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) 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).

(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) Except for the reimbursement made under 15-1-123(4)(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:

Deer Lodge	TIF District 1	\$2,833
Deer Lodge	TIF District 2	2,813
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	250,279

Missoula	Missoula - 4-1C	30,009
Silver Bow	Butte - uptown	255,421

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

**Section 3.** Section 15-1-205, MCA, is amended to read:

**"15-1-205. Biennial report — contents.** (1) The department shall transmit to the governor 20 days before the meeting of the legislature and make available to the legislature and the public a report of the department showing all the taxable property of the state, counties, and cities and its value. The department shall follow the provisions of 5-11-210 in preparing the report for the legislature.

(2) The report must also include the statewide average effective tax rate of taxable property in each class of property. The department may determine whether an appropriate effective tax rate may be derived for net proceeds, gross proceeds, agricultural land, and forest land.

(3) The report or supplements to the report must also include:

(a) the gross dollar amount of revenue loss attributable to:

(i) personal income and ~~corporation license~~ *corporate income* tax exemptions;

(ii) property tax exemptions for which application to the department is necessary;

(iii) deferral of income;

(iv) credits allowed against Montana personal income tax or Montana ~~corporation license~~ *corporate income* tax, reported separately;

(v) deductions from income; and

(vi) any other identifiable preferential treatment of income or property;

(b) any change in tax revenue of the state or any unit of local government attributable to a change in federal tax law; ~~and~~

(c) any change in the revenue of any unit of local government attributable to a change in state tax law;

(d) the year of enactment and provision of the Montana Code Annotated granting the tax benefits in subsection (3)(a); and

(e) the number of taxpayers benefiting from each of the tax provisions listed in subsection (3)(a).

(4) A distributional analysis of the data described in subsection (3) must be related to the income level and age of the taxpayer whenever the information is available.

(5) (a) When reporting the data described in subsection (3)(a), the department shall identify any known purpose of the preferential treatment.

(b) Based upon the purpose of the preferential treatment, the department shall outline the available data necessary to determine the effectiveness of the preferential treatment.

(6) In reporting the data described in subsection (3), the department shall report any comparable data, if available, from Wyoming, Idaho, North Dakota, and South Dakota and from any other state the department may choose.

(7) The department shall identify in a separate section of the report any changes that have been made or that are contemplated in property appraisal or assessment.

(8) The department may include a report, prepared by the department of transportation, showing the selling price of gasoline at the wholesale level in prime market centers of Montana and in surrounding states during the biennium, with indexes tabulated at sufficient intervals to show the comparative state price structures.

(9) The department shall provide an internet version of the report free of charge to the public and shall charge a fee for paper copies that is commensurate with the cost of printing the report.”

**Section 4.** Section 15-6-138, MCA, is amended to read:

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

(1) Class eight property includes:

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

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

(c) for oil and gas production, all:

(i) machinery;

(ii) fixtures;

(iii) equipment, including flow lines and gathering lines, pumping units, oil field storage tanks, water storage tanks, water disposal injection pumps, gas compressor and dehydrator units, communication towers, gas metering shacks, treaters, gas separators, water flood units, and gas boosters, together with equipment that is skidable, portable, or movable;

(iv) tools that are not exempt under 15-6-219; and

(v) supplies except those included in class five;

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

(e) all goods and equipment that are intended for rent or lease, except goods and equipment that are specifically included and taxed in another class or that are rented under a purchase incentive rental program as defined in 15-6-202(4);

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

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

- (h) x-ray and medical and dental equipment;
  - (i) citizens' band radios and mobile telephones;
  - (j) radio and television broadcasting and transmitting equipment;
  - (k) cable television systems;
  - (l) coal and ore haulers;
  - (m) theater projectors and sound equipment; and
  - (n) all other property that is not included in any other class in this part, except that property that is subject to a fee in lieu of a property tax.
- (2) As used in this section, the following definitions apply:
- (a) "Coal and ore haulers" means nonhighway vehicles that exceed 18,000 pounds an axle and that are primarily designed and used to transport coal, ore, or other earthen material in a mining or quarrying environment.
  - (b) "Commercial establishment" includes any hotel, motel, office, petroleum marketing station, or service, wholesale, retail, or food-handling business.
  - (c) "Flow lines and gathering lines" means pipelines used to transport all or part of the oil or gas production from an oil or gas well to an interconnection with a common carrier pipeline as defined in 69-13-101, a pipeline carrier as defined in 49 U.S.C. 15102(2), or a rate-regulated natural gas transmission or oil transmission pipeline regulated by the public service commission or the federal energy regulatory commission.
- (3) Except as provided in 15-24-1402, 15-24-2102, and subsection (4) of this section class eight property is taxed at:
- (a) as determined pursuant to subsection (4):
    - (i) for the first \$2 million of taxable market value, 2%; or
    - (ii) for the first \$3 million of taxable market value, 1.5%; and
  - (b) for all taxable market value in excess of the applicable amount of taxable market value in subsection (3)(a), 3%.
- (4) (a) The adjusted taxable market value and rate in subsection (3)(a)(i) apply for class eight property unless in any year beginning with fiscal year 2013 the revenue collected from individual income tax and ~~corporation~~ *corporate* income tax exceeds the revenue collected from individual income tax and ~~corporation~~ *corporate* income tax in the previous fiscal year by more than 4%. In that case, for tax years beginning after the next December 31, the taxable market value and rate in subsection (3)(a)(ii) apply.
- (b) For the purpose of making the determination required in subsection (4)(a), the department of administration shall certify to the secretary of state, by August 1 of each year in which class eight property is not taxed pursuant to subsection (3)(a)(ii), the amount of unaudited individual income tax and ~~corporation~~ *corporate* income tax revenue in the prior fiscal year as recorded when that fiscal year statewide accounting, budgeting, and human resource system records are closed in July.
- (5) The class eight property of a person or business entity that owns an aggregate of \$20,000 or less in market value of class eight property is exempt from taxation.
- (6) The gas gathering facilities of a stand-alone gas gathering company providing gas gathering services to third parties on a contractual basis, owning more than 500 miles of gas gathering lines in Montana, and centrally assessed in tax years prior to 2009 must be treated as a natural gas transmission pipeline subject to central assessment under 15-23-101. For purposes of this subsection,

the gas gathering line ownership of all affiliated companies, as defined in section 1504(a) of the Internal Revenue Code, 26 U.S.C. 1504(a), must be aggregated for purposes of determining the 500-mile threshold.”

**Section 5.** Section 15-30-2110, MCA, is amended to read:

**“15-30-2110. Adjusted gross income.** (1) Subject to subsection (13), adjusted gross income is the taxpayer’s federal adjusted gross income as defined in section 62 of the Internal Revenue Code, 26 U.S.C. 62, and in addition includes the following:

(a) (i) interest received on obligations of another state or territory or county, municipality, district, or other political subdivision of another state, except to the extent that the interest is exempt from taxation by Montana under federal law;

(ii) exempt-interest dividends as defined in section 852(b)(5) of the Internal Revenue Code, 26 U.S.C. 852(b)(5), that are attributable to the interest referred to in subsection (1)(a)(i);

(b) refunds received of federal income tax, to the extent that the deduction of the tax resulted in a reduction of Montana income tax liability;

(c) that portion of a shareholder’s income under subchapter S. of Chapter 1 of the Internal Revenue Code that has been reduced by any federal taxes paid by the subchapter S. corporation on the income;

(d) depreciation or amortization taken on a title plant as defined in 33-25-105;

(e) the recovery during the tax year of an amount deducted in any prior tax year to the extent that the amount recovered reduced the taxpayer’s Montana income tax in the year deducted;

(f) if the state taxable distribution of an estate or trust is greater than the federal taxable distribution of the same estate or trust, the difference between the state taxable distribution and the federal taxable distribution of the same estate or trust for the same tax period; and

(g) except for exempt-interest dividends described in subsection (2)(a)(ii), for tax years commencing after December 31, 2002, the amount of any dividend to the extent that the dividend is not included in federal adjusted gross income.

(2) Notwithstanding the provisions of the Internal Revenue Code, adjusted gross income does not include the following, which are exempt from taxation under this chapter:

(a) (i) all interest income from obligations of the United States government, the state of Montana, or a county, municipality, district, or other political subdivision of the state and any other interest income that is exempt from taxation by Montana under federal law;

(ii) exempt-interest dividends as defined in section 852(b)(5) of the Internal Revenue Code, 26 U.S.C. 852(b)(5), that are attributable to the interest referred to in subsection (2)(a)(i);

(b) interest income earned by a taxpayer who is 65 years of age or older in a tax year up to and including \$800 for a taxpayer filing a separate return and \$1,600 for each joint return;

(c) (i) except as provided in subsection (2)(c)(ii), the first \$3,600 of all pension and annuity income received as defined in 15-30-2101;

(ii) for pension and annuity income described under subsection (2)(c)(i), as follows:



(A) each taxpayer filing singly, head of household, or married filing separately shall reduce the total amount of the exclusion provided in subsection (2)(c)(i) by \$2 for every \$1 of federal adjusted gross income in excess of \$30,000 as shown on the taxpayer's return;

(B) in the case of married taxpayers filing jointly, if both taxpayers are receiving pension or annuity income or if only one taxpayer is receiving pension or annuity income, the exclusion claimed as provided in subsection (2)(c)(i) must be reduced by \$2 for every \$1 of federal adjusted gross income in excess of \$30,000 as shown on their joint return;

(d) all Montana income tax refunds or tax refund credits;

(e) gain required to be recognized by a liquidating corporation under 15-31-113(1)(a)(ii);

(f) all tips or gratuities that are covered by section 3402(k) or service charges that are covered by section 3401 of the Internal Revenue Code of 1954, 26 U.S.C. 3402(k) or 3401, as amended and applicable on January 1, 1983, received by a person for services rendered to patrons of premises licensed to provide food, beverage, or lodging;

(g) all benefits received under the workers' compensation laws;

(h) all health insurance premiums paid by an employer for an employee if attributed as income to the employee under federal law;

(i) all money received because of a settlement agreement or judgment in a lawsuit brought against a manufacturer or distributor of "agent orange" for damages resulting from exposure to "agent orange";

(j) principal and income in a medical care savings account established in accordance with 15-61-201 or withdrawn from an account for eligible medical expenses, as defined in 15-61-102, of the taxpayer or a dependent of the taxpayer or for the long-term care of the taxpayer or a dependent of the taxpayer;

(k) principal and income in a first-time home buyer savings account established in accordance with 15-63-201 or withdrawn from an account for eligible costs, as provided in 15-63-202(7), for the first-time purchase of a single-family residence;

(l) contributions withdrawn from a family education savings account or earnings withdrawn from a family education savings account for qualified higher education expenses, as defined in 15-62-103, of a designated beneficiary;

(m) the recovery during the tax year of any amount deducted in any prior tax year to the extent that the recovered amount did not reduce the taxpayer's Montana income tax in the year deducted;

(n) if the federal taxable distribution of an estate or trust is greater than the state taxable distribution of the same estate or trust, the difference between the federal taxable distribution and the state taxable distribution of the same estate or trust for the same tax period;

(o) deposits, not exceeding the amount set forth in 15-30-3003, deposited in a Montana farm and ranch risk management account, as provided in 15-30-3001 through 15-30-3005, in any tax year for which a deduction is not provided for federal income tax purposes;

(p) income of a dependent child that is included in the taxpayer's federal adjusted gross income pursuant to the Internal Revenue Code. The child is required to file a Montana personal income tax return if the child and taxpayer meet the filing requirements in 15-30-2602.

(q) principal and income deposited in a health care expense trust account, as defined in 2-18-1303, or withdrawn from the account for payment of qualified health care expenses as defined in 2-18-1303;

(r) that part of the refundable credit provided in 33-22-2006 that reduces Montana tax below zero; and

(s) the amount of the gain recognized from the sale or exchange of a mobile home park as provided in 15-31-163.

(3) A shareholder of a DISC that is exempt from the ~~corporation license~~ *corporate income* tax under 15-31-102(1)(l) shall include in the shareholder's adjusted gross income the earnings and profits of the DISC in the same manner as provided by section 995 of the Internal Revenue Code, 26 U.S.C. 995, for all periods for which the DISC election is effective.

(4) A taxpayer who, in determining federal adjusted gross income, has reduced the taxpayer's business deductions by an amount for wages and salaries for which a federal tax credit was elected under sections 38 and 51(a) of the Internal Revenue Code, 26 U.S.C. 38 and 51(a), is allowed to deduct the amount of the wages and salaries paid regardless of the credit taken. The deduction must be made in the year that the wages and salaries were used to compute the credit. In the case of a partnership or small business corporation, the deduction must be made to determine the amount of income or loss of the partnership or small business corporation.

(5) Married taxpayers filing a joint federal return who are required to include part of their social security benefits or part of their tier 1 railroad retirement benefits in federal adjusted gross income may split the federal base used in calculation of federal taxable social security benefits or federal taxable tier 1 railroad retirement benefits when they file separate Montana income tax returns. The federal base must be split equally on the Montana return.

(6) Married taxpayers filing a joint federal return who are allowed a capital loss deduction under section 1211 of the Internal Revenue Code, 26 U.S.C. 1211, and who file separate Montana income tax returns may claim the same amount of the capital loss deduction that is allowed on the federal return. If the allowable capital loss is clearly attributable to one spouse, the loss must be shown on that spouse's return; otherwise, the loss must be split equally on each return.

(7) In the case of passive and rental income losses, married taxpayers filing a joint federal return and who file separate Montana income tax returns are not required to recompute allowable passive losses according to the federal passive activity rules for married taxpayers filing separately under section 469 of the Internal Revenue Code, 26 U.S.C. 469. If the allowable passive loss is clearly attributable to one spouse, the loss must be shown on that spouse's return; otherwise, the loss must be split equally on each return.

(8) Married taxpayers filing a joint federal return in which one or both of the taxpayers are allowed a deduction for an individual retirement contribution under section 219 of the Internal Revenue Code, 26 U.S.C. 219, and who file separate Montana income tax returns may claim the same amount of the deduction that is allowed on the federal return. The deduction must be attributed to the spouse who made the contribution.

(9) (a) Married taxpayers filing a joint federal return who are allowed a deduction for interest paid for a qualified education loan under section 221 of the Internal Revenue Code, 26 U.S.C. 221, and who file separate Montana income tax returns may claim the same amount of the deduction that is allowed on the



federal return. The deduction may be split equally on each return or in proportion to each taxpayer's share of federal adjusted gross income.

(b) Married taxpayers filing a joint federal return who are allowed a deduction for qualified tuition and related expenses under section 222 of the Internal Revenue Code, 26 U.S.C. 222, and who file separate Montana income tax returns may claim the same amount of the deduction that is allowed on the federal return. The deduction may be split equally on each return or in proportion to each taxpayer's share of federal adjusted gross income.

(10) A taxpayer receiving retirement disability benefits who has not attained 65 years of age by the end of the tax year and who has retired as permanently and totally disabled may exclude from adjusted gross income up to \$100 a week received as wages or payments in lieu of wages for a period during which the employee is absent from work due to the disability. If the adjusted gross income before this exclusion exceeds \$15,000, the excess reduces the exclusion by an equal amount. This limitation affects the amount of exclusion, but not the taxpayer's eligibility for the exclusion. If eligible, married individuals shall apply the exclusion separately, but the limitation for income exceeding \$15,000 is determined with respect to the spouses on their combined adjusted gross income. For the purpose of this subsection, "permanently and totally disabled" means unable to engage in any substantial gainful activity by reason of any medically determined physical or mental impairment lasting or expected to last at least 12 months.

(11) An individual who contributes to one or more accounts established under the Montana family education savings program may reduce adjusted gross income by the lesser of \$3,000 or the amount of the contribution. In the case of married taxpayers, each spouse is entitled to a reduction, not in excess of \$3,000, for the spouses' contributions to the accounts. Spouses may jointly elect to treat half of the total contributions made by the spouses as being made by each spouse. The reduction in adjusted gross income under this subsection applies only with respect to contributions to an account of which the account owner, as defined in 15-62-103, is the taxpayer, the taxpayer's spouse, or the taxpayer's child or stepchild if the taxpayer's child or stepchild is a Montana resident. The provisions of subsection (1)(e) do not apply with respect to withdrawals of contributions that reduced adjusted gross income.

(12) (a) A taxpayer may exclude the amount of the loan payment received pursuant to subsection (12)(a)(iv), not to exceed \$5,000, from the taxpayer's adjusted gross income if the taxpayer:

- (i) is a health care professional licensed in Montana as provided in Title 37;
- (ii) is serving a significant portion of a designated geographic area, special population, or facility population in a federally designated health professional shortage area, a medically underserved area or population, or a federal nursing shortage county as determined by the secretary of health and human services or by the governor;
- (iii) has had a student loan incurred as a result of health-related education; and
- (iv) has received a loan payment during the tax year made on the taxpayer's behalf by a loan repayment program described in subsection (12)(b) as an incentive to practice in Montana.

(b) For the purposes of subsection (12)(a), a loan repayment program includes a federal, state, or qualified private program. A qualified private loan repayment program includes a licensed health care facility, as defined in

50-5-101, that makes student loan payments on behalf of the person who is employed by the facility as a licensed health care professional.

(13) Notwithstanding the provisions of subsection (1), adjusted gross income does not include 40% of capital gains on the sale or exchange of capital assets before December 31, 1986, as capital gains are determined under subchapter P. of Chapter 1 of the Internal Revenue Code as it read on December 31, 1986.

(14) By November 1 of each year, the department shall multiply the amount of pension and annuity income contained in subsection (2)(c)(i) and the federal adjusted gross income amounts in subsection (2)(c)(ii) by the inflation factor for that tax year, but using the year 2009 consumer price index, and rounding the results to the nearest \$10. The resulting amounts are effective for that tax year and must be used as the basis for the exemption determined under subsection (2)(c). (Subsection (2)(f) terminates on occurrence of contingency—sec. 3, Ch. 634, L. 1983; subsection (2)(o) terminates on occurrence of contingency—sec. 9, Ch. 262, L. 2001.)”

**Section 6.** Section 15-30-2328, MCA, is amended to read:

**“15-30-2328. (Temporary) Credit for contributions to qualified endowment — recapture of credit — deduction included as income.** (1) A taxpayer is allowed a tax credit against the taxes imposed by 15-30-2103 or 15-31-101 in an amount equal to 40% of the present value of the aggregate amount of the charitable gift portion of a planned gift made by the taxpayer during the year to any qualified endowment. The maximum credit that may be claimed by a taxpayer for contributions made from all sources in a year is \$10,000. The credit allowed under this section may not exceed the taxpayer’s income tax liability.

(2) The credit allowed under this section may not be claimed by an individual taxpayer if the taxpayer has included the full amount of the contribution upon which the amount of the credit was computed as a deduction under 15-30-2131(1) or 15-30-2152(2).

(3) There is no carryback or carryforward of the credit permitted under this section, and the credit must be applied to the tax year in which the contribution is made.

(4) If during any tax year a charitable gift is recovered by the taxpayer, the taxpayer shall:

(a) include as income the amount deducted in any prior year that is attributable to the charitable gift to the extent that the deduction reduced the taxpayer’s individual income tax or ~~corporation license~~ *corporate income* tax; and

(b) increase the amount of tax due under 15-30-2103 or 15-31-101 by the amount of the credit allowed in the tax year in which the credit was taken. (Terminates December 31, 2013—sec. 7, Ch. 4, L. 2005; secs. 2, 3, 4, 7(2), Ch. 208, L. 2007.)”

**Section 7.** Section 15-30-3301, MCA, is amended to read:

**“15-30-3301. Definition of small business corporation.** (1) Except as provided in subsection (2), the term “small business corporation” is synonymous with “S. corporation” as defined in 15-30-2101 and means a corporation for which a valid election under section 1362 of the Internal Revenue Code (26 U.S.C. 1362) is in effect.

(2) A corporation that would otherwise be a small business corporation may continue to be subject to the taxes imposed by Title 15, chapter 31, if all of the following conditions are met:

(a) on December 31, 1991, the corporation was doing business in Montana and had a valid subchapter S. corporation election but had not elected to be taxed as a Montana small business corporation;

(b) after December 31, 1991, the corporation has not filed as a Montana small business corporation; and

(c) the corporation files a ~~corporate license~~ *corporate income* tax return, as required by 15-31-111, reporting all income or loss as determined under Title 15, chapter 31, and attaches a copy of the federal subchapter S. corporate tax return.”

**Section 8.** Section 15-30-3312, MCA, is amended to read:

**“15-30-3312. Composite returns and tax.** (1) A partnership or S. corporation may elect to file a composite return and pay a composite tax on behalf of participants. A participant is a partner, shareholder, member, or other owner who:

(a) is a nonresident individual, a foreign C. corporation, or a pass-through entity whose only Montana source income for the tax year is from the entity and other partnerships or S. corporations electing to file the composite return and pay the composite tax on behalf of that partner, shareholder, member, or other owner; and

(b) consents to be included in the filing.

(2) (a) Each participant’s composite tax liability is the product obtained by:

(i) determining the tax that would be imposed, using the rates specified in 15-30-2103, on the sum obtained by subtracting the allowable standard deduction for a single individual and one exemption allowance from the participant’s share of the entity’s income from all sources as determined for federal income tax purposes; and

(ii) multiplying that amount by the ratio of the entity’s Montana source income to the entity’s income from all sources for federal income tax purposes.

(b) A participant’s share of the entity’s income is the aggregate of the participant’s share of the entity’s income, gain, loss, or deduction or item of income, gain, loss, or deduction.

(3) The composite tax is the sum of each participant’s composite tax liability.

(4) The electing entity:

(a) shall remit the composite tax to the department;

(b) must be responsible for any assessments of additional tax, penalties, and interest, which additional assessments must be based on the total liability reflected in the composite return;

(c) shall represent the participants in any appeals, claims for refund, hearing, or court proceeding in any matters relating to the filing of the composite return;

(d) shall make quarterly estimated tax payments and be subject to the underpayment interest as prescribed by 15-30-2512(5)(a) computed on the composite tax liability included in the filing of a composite return; and

(e) shall retain powers of attorney executed by each participant included in the composite return, authorizing the entity to file the composite return and to act on behalf of each participant.

(5) The composite return must be made on forms the department prescribes and filed on or before the due date, including extensions, for filing the entity information return. The composite return is in lieu of an individual income tax return required under 15-30-2602 and 15-30-2604, a ~~corporation license~~

*corporate income* tax return required under 15-31-111, and a ~~corporation~~ *an alternative corporate* income tax return required under 15-31-403.

(6) The composite tax is in lieu of the taxes imposed under:

- (a) 15-30-2103 and 15-30-2104;
- (b) 15-31-101 and 15-31-121; and
- (c) 15-31-403.

(7) The department may adopt rules that are necessary to implement and administer this section.”

**Section 9.** Section 15-30-3313, MCA, is amended to read:

**“15-30-3313. Consent or withholding.** (1) A pass-through entity that is required to file an information return as provided in 15-30-3302 and that has a partner, shareholder, member, or other owner who is a nonresident individual, a foreign C. corporation, or a pass-through entity that itself has any partner, shareholder, member, or other owner that is a nonresident individual, foreign C. corporation, or pass-through entity shall, on or before the due date, including extensions, for the information return:

(a) with respect to any partner, shareholder, member, or other owner who is a nonresident individual:

- (i) file a composite return;
- (ii) file an agreement of the individual nonresident to:
  - (A) file a return in accordance with the provisions of 15-30-2602;
  - (B) timely pay all taxes imposed with respect to income of the pass-through entity; and

(C) be subject to the personal jurisdiction of the state for the collection of income taxes and related interest, penalties, and fees imposed with respect to the income of the pass-through entity; or

(iii) remit an amount equal to the highest marginal tax rate in effect under 15-30-2103 multiplied by the nonresident individual’s share of Montana source income reflected on the pass-through entity’s information return;

(b) with respect to any partner, shareholder, member, or other owner that is a foreign C. corporation:

- (i) file a composite return;
- (ii) file the foreign C. corporation’s agreement to:
  - (A) file a return in accordance with the provisions of 15-31-111;
  - (B) timely pay all taxes imposed with respect to income of the pass-through entity; and

(C) be subject to the personal jurisdiction of the state for the collection of ~~corporation license and income taxes, corporate income taxes, and alternative corporate~~ income taxes and related interest, penalties, and fees imposed with respect to the income of the pass-through entity; or

(iii) remit an amount equal to the tax rate in effect under 15-31-121 multiplied by the foreign C. corporation’s share of Montana source income reflected on the pass-through entity’s information return; and

(c) with respect to any partner, shareholder, member, or other owner that is a pass-through entity, also referred to in this section as a “second-tier pass-through entity”:

- (i) file a composite return;

(ii) file a statement of the pass-through entity partner, shareholder, member, or other owner setting forth the name, address, and social security or federal identification number of each of that entity's partners, shareholders, members, or other owners and information that establishes that its share of Montana source income will be fully accounted in individual income tax, ~~or corporation license corporate income tax~~, or *alternative corporate* income tax returns filed with the state; or

(iii) remit an amount equal to the highest marginal tax rate in effect under 15-30-2103 multiplied by its share of Montana source income reflected on the pass-through entity's information return.

(2) Any amount paid by a pass-through entity with respect to a nonresident individual pursuant to subsection (1)(a)(iii) must be considered as a payment on the account of the nonresident individual for the income tax imposed on the nonresident individual for the tax year pursuant to 15-30-2104. On or before the due date, including extensions, of the pass-through entity's information return provided in 15-30-3302, the pass-through entity shall furnish to the nonresident individual a record of the amount of tax paid on the individual's behalf.

(3) Any amount paid by a pass-through entity with respect to a foreign C. corporation pursuant to subsection (1)(b)(iii) must be considered as a payment on the account of the foreign C. corporation for the ~~corporation license corporate income tax~~ imposed on the foreign C. corporation for the tax year pursuant to 15-31-101 or the ~~corporation~~ *alternative corporate* income tax imposed on the foreign C. corporation for the tax year pursuant to 15-31-403. On or before the due date, including extensions, of the pass-through entity's information return provided in 15-30-3302, the pass-through entity shall furnish to the foreign C. corporation a record of the amount of tax paid on its behalf.

(4) Any amount paid by a pass-through entity with respect to a second-tier pass-through entity pursuant to subsection (1)(c)(iii) must be considered as payment on the account of the individual, trust, estate, or C. corporation to which Montana source income is directly or indirectly passed through and must be claimed as the distributable share of a refundable credit of the pass-through entity partner, shareholder, member, or other owner on behalf of which the amount was paid. On or before the due date, including extensions, of the pass-through entity's information return provided in 15-30-3302, the pass-through entity shall furnish to the second-tier pass-through entity a record of the refundable credit that may be claimed for the amount paid on its behalf.

(5) A pass-through entity is entitled to recover a payment made pursuant to subsection (1)(a)(iii), (1)(b)(iii), or (1)(c)(iii) from the partner, shareholder, member, or other owner on whose behalf the payment was made.

(6) Following the department's notice to a pass-through entity that a nonresident individual or foreign C. corporation did not file a return or timely pay all taxes as provided in subsection (1), the pass-through entity must, with respect to any tax year thereafter for which the nonresident individual or foreign C. corporation is not included in the pass-through entity's composite return, remit the amount described in subsection (1)(a)(iii) for the nonresident individual and the amount described in subsection (1)(b)(iii) for the foreign C. corporation.

(7) A publicly traded partnership described in 15-30-3302(4) that agrees to file an annual information return reporting the name, address, and taxpayer identification number for each person or entity that has an interest in the partnership that results in Montana source income or that has sold its interest in the partnership during the tax year is exempt from the composite return and

withholding requirements of Title 15, chapter 30. A publicly traded partnership shall provide the department with the information in an electronic form that is capable of being sorted and exported. Compliance with this subsection does not relieve a person or entity from its obligation to pay Montana income taxes.

(8) Nothing in this section may be construed as modifying the provisions of Article IV(18) of 15-1-601 and 15-31-312 allowing a taxpayer to petition for and the department to require methods to fairly represent the extent of the taxpayer's business activity in the state."

**Section 10.** Section 15-31-101, MCA, is amended to read:

**"15-31-101. Organizations subject to tax — incorporation of terms that mean corporate income tax.** (1) The term "corporation" includes an association, joint-stock company, common-law trust or business trust that does business in an organized capacity, all other corporations whether created, organized, or existing under and pursuant to the laws, agreements, or declarations of trust of any state, country, or the United States, and any limited liability company, limited liability partnership, partnership, or other entity that is treated as an association for federal income tax purposes and that is not a disregarded entity.

(2) The terms "engaged in business" and "doing business" both mean actively engaging in any transaction for the purpose of financial or pecuniary gain or profit.

(3) Except as provided in 15-31-103 or 33-2-705(4) or as may be otherwise specifically provided, a corporation engaged in business in the state of Montana shall annually pay to the state treasurer as a ~~license fee~~ *corporate income tax* for the privilege of carrying on business in this state the percentage or percentages of its total net income for the preceding tax year at the rate set forth in this chapter. If a corporation has income from business activity that is taxable both within and outside of this state, the ~~license fee~~ *corporate income tax* must be measured by the net income derived from or attributable to Montana sources as determined under part 3. Except as provided in 15-31-502 and subject to the due date provision in 15-31-111(2)(b), the tax is due and payable on the 15th day of the 5th month following the close of the tax year of the corporation. However, the tax becomes a lien as provided in this chapter on the last day of the tax year in which the income was earned and is for the privilege of carrying on business in this state for the tax year in which the income was earned.

(4) A bank organized under the laws of the state of Montana, of any other state, or of the United States and a savings and loan association organized under the laws of this state or of the United States is subject to the Montana ~~corporation license~~ *corporate income tax* provided for under this chapter. For tax years beginning on and after January 1, 1972, this subsection is effective in accordance with Public Law 91-156, section 2 (12 U.S.C. 548).

(5) *Unless context requires otherwise, when the words "corporation income tax", "corporation license tax", "corporate license tax", "license tax", "license fee", or similar words appear in the Montana Code Annotated referring to the tax imposed under this chapter, the terms mean "corporate income tax".*

**Section 11.** Section 15-31-102, MCA, is amended to read:

**"15-31-102. Organizations exempt from tax — unrelated business income not exempt.** (1) Except as provided in subsection (3), there may not be taxed under this title any income received by any:

(a) labor, agricultural, or horticultural organization;



(b) fraternal beneficiary, society, order, or association operating under the lodge system or for the exclusive benefit of the members of a fraternity itself operating under the lodge system and providing for the payment of life, sick, accident, or other benefits to the members of the society, order, or association or their dependents;

(c) cemetery company owned and operated exclusively for the benefit of its members;

(d) corporation or association organized and operated exclusively for religious, charitable, scientific, or educational purposes, no part of the net income of which inures to the benefit of any private stockholder or individual;

(e) business league, chamber of commerce, or board of trade not organized for profit, no part of the net income of which inures to the benefit of any private stockholder or individual;

(f) civic league or organization not organized for profit but operated exclusively for the promotion of social welfare;

(g) club organized and operated exclusively for pleasure, recreation, and other nonprofitable purposes, no part of the net income of which inures to the benefit of any private stockholder or members;

(h) farmers' or other mutual hail, cyclone, or fire insurance company, mutual ditch or irrigation company, mutual or cooperative telephone company, or similar organization of a purely local character, the income of which consists solely of assessments, dues, and fees collected from members for the sole purpose of meeting its expenses;

(i) cooperative association or corporation engaged in the business of operating a rural electrification system or systems for the transmission or distribution of electrical energy on a cooperative basis;

(j) corporations or associations organized for the exclusive purpose of holding title to property, collecting income from the property, and turning over the entire amount of the income, less expenses, to an organization that itself is exempt from the tax imposed by this title;

(k) wool and sheep pool, which is an association owned and operated by agricultural producers organized to market association members' wool and sheep, the income of which consists solely of assessments, dues, and fees collected from members for the sole purpose of meeting its expenses. Income, for this purpose, does not include expenses and money distributed to members contributing wool and sheep.

(l) corporation that qualifies as a domestic international sales corporation (DISC) under the provisions of section 991, et seq., of the Internal Revenue Code, 26 U.S.C. 991, et seq., and that has in effect for the entire taxable year a valid election under federal law to be treated as a DISC. If a corporation makes that election under federal law, each person who at any time is a shareholder of the corporation is subject to taxation under Title 15, chapter 30, on the earnings and profits of this DISC in the same manner as provided by federal law for all periods for which the election is effective.

(m) farmers' market association not organized for profit, no part of the net income of which inures to the benefit of any member, but that is organized for the sole purpose of providing for retail distribution of homegrown vegetables, handicrafts, and other products either grown or manufactured by the seller;

(n) common trust fund as defined in section 584(a) of the Internal Revenue Code, 26 U.S.C. 584(a).

(2) In determining the ~~license fee to be paid~~ *corporate income tax imposed* under this part, there may not be included any earnings derived from any public utility managed or operated by any subdivision of the state or from the exercise of any governmental function.

(3) Any unrelated business taxable income, as defined by section 512 of the Internal Revenue Code, 26 U.S.C. 512, as amended, earned by any exempt corporation resulting in a federal unrelated business income tax liability of more than \$100 must be taxed as other corporation income is taxed under this title. An exempt corporation subject to taxation on unrelated business income under this section shall file a copy of its federal exempt organization business income tax return on which it reports its unrelated business income with the department of revenue.”

**Section 12.** Section 15-31-111, MCA, is amended to read:

**“15-31-111. Return to be filed — penalty and interest.** (1) A corporation subject to the ~~license~~ *corporate income* tax imposed under this chapter shall for each tax period file an accurate return of its net income for the tax period in the manner and form prescribed by the department. The return must contain all of the information that is appropriate and in the opinion of the department necessary to determine the correctness of the net income disclosed by the return and to carry out the provisions of this chapter. The return must be signed by the president, the vice president, the treasurer, the assistant treasurer, or the chief accounting officer.

(2) (a) Except as provided in subsection (2)(b), if the corporation is reporting on a calendar year basis, the return must be filed with the department on or before May 15 following the close of the calendar year. If the corporation is reporting on a fiscal year basis, the return must be filed with the department on or before the 15th day of the 5th month following the close of its fiscal year.

(b) (i) If the due date of the return falls on a holiday that defers a filing date as recognized by the Internal Revenue Service and that is not observed in Montana, the return may be made on the first business day after the holiday.

(ii) The department may extend filing dates and defer or waive interest, penalties, and other effects of late filing for a period not exceeding 1 year for taxpayers affected by a federally declared disaster or a terroristic or military action recognized for federal tax purposes under 26 U.S.C. 7508A.

(3) (a) A corporation is allowed an automatic extension of time for filing its return of up to 6 months following the date prescribed for filing of its tax return. The tax, penalty, and interest must be paid when the return is filed. Penalty and interest must be added to the tax due as provided in 15-31-510(2).

(b) The department may grant an additional extension of time for the filing of a return whenever in its judgment good cause exists.

(4) Receivers, trustees in bankruptcy, or assignees operating the property or business of a corporation subject to the ~~license~~ *corporate income* tax imposed by this chapter shall make the return in the same manner and form as the corporation is required to make the return. Any ~~license~~ *corporate income* tax due on the basis of the return is assessed and collected in the same manner as if assessed directly against the corporation of whose business or property the receiver, trustee, or assignee has custody and control. The receiver, trustee, or assignee shall pay the tax out of the property of the corporation, prior to the claims of creditors or stockholders.”

**Section 13.** Section 15-31-112, MCA, is amended to read:



**“15-31-112. Taxable period.** The ~~license fee shall~~ *corporate income tax must* be computed on the basis of the corporation’s total net income for the taxable period. The corporation’s taxable period ~~shall be its~~ *is the same as the* taxable year for federal income tax purposes. ~~In the event~~ *If* a corporation changes its taxable year, it shall promptly notify the department of revenue.”

**Section 14.** Section 15-31-113, MCA, is amended to read:

**“15-31-113. Gross income and net income.** (1) The term “gross income” means all income recognized in determining the corporation’s gross income for federal income tax purposes and:

(a) including:

(i) interest exempt from federal income tax and exempt-interest dividends as defined in section 852(b)(5) of the Internal Revenue Code of 1986, as that section may be amended or renumbered;

(ii) the portion of gain from a liquidation of the reporting corporation not recognized for federal corporate income tax purposes pursuant to sections 331 through 337 of the Internal Revenue Code, as those sections may be amended or renumbered, attributable to stockholders, either individual or corporate, not subject to Montana income or *license corporate income tax* under Title 15, chapter 30 or chapter 31, as appropriate, on the gain passing through to the stockholders pursuant to federal law; and

(b) excluding gain recognized for federal tax purposes as a shareholder of a liquidating corporation pursuant to sections 331 through 337 of the Internal Revenue Code, as those sections may be amended or renumbered, when the gain is required to be recognized by the liquidating corporation pursuant to subsection (1)(a)(ii) of this section.

(2) The term “net income” means the gross income of the corporation less the deductions set forth in 15-31-114.

(3) A corporation is not exempt from the ~~corporation license corporate income tax~~ unless specifically provided for under 15-31-101(3) or 15-31-102. Any corporation not subject to or liable for federal income tax but not exempt from the ~~corporation license corporate income tax~~ under 15-31-101(3) or 15-31-102 shall compute gross income for ~~corporation license corporate income tax~~ purposes in the same manner as a corporation that is subject to or liable for federal income tax according to the provisions for determining gross income in the federal Internal Revenue Code in effect for the taxable year.”

**Section 15.** Section 15-31-114, MCA, is amended to read:

**“15-31-114. Deductions allowed in computing income.** (1) In computing the net income, the following deductions are allowed from the gross income received by the corporation within the year from all sources:

(a) all the ordinary and necessary expenses paid or incurred during the taxable year in the maintenance and operation of its business and properties, including reasonable allowance for salaries for personal services actually rendered, subject to the limitation contained in this section, and rentals or other payments required to be made as a condition to the continued use or possession of property to which the corporation has not taken or is not taking title or in which it has no equity. A deduction is not allowed for salaries paid upon which the recipient has not paid Montana state income tax. However, when domestic corporations are taxed on income derived from outside the state, salaries of officers paid in connection with securing the income are deductible.

(b) (i) all losses actually sustained and charged off within the year and not compensated by insurance or otherwise, including a reasonable allowance for

the wear and tear and obsolescence of property used in the trade or business. The allowance is determined according to the provisions of section 167 of the Internal Revenue Code in effect with respect to the taxable year. All elections for depreciation must be the same as the elections made for federal income tax purposes. A deduction is not allowed for any amount paid out for any buildings, permanent improvements, or betterments made to increase the value of any property or estate, and a deduction may not be made for any amount of expense of restoring property or making good the exhaustion of property for which an allowance is or has been made. A depreciation or amortization deduction is not allowed on a title plant as defined in 33-25-105(15).

(ii) There is allowed as a deduction for the taxable period a net operating loss deduction determined according to the provisions of 15-31-119.

(c) in the case of mines, other natural deposits, oil and gas wells, and timber, a reasonable allowance for depletion and for depreciation of improvements. The reasonable allowance must be determined according to the provisions of the Internal Revenue Code in effect for the taxable year. All elections made under the Internal Revenue Code with respect to capitalizing or expensing exploration and development costs and intangible drilling expenses for ~~corporation license~~ *corporate income* tax purposes must be the same as the elections made for federal income tax purposes.

(d) the amount of interest paid within the year on its indebtedness incurred in the operation of the business from which its income is derived. Interest may not be allowed as a deduction if paid on an indebtedness created for the purchase, maintenance, or improvement of property or for the conduct of business unless the income from the property or business would be taxable under this part.

(e) (i) taxes paid within the year, except the following:

(A) taxes imposed by this part;

(B) taxes assessed against local benefits of a kind tending to increase the value of the property assessed;

(C) taxes on or according to or measured by net income or profits imposed by authority of the government of the United States;

(D) taxes imposed by any other state or country upon or measured by net income or profits.

(ii) Taxes deductible under this part must be construed to include taxes imposed by any county, school district, or municipality of this state.

(f) that portion of an energy-related investment allowed as a deduction under 15-32-103;

(g) (i) except as provided in subsection (1)(g)(ii) or (1)(g)(iii), charitable contributions and gifts that qualify for deduction under section 170 of the Internal Revenue Code, 26 U.S.C. 170, as amended.

(ii) The public service commission may not allow in the rate base of a regulated corporation the inclusion of contributions made under this subsection.

(iii) A deduction is not allowed for a charitable contribution using a charitable gift annuity unless the annuity is a qualified charitable gift annuity as defined in 33-20-701.

(h) per capita livestock fees imposed pursuant to 15-24-921, 15-24-922, 81-6-104, 81-6-204, 81-6-209, 81-7-118, or 81-7-201.

(2) In lieu of the deduction allowed under subsection (1)(g), the taxpayer may deduct the fair market value, not to exceed 30% of the taxpayer's net income, of a computer or other sophisticated technological equipment or apparatus intended for use with the computer donated to an elementary, secondary, or accredited postsecondary school located in Montana if:

(a) the contribution is made no later than 5 years after the manufacture of the donated property is substantially completed;

(b) the property is not transferred by the donee in exchange for money, other property, or services; and

(c) the taxpayer receives a written statement from the donee in which the donee agrees to accept the property and representing that the use and disposition of the property will be in accordance with the provisions of subsection (2)(b).

(3) In the case of a regulated investment company or a fund of a regulated investment company, as defined in section 851(a) or 851(g) of the Internal Revenue Code of 1986, 26 U.S.C. 851(a) or 851(g), as that section may be amended or renumbered, there is allowed a deduction for dividends paid, as defined in section 561 of the Internal Revenue Code of 1986, 26 U.S.C. 561, as that section may be amended or renumbered, except that the deduction for dividends is not allowed with respect to dividends attributable to any income that is not subject to tax under this chapter when earned by the regulated investment company. For the purposes of computing the deduction for dividends paid, the provisions of sections 852(b)(7) and 855 of the Internal Revenue Code of 1986, 26 U.S.C. 852(b)(7) and 855, as those sections may be amended or renumbered, apply. A regulated investment company is not allowed a deduction for dividends received as defined in sections 243 through 245 of the Internal Revenue Code of 1986, 26 U.S.C. 243 through 245, as those sections may be amended or renumbered."

**Section 16.** Section 15-31-115, MCA, is amended to read:

**"15-31-115. Reaffirmation of bond income inclusion in definition of net income for ~~corporation~~ license corporate income tax purposes.** Notwithstanding the provisions of any other law, the income from bonds or other obligations issued by any state or political subdivision of a state are included in gross and net income for purposes of the ~~corporation~~ license corporate income tax."

**Section 17.** Section 15-31-117, MCA, is amended to read:

**"15-31-117. Tax deductibility.** (1) The amount of contributions made by a small business to its independent liability fund as defined in 33-27-103 is deductible to that small business on its Montana corporate ~~license~~ income tax or *alternative* corporate income tax return for the taxable year in which the contributions are made to the fund.

(2) Administrative costs under 33-27-117(1), except those paid from the principal of an independent liability fund, are deductible on the Montana corporate ~~license~~ income tax or *alternative* corporate income tax return for the taxable year in which they are paid or accrued.

(3) Income on the money, assets, and investments in an independent liability fund as defined in 33-27-103 may be contributed to the fund. If it is not so contributed, it is taxable in accordance with the applicable provisions of this chapter."

**Section 18.** Section 15-31-125, MCA, is amended to read:

**“15-31-125. Determination of tax credit.** A new or expanding manufacturing corporation may receive a ~~license~~ *an income* tax credit based on a percentage of wages paid its new employees within this state for a period of 3 years as follows: ~~provided in this section.~~ For the first 3 years of operation of a new corporation or the first 3 years of expansion of an expanding corporation, a credit of 1% of the total new wages paid in this state, as wages are defined in 39-51-201, may be allowed. In determining total wages for an expanding corporation, only those wages paid in support of the expansion are considered in ascertaining the credit. The payroll and number of jobs of the corporation in the 12-month period immediately preceding the expansion are averaged to determine eligibility for the credit.”

**Section 19.** Section 15-31-143, MCA, is amended to read:

**“15-31-143. Return and payment on corporate dissolution.** (1) Each corporation doing business in Montana shall pay an excise tax for the exercise of that privilege, and the amount of the excise tax must be based upon the total taxable net income of a corporation during the entire period of time that it is engaged in business in this state. No remission of that obligation for the last year in which a corporation engages in business in Montana was intended by the original enactment of this section.

(2) Each corporation that is dissolved or ceases to do business in Montana shall, upon the dissolution or cessation of business, make a return and pay the ~~corporation license~~ *corporate income* tax determined on the basis of its net income for the final period in which it did business in this state at the rate provided in 15-31-121 and 15-31-122, in addition to all other ~~corporation license~~ *corporate income* taxes for which the corporation may then be liable.”

**Section 20.** Section 15-31-161, MCA, is amended to read:

**“15-31-161. (Temporary) Credit for contribution by corporations to qualified endowment — recapture of credit — deduction included as income.** (1) A corporation is allowed a credit in an amount equal to 20% of a charitable gift against the taxes otherwise due under 15-31-101 for charitable contributions made to a qualified endowment, as defined in 15-30-2327. The maximum credit that may be claimed by a corporation for contributions made from all sources in a year under this section is \$10,000. The credit allowed under this section may not exceed the corporate taxpayer’s income tax liability. The credit allowed under this section may not be claimed by a corporation if the taxpayer has included the full amount of the contribution upon which the amount of the credit was computed as a deduction under 15-31-114. There is no carryback or carryforward of the credit permitted under this section, and the credit must be applied to the tax year in which the contribution is made.

(2) If during any tax year a charitable gift is recovered by the corporation, the corporation shall:

(a) include as income the amount deducted in any prior year that is attributable to the charitable gift to the extent that the deduction reduced the taxpayer’s ~~corporation license~~ *corporate income* tax or ~~corporation~~ *alternative corporate* income tax; and

(b) increase the amount of tax due under 15-31-101 by the amount of the credit allowed in the tax year in which the credit was taken. (Terminates December 31, 2013—sec. 7, Ch. 4, L. 2005; secs. 2, 3, 4, 7(2), Ch. 208, L. 2007.)”

**Section 21.** Section 15-31-401, MCA, is amended to read:

**“15-31-401. Application of ~~license~~ corporate income tax and ~~income taxes~~ alternative corporate income tax.** (1) It is the intent of the legislature

that the ~~corporation license~~ *corporate income* tax shall *must* be applied to all corporations subject to taxation under part 1 of this chapter. Except as provided in subsection (2), the *alternative corporate* income tax provided by this part shall *must* be applied to corporations that are not taxable under part 1 of this chapter but are taxable under an income tax.

(2) During its first 5 taxable years of activity in Montana, the net income earned from research and development activities by a research and development firm as described in 15-31-103 is not subject to either the ~~corporation license~~ *corporate income* tax provided in part 1 of this chapter or to the ~~corporation~~ *alternative corporate* income tax provided in this part.”

**Section 22.** Section 15-31-402, MCA, is amended to read:

**“15-31-402. Short title — administration of part.** This part shall be known as and may be cited as the “~~Corporation~~ *Alternative Corporate Income Tax*”, and it shall be administered by the. *The department of revenue shall administer the provisions of this part.*”

**Section 23.** Section 15-31-404, MCA, is amended to read:

**“15-31-404. Offset for license corporate income taxes — alternative corporate income tax collected considered license corporate income tax.** There must be offset against the ~~corporation~~ *alternative corporate* income tax imposed for any period the amount of any tax imposed against the corporation for the same period under parts 1, 3, and 5 of this chapter. If taxes, interest, and penalties have been or will be assessed against, paid by, or collected from a corporation under this part and the assessment, payment, or collection should have been made under parts 1, 3, and 5 of this chapter, the taxes, interest, and penalties must be considered as having been assessed, paid, or collected under parts 1, 3, and 5 as of the date they were made.”

**Section 24.** Section 15-31-406, MCA, is amended to read:

**“15-31-406. License Corporate income tax sections incorporated by reference.** The provisions of the following sections of this chapter are incorporated into this part by reference and made a part of this part:

(1) that part of 15-31-101 that defines the term “corporation” and 15-31-102, which specifies the classes of organizations whose income may not be taxed;

(2) sections 15-31-111 through 15-31-114, 15-31-117 through 15-31-119, 15-31-141, 15-31-142, 15-31-301 through 15-31-313, 15-31-501 through 15-31-506, 15-31-509, 15-31-511, 15-31-525, 15-31-526, 15-31-531, 15-31-532, 15-31-541, and 15-31-543, except that the term “gross income” must be construed as excluding the net amount of interest income from valid obligations of the United States and except that wherever the words “tax”, “*corporate income tax*”, “license tax”, “license fee”, “corporation excise tax”, or ~~like similar~~ words appear, referring to the tax imposed under part 1 of this chapter, there is substituted the words “*alternative corporate* income tax.”

**Section 25.** Section 15-31-511, MCA, is amended to read:

**“15-31-511. Confidentiality of tax records.** (1) Except as provided in this section, in accordance with a proper judicial order, or as otherwise provided by law, it is unlawful to divulge or make known in any manner:

(a) the amount of income or any particulars set forth or disclosed in any return or report required under this chapter or any other information relating to taxation secured in the administration of this chapter; or

(b) any federal return or information in or disclosed on a federal return or report required by law or rule of the department of ~~revenue~~ under this chapter.

(2) (a) An officer or employee charged with custody of returns and reports required by this chapter may not be ordered to produce any of them or evidence of anything contained in them in any administrative proceeding or action or proceeding in any court, except:

(i) in an action or proceeding in which the department is a party under the provisions of this chapter; or

(ii) in any other tax proceeding or on behalf of a party to an action or proceeding under the provisions of this chapter when the returns or reports or facts shown in them are directly pertinent to the action or proceeding.

(b) If the production of a return, report, or information contained in them is ordered, the court shall limit production of and the admission of returns, reports, or facts shown in them to the matters directly pertinent to the action or proceeding.

(3) This section does not prohibit:

(a) the delivery of a certified copy of any return or report filed in connection with a return to the taxpayer who filed the return or report or to the taxpayer's authorized representative;

(b) the publication of statistics prepared in a manner that prevents the identification of particular returns, reports, or items from returns or reports;

(c) the inspection of returns and reports by the attorney general or other legal representative of the state in the course of an administrative proceeding or litigation under this chapter;

(d) access to information under subsection (4);

(e) the director of revenue from permitting a representative of the commissioner of internal revenue of the United States or a representative of a proper officer of any state imposing a tax on the income of a taxpayer to inspect the returns or reports of a corporation. The department may also furnish those persons abstracts of income, returns, and reports; information concerning any item in a return or report; and any item disclosed by an investigation of the income or return of a corporation. The director of revenue may not furnish that information to a person representing the United States or another state unless the United States or the other state grants substantially similar privileges to an officer of this state charged with the administration of this chapter.

(f) the disclosure of information to the commissioner of insurance's office that is necessary for the administration of the small business health insurance tax credit provided for in Title 33, chapter 22, part 20.

(4) On written request to the director or a designee of the director, the department shall:

(a) allow the inspection of returns and reports by the legislative auditor, but the information furnished to the legislative auditor is subject to the same restrictions on disclosure outside that office as provided in subsection (1); and

(b) provide ~~corporation income~~ *corporate income tax and alternative corporate income tax* information, including any information that may be required under Title 15, chapter 30, part 33, to the legislative fiscal analyst, as provided in 5-12-303 or 15-1-106, and the office of budget and program planning, as provided in 15-1-106 or 17-7-111. The information furnished to the legislative fiscal analyst and the office of budget and program planning is subject to the same restrictions on disclosure outside those offices as provided in subsection (1).



(5) A person convicted of violating this section shall be fined not to exceed \$500. If a public officer or public employee is convicted of violating this section, the person is dismissed from office or employment and may not hold any public office or public employment in the state for a period of 1 year after dismissal or, in the case of a former officer or employee, for 1 year after conviction.”

**Section 26.** Section 15-31-522, MCA, is amended to read:

**“15-31-522. When immediate payment demanded.** If the department of revenue finds ~~determines~~ that the assessment or collection of the tax or a deficiency in tax due under any ~~corporation license~~ *corporate income* tax statute of Montana for any taxable period will be jeopardized in whole or in part by delay, it may mail notice of its findings to the taxpayer, together with a demand for immediate payment of the tax or deficiency declared to be in jeopardy, including penalty and accrued interest. In the case of a tax for a current period, the department may declare the taxable period of the taxpayer immediately terminated and shall mail or issue notice of its findings to the taxpayer, together with a demand for immediate payment of the tax based on the period declared terminated. A jeopardy assessment is immediately due and payable, and proceedings for collection may be commenced at once.”

**Section 27.** Section 15-31-523, MCA, is amended to read:

**“15-31-523. Suspension or forfeiture on delinquency.** (1) If a tax computed and levied under this chapter is not paid or if a return is not filed before 5 p.m. on the last day of the 11th month after the date of delinquency, the corporate powers, rights, and privileges of the delinquent taxpayer, if it is a domestic corporation, must be suspended, and if the delinquent taxpayer is a foreign corporation, it ~~shall forfeit~~ *forfeits* its rights to do intrastate business in this state. If a domestic corporation fails for a period of 5 consecutive years either to file a return or to pay the ~~corporation license~~ *corporate income* tax, the department shall notify the corporation by mail addressed to the latest address on file in its office that the corporation will become dissolved if it fails to file all delinquent reports and pay all delinquent ~~corporation license~~ *corporate income* taxes within a period of 60 days after the mailing of the notice. If the delinquent reports are not made and all delinquent ~~corporation licenses~~ *taxes* are not paid before the expiration of the 60-day period, the department shall certify this fact to the secretary of state, and upon receipt of the certificate, the corporation must be dissolved and the secretary of state shall indicate, by the secretary of state’s records, the dissolution.

(2) The department shall transmit the name of each corporation described in subsection (1) to the secretary of state, who shall immediately record the transmission in a manner that is available to the public. The suspension, forfeiture, or dissolution provided for in this section becomes effective immediately when the record is made, and the certificate of the secretary of state is conclusive evidence of the suspension, forfeiture, or dissolution.”

**Section 28.** Section 15-31-531, MCA, is amended to read:

**“15-31-531. Credit for overpayment — interest on overpayment.** (1) If the department determines that the amount of tax, penalty, or interest due for any year is less than the amount paid, the amount of the overpayment must be credited against any tax, penalty, or interest then due from the taxpayer and the balance refunded to the taxpayer or its successor through reorganization, merger, or consolidation or to its shareholders upon dissolution.

(2) Except as provided in subsection (3), interest must be allowed on overpayments at the same rate as is charged on delinquent taxes, as provided in 15-1-216, due from the due date of the return or from the date of overpayment,

whichever is later, to the date the department approves refunding or crediting of the overpayment.

(3) (a) Interest may not accrue during any period the processing of a claim for refund is delayed more than 30 days by reason of failure of the taxpayer to furnish information requested by the department for the purpose of verifying the amount of the overpayment.

(b) Interest is not allowed:

(i) if the overpayment is refunded within 6 months from the date the return is due or from the date the return is filed, whichever is later; or

(ii) if the amount of interest is less than \$1.

(4) A payment not made incident to a bona fide and orderly discharge of an actual ~~corporation license~~ *corporate income* tax liability or one reasonably assumed to be imposed by this chapter is not considered an overpayment with respect to which interest is allowable.”

**Section 29.** Section 15-31-543, MCA, is amended to read:

**“15-31-543. Forfeiture of right to engage in business — penalties.** (1)

A corporation that purposely fails to file a return at the time specified in 15-31-502 or that purposely files a false or fraudulent return may be adjudged by a court of competent jurisdiction to forfeit the right to continue to engage in business in the state as a corporation until the ~~license~~ *corporate income* tax, together with all penalties, interest, and costs, is paid. The forfeiture may be enforced by proper proceedings in court.

(2) Each officer or employee of any corporation or other person who, without fraudulent intent, fails to file, sign, or verify any return or to supply any information within the time required by the provisions of this chapter is liable for the penalty imposed by 15-1-216. The department shall assess and collect any penalty in the same manner as is provided in this chapter with regard to delinquent taxes.”

**Section 30.** Section 15-31-551, MCA, is amended to read:

**“15-31-551. Certified copies of ~~corporation license~~ *corporate income* tax returns to taxpayer — fee.** Certified copies of returns filed for ~~corporation license~~ *corporate income* tax under 15-31-111 may be furnished by the department to the taxpayer or the taxpayer’s authorized representative upon payment of 50 cents for each page.”

**Section 31.** Section 15-32-107, MCA, is amended to read:

**“15-32-107. Loans by utilities and financial institutions — tax credit for interest differential for loans made prior to July 1, 1995.** (1) Except as provided in subsection (4), a public utility or a financial institution that lent money or made qualifying installations under this section as it read prior to July 1, 1995, may compute the difference between interest it actually receives on the transactions and the interest that would have been received at the prevailing average interest rate for home improvement loans, as prescribed in rules made by the public service commission. The utility may apply the difference so computed as a credit against its tax liability for the electrical energy producer’s license tax under 15-51-101 or for the ~~corporation license~~ *corporate income* tax under chapter 31, part 1. The public service commission shall regulate rates in such a manner that a utility making loans under this section may not make a profit as the result of this section. The financial institution may apply the difference so computed as a credit against its tax liability for the ~~corporation license~~ *corporate income* tax under chapter 31, part 1.



(2) A utility may not claim a tax credit under this section exceeding \$750,000 in any tax year. A financial institution may not claim a tax credit under this section exceeding \$2,000 in any tax year.

(3) The public service commission may make rules to implement this section as it applies to public utilities only.

(4) A public utility whose purchases of or investments in conservation are placed in the rate base as provided in Title 69, chapter 3, part 7, may not receive a tax credit under subsection (1)."

**Section 32.** Section 15-50-207, MCA, is amended to read:

**"15-50-207. Credit against other taxes — credit for personal property taxes and certain fees.** (1) (a) The additional license fees withheld or otherwise paid as provided in this chapter may be used as a credit on the contractor's ~~corporation license~~ *corporate income* tax provided for in chapter 31 of this title or on the contractor's income tax provided for in chapter 30, depending upon the type of tax the contractor is required to pay under the laws of the state.

(b) The credit allowed under this subsection (1) may be used as a carryforward against taxes imposed by chapter 30 or 31 for the 5 succeeding tax years. The entire amount of the credit not used in the year earned must be carried first to the earliest tax year in which the credit may be applied and then to each succeeding tax year.

(2) Personal property taxes and the fee in lieu of tax on buses, trucks having a manufacturer's rated capacity of more than 1 ton, or truck tractors, as provided in 61-3-529, and the registration fee on light vehicles, as provided in 61-3-321(2) and 61-3-562, paid in Montana on any personal property or vehicle of the contractor that is used in the business of the contractor and is located within this state may be credited against the license fees required under this chapter. However, in computing the tax credit allowed by this section against the contractor's ~~corporation license tax~~ or income tax or *corporate income tax*, the tax credit against the license fees required under this chapter may not be considered as license fees paid for the purpose of the income tax or ~~corporation license corporate income~~ tax credit."

**Section 33.** Section 15-68-815, MCA, is amended to read:

**"15-68-815. Information — confidentiality — agreements with another state.** (1) (a) Except as provided in subsections (2) through (4), it is unlawful for an employee of the department or any other public official or public employee to divulge or otherwise make known information that is disclosed in a report or return required to be filed under this chapter or information that concerns the affairs of the person making the return and that is acquired from the person's records, officers, or employees in an examination or audit.

(b) This section may not be construed to prohibit the department from publishing statistics if they are classified in a way that does not disclose the identity and content of any particular report or return. A person violating the provisions of this section is subject to the penalty provided in 15-30-2618 or 15-31-511 for violating the confidentiality of individual income tax or ~~corporation license corporate income~~ tax information.

(2) (a) The department may enter into an agreement with the taxing officials of another state for the interpretation and administration of the laws of their state that provide for the collection of a sales tax or use tax in order to promote fair and equitable administration of the laws and to eliminate double taxation.

(b) In order to implement the provisions of this chapter, the department may furnish information on a reciprocal basis to the taxing officials of another state if the information remains confidential under statutes within the state receiving the information that are similar to this section.

(3) In order to facilitate processing of returns and payment of taxes required by this chapter, the department may contract with vendors and may disclose data to the vendors. The data disclosed must be administered by the vendor in a manner consistent with this section.

(4) This section may not be construed to limit the investigative authority of the legislative branch, as provided in 5-11-106, 5-12-303, or 5-13-309.”

**Section 34.** Section 20-9-630, MCA, is amended to read:

**“20-9-630. School district block grants.** (1) (a) The office of public instruction shall provide a block grant to each school district based on:

(i) the revenue received by each district in fiscal year 2001 from vehicle taxes and fees, corporate license *income* taxes paid by financial institutions, aeronautics fees, state land payments in lieu of taxes, and property tax reimbursements pursuant to sections 167(1) through (5) and 169(6), Chapter 584, Laws of 1999; and

(ii) any reimbursement to be made to a school district pursuant to subsection (2).

(b) Block grants must be calculated using the electronic reporting system that is used by the office of public instruction and school districts. The electronic reporting system 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 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. Except for the reimbursement made under 15-1-123(3)(b), 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 general fund is equal to the amount received in fiscal year 2011 by the district general fund from the block grants provided for in subsection (1) and the amount received by the district general fund under subsection (2), except the amount received under 15-1-123(3)(b).

(b) The block grant for the district transportation fund is equal to the amount received in fiscal year 2011 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), except the amount received under 15-1-123(3)(b).

(c) (i) The combined fund block grant is equal to the amount received in fiscal year 2011 and the amount received under subsection (2), except the amount received under 15-1-123(3)(b).

(ii) The school district may deposit the combined fund block grant into any budgeted fund of the district.”

**Section 35.** Section 33-17-407, MCA, is amended to read:

**“33-17-407. Nonresident insurance producer to pay taxes — annual report required.** (1) A nonresident insurance producer is subject to personal income, business income, or corporate license *income* taxes for all income earned on insurance policies issued to cover subjects or risks residing, located, or to be performed in Montana and written within the boundaries of this state.

(2) A nonresident insurance producer shall file annually a Montana income tax return as required in Title 15.”

**Section 36.** Section 33-27-103, MCA, is amended to read:

**“33-27-103. Definitions.** As used in 15-30-2118, 15-30-2141, 15-31-117, 15-31-118, and this chapter, the following definitions apply:

(1) “Fiscal year” means the 12-month period used by a particular small business in preparing and filing its Montana individual income tax, corporate license *income* tax, or *alternative* corporate income tax return.

(2) “Independent liability fund” means a collection of money, assets, and investments that has been set aside by a small business to meet the needs of any liability claims, except workers’ compensation claims, brought against it by third parties.

(3) “Liability claim” means any legal or extralegal action by a third party asserting a right to compensation for a wrong done to it by a small business with an independent liability fund.

(4) “Small business” means any commercial or nonprofit enterprise qualified to do business in the state and qualified as a small business under the criteria established by the federal small business administration on April 20, 1987.

(5) “Third party” means a person other than an employee or the management of a small business or of a subsidiary or closely related enterprise of a small business.”

**Section 37. Name change — directions to code commissioner.** Wherever a reference to the “corporation license tax” appears in legislation enacted by the 2013 legislature, the code commissioner is directed to change it to a reference to the “corporate income tax”.

**Section 38. Coordination instruction.** If House Bill No. 35 and [this act] are passed and approved and if both contain a section that amends 15-6-138, then the section amending 15-6-138 in House Bill No. 35 is void.

**Section 39. Saving clause.** [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

**Section 40. Applicability.** [This act] applies to tax years beginning after December 31, 2013.

Approved April 22, 2013

## CHAPTER NO. 269

[SB 408]

AN ACT GENERALLY REVISING ELECTION LAWS; PROVIDING THAT THE TWO CANDIDATES WHO RECEIVE THE MOST VOTES IN CERTAIN PRIMARY ELECTIONS FOR PARTISAN OFFICES ADVANCE TO THE GENERAL ELECTION IRRESPECTIVE OF PARTY AFFILIATION; ELIMINATING SEPARATE PARTY BALLOTS AND PROVIDING FOR ONE PRIMARY BALLOT CONTAINING ALL PRIMARY RACES; PROVIDING THAT THE PROPOSED ACT BE SUBMITTED TO THE QUALIFIED

ELECTORS OF MONTANA; AMENDING SECTIONS 2-16-615, 5-2-402, 5-2-403, 5-2-404, 5-2-406, 7-2-2219, 7-3-176, 7-3-218, 7-3-313, 7-3-412, 7-3-512, 7-3-704, 7-3-1256, 7-4-2106, 7-4-2206, 7-4-2302, 7-4-2310, 7-4-4112, 13-1-101, 13-1-103, 13-4-102, 13-10-201, 13-10-203, 13-10-204, 13-10-209, 13-10-211, 13-10-301, 13-10-325, 13-10-326, 13-10-327, 13-10-402, 13-10-403, 13-10-404, 13-10-405, 13-10-501, 13-10-504, 13-10-505, 13-12-201, 13-12-202, 13-12-203, 13-12-205, 13-12-207, 13-13-214, 13-13-225, 13-13-241, 13-14-111, 13-14-112, 13-14-113, 13-14-114, 13-14-115, 13-14-117, 13-14-118, 13-15-201, 13-15-205, 13-15-206, 13-15-208, 13-15-405, 13-15-406, 13-15-507, 13-16-101, 13-16-201, 13-16-211, 13-16-412, 13-16-418, 13-16-419, 13-16-501, 13-17-103, 13-19-205, 13-21-205, 13-25-101, 13-25-201, 13-25-205, 13-25-303, 13-35-106, 13-35-205, 13-35-206, 13-35-207, 13-35-214, 13-35-218, 13-35-221, 13-35-225, 13-35-226, 13-36-101, 13-36-102, 13-36-103, 13-36-104, 13-36-201, 13-36-202, 13-36-203, 13-36-206, 13-36-207, 13-36-209, 13-36-210, 13-36-211, 13-36-212, 13-37-127, 13-37-216, 13-37-218, 13-38-101, AND 13-38-201, MCA; REPEALING SECTIONS 13-10-302, 13-10-303, 13-10-305, 13-10-311, 13-10-502, 13-10-503, 13-10-507, 13-10-601, 13-10-602, 13-10-604, AND 13-38-204, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE.

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

**Section 1.** Section 2-16-615, MCA, is amended to read:

**“2-16-615. Filing of recall petitions — mandamus for refusal.** (1) Recall petitions for elected officers ~~shall~~ *must* be filed with the official who is provided by law to accept the declaration of ~~nomination candidacy~~ or petition for nomination for ~~such~~ *the* office. Recall petitions for appointed state officers ~~shall~~ *must* be filed with the secretary of state and for appointed county or municipal officers ~~shall~~ *must* be filed with the county election administrator. Recall petitions for appointed officers from other political subdivisions ~~shall~~ *must* be filed with the county election administrator if the boundaries of the political subdivisions lie wholly within one county or otherwise with the secretary of state.

(2) If the secretary of state, county election administrator or other filing official refuses to accept and file any petition for recall with the proper number of signatures of qualified electors, any elector may within 10 days after ~~such~~ *the* refusal apply to the district court for a writ of mandamus. If it is determined that the petition is sufficient, the district court shall order the petition to be filed with a certified copy of the writ attached ~~thereto~~, as of the date when it was originally offered for filing. On a showing that any filed petition is not sufficient, the court may enjoin certification, printing, or recall election.

(3) All ~~such~~ suits or appeals ~~therefrom~~ *shall* *under this section* *must* be advanced on the court docket and heard and decided by the court as expeditiously as possible.

(4) Any aggrieved party may file an appeal within 10 days after any adverse order or decision as provided by law.”

**Section 2.** Section 5-2-402, MCA, is amended to read:

**“5-2-402. Appointment by board of county commissioners — county central committee role — timeframes.** (1) Except as provided in subsection (5) or as otherwise provided by law, whenever a vacancy occurs in the legislature, the vacancy must be filled by appointment by the board of county commissioners or, in the event of a multicounty district, the boards of county commissioners of the counties comprising the district sitting as one appointing board.

(2) (a) Whenever a vacancy is within a single county, the board of county commissioners shall make the appointment as described in 5-2-403, 5-2-404, or 5-2-406.

(b) Whenever a vacancy is within a multicounty district, the boards of county commissioners shall sit as one appointing board. The selection of an individual to fill the vacancy must be as follows:

(i) The presiding officer of the board of county commissioners of the county in which the person resided whose vacancy is to be filled shall call a meeting for the purpose of appointing the member of the legislature and shall preside at the meeting.

(ii) Each commissioner's vote is determined by the following formula: 100 multiplied by (A divided by B) multiplied by (1 divided by C), where:

(A) A is the total votes cast in the respective county for the person vacating the legislative seat or, if the vacating person was not elected, the votes cast for the last person to be elected for the current term;

(B) B is the total votes cast for that person in the legislative district; and

(C) C is the number of authorized commissioners on the board of the commissioner whose vote is being determined.

(iii) The person selected to fill the vacancy is the one who receives the highest number above 50 that results from the calculation in subsection (2)(b)(ii). If none of the candidates receives a number higher than 50 from that calculation, the selection board shall cast its votes again in the same manner for the persons receiving the two highest numbers. If neither vote results in a candidate receiving a number higher than 50 from the calculation provided in subsection (2)(b)(ii), then 5-2-404 applies.

(c) If a vacancy occurs in a holdover senate seat after holdover senators have been assigned to new districts under each reapportionment, the formula in subsection (2)(b)(ii) must be applied using the votes cast for the senatorial candidates at the last election in which votes were cast for a senate candidate. Only the number of votes cast by electors residing in the new senate district ~~for senate candidates of the party to which the person vacating the seat belonged~~ may be counted. The secretary of state shall provide an estimate of the number of votes cast ~~for each party~~ by county or portion of a county. The selection process is the same as provided in subsection (2)(b)(iii).

(3) The appointment process to fill a vacant legislative seat under this section is as follows:

(a) Within 7 days of being notified of a vacancy as described in 2-16-501, the secretary of state shall notify the board of county commissioners. ~~and If the vacating legislator marked a party preference on the legislator's most recent declaration of candidacy filed with the secretary of state or election administrator, the secretary of state shall notify the relevant county central committee of the county where the vacating legislator is a resident, if the legislative seat is within one county, or the boards of county commissioners and the corresponding county central committees if the legislative seat is in a multicounty district. If the legislator is an did not mark a party preference, marked "independent", or marked a party preference for a party that does not have a county central committee as the party preference on the legislator's most recent declaration of candidacy filed with the secretary of state or election administrator, independent or belongs to a party for which there is no county central committee, the notification of county commissioners suffices.~~

(b) The county central committee or committees, upon receipt of notification of a vacancy, have 45 days to propose a list of prospective appointees, pursuant to 5-2-403(1). The county central committee or the county central committees, acting together, shall forward the list of names to the appointing board within the 45-day period.

(c) The appointing board shall make and confirm an appointment and notify the secretary of state within 15 days:

(i) after receiving the list of prospective appointees from the county central committee or committees;

(ii) after 45 days have expired after the notification of vacancy if the county central committee or committees have not provided a list of prospective appointees; or

(iii) after notification of a vacancy if the legislator vacating the seat is an independent.

(4) If the legislature is in session, the notification process in subsection (3)(a) must be followed within 5 days. The process described in subsection (3)(b) must take place in 5 days. The process described in subsection (3)(c) must take place in 5 days.

(5) Notwithstanding subsection (6), if a vacancy occurs prior to a primary election, 13-10-326 applies. If a vacancy occurs after a primary and prior to a general election, 13-10-327 applies.

(6) If the legislature is called into special session within 85 days of a general election, a person must be appointed to fill a legislative vacancy pursuant to subsections (1) through (4)."

**Section 3.** Section 5-2-403, MCA, is amended to read:

**"5-2-403. Appointee to be of same and political party preference.** (1) Whenever an appointee's predecessor ~~served~~ *declared a political party preference on the last declaration of candidacy filed with the secretary of state or election administrator as a member of a political party*, the appointee named under 5-2-402 must be a member of *or share a preference for* the same political party and must be selected from a list of three individuals provided:

(a) by the county central committee in a district within a single county; or

(b) by the county central committees, acting together, in a multicounty district, as described in 5-2-402.

(2) Whenever the appointing board is unable to elect an appointee from the submitted list, the appointing board shall request a second list of three names from the county central committee or committees. The second list may not contain any of the names submitted on the first list. The appointing board shall then select an appointee from the individuals named on both lists.

(3) The provisions of this section do not apply if the predecessor ~~served~~ *did not declare a party preference or preferred an independent party preference designation as an independent.*"

**Section 4.** Section 5-2-404, MCA, is amended to read:

**"5-2-404. Procedure upon failure of one candidate to receive majority vote.** In the event that a decision cannot be made by the appointing board because of failure of any candidate to receive a majority of the votes, the final decision may be made by lot from the first and second lists of candidates as provided by 5-2-403 or from a list of three individuals if the predecessor ~~served as an independent~~ *did not declare a party preference or preferred an independent party preference designation on the predecessor's last declaration of candidacy*



*filed with the secretary of state or election administrator, in accordance with rules of selection adopted by the appointing board.*"

**Section 5.** Section 5-2-406, MCA, is amended to read:

**"5-2-406. Elections to fill vacancies in senate.** (1) Whenever a vacancy occurs 85 days or more before the general election held during the second year of the term, an individual may be appointed, pursuant to 5-2-402, if the legislature is called into special session. However, the appointment may run only until a person is elected to complete the term at the upcoming general election and sworn into office. The election procedure to be used to elect the successor is as follows:

(a) Whenever the vacancy occurs 85 days or more prior to the primary election during the second year, the same procedure as is used for senators who will be elected to full 4-year terms at that general election must be utilized.

(b) Whenever the vacancy occurs on or after the 85th day prior to the primary election, ~~any political party desiring to enter a candidate in the general election shall select a candidate~~ *may enter the race* as provided in 13-10-327 and 13-38-204. ~~A political party shall notify the secretary of state of the party nominee. A person desiring to be a candidate as an independent shall follow the procedures provided in 13-10-501 and 13-10-502. The petition for an independent candidate must be filed with the secretary of state on or before the 85th day prior to the general election.~~

(2) Whenever a vacancy occurs on or after the 85th day prior to the general election held during the second year of the term, the person appointed by the board under 5-2-402 shall serve until the end of the term."

**Section 6.** Section 7-2-2219, MCA, is amended to read:

**"7-2-2219. Conduct of election.** (1) (a) The board issuing the notice of election pursuant to 7-2-2215 shall require the county election administrator to furnish to the election judges of each precinct in the proposed new county all election supplies and equipment necessary to conduct the election that are not specifically directed to be furnished by the election administrator of another county or counties.

(b) The election administrator of each county from which territory is taken for the proposed new county shall, not less than 5 days before the date of the election, furnish for each precinct within the proposed new county a precinct register for the precincts of the proposed new county that are within their respective counties.

(2) The elections provided for in 7-2-2215 are governed and controlled by the general election laws of the state to the extent that the general election laws are applicable and except as otherwise provided in this section. The provisions of the election laws relating to preparation, printing, and distribution of sample ballots, except the provisions of these laws relating to primary elections in this state, apply to any election provided for in this part. All returns of an election must be made to and canvassed by the board of county commissioners calling the election.

(3) ~~All nominations of candidates~~ *Candidates* for offices required to be filled at the election ~~must be made~~ *may appear on the ballot only* in the manner provided by law ~~for the nomination of candidates by petition.~~

**Section 7.** Section 7-3-176, MCA, is amended to read:

**"7-3-176. Election of commission members.** (1) If the question of reviewing the local government and establishing a study commission is approved, an election to fill the positions on the local government study

commission must be held in conjunction with the first regularly scheduled election of the local government conducted after 90 days following the election establishing the study commission. A primary election may not be held.

(2) The names of study commission candidates who have filed declarations of ~~nominations~~ *candidatecy* not later than 75 days before the date of the election must be placed on the ballot. There is no filing fee. The election is nonpartisan, and candidates must be listed without party or other designation or slogan. The secretary of state shall prescribe the ballot form for study commissioners.

(3) Candidates for study commission positions must be electors of the local government for which the study commission has been established. The candidates may not be elected officials of the local government.

(4) The number of candidates, equal to the number of study commission positions to be elected, receiving the highest number of votes, which includes votes cast for candidates who have officially filed ~~nominations~~ *declarations* and votes for write-in candidates, must be declared elected. If there is a tie vote among candidates, the governing body shall decide by lot which candidate will fill the position.

(5) If the number of study commissioners elected is not equal to the number required to be selected, the presiding officer of the governing body, with the confirmation of the governing body, shall appoint the additional study commissioners within 20 days of the election. An elected official of the local government may not be appointed.”

**Section 8.** Section 7-3-218, MCA, is amended to read:

**“7-3-218. Selection of commission members.** The commission shall ~~shall~~ *must* be:

(1) elected at large;

(2) elected by districts in which candidates must reside and ~~which that~~ *are* apportioned by population;

(3) elected at large ~~and nominated by a plan of nomination that may not preclude the possibility of~~ *allows* the majority of the electors ~~nominating to elect~~ candidates for the majority of the seats on the commission from persons residing in the district or districts where the majority of the electors reside; or

(4) elected by any combination of districts, in which candidates must reside and ~~which that~~ *are* apportioned by population, and at large.”

**Section 9.** Section 7-3-313, MCA, is amended to read:

**“7-3-313. Selection of commission members.** The commission shall ~~shall~~ *must* be:

(1) elected at large;

(2) elected by districts in which candidates must reside and ~~which that~~ *are* apportioned by population;

(3) elected at large ~~and nominated by a plan of nomination that may not preclude the possibility of~~ *allows* the majority of the electors ~~nominating to elect~~ candidates for the majority of the seats on the commission from persons residing in the district or districts where the majority of the electors reside; or

(4) elected by any combination of districts, in which candidates must reside and ~~which that~~ *are* apportioned by population, and at large.”

**Section 10.** Section 7-3-412, MCA, is amended to read:

**“7-3-412. Selection of commission members.** The commission shall ~~shall~~ *must* be:



- (1) elected at large;
- (2) elected by districts in which candidates must reside and ~~which that~~ are apportioned by population;
- (3) elected at large and ~~nominated~~ by a plan of ~~nomination~~ that ~~may not preclude the possibility of~~ *allows* the majority of the electors ~~nominating to elect~~ candidates for the majority of the seats on the commission from persons residing in the district or districts where the majority of the electors reside; or
- (4) elected by any combination of districts, in which candidates must reside and ~~which that~~ are apportioned by population, and at large.”

**Section 11.** Section 7-3-512, MCA, is amended to read:

**“7-3-512. Selection of commission members.** The commission ~~shall~~ *must* be:

- (1) elected at large;
- (2) elected by districts in which candidates must reside and ~~which that~~ are apportioned by population;
- (3) elected at large and ~~nominated~~ by a plan of ~~nomination~~ that ~~may not preclude the possibility of~~ *allows* the majority of the electors ~~nominating to elect~~ candidates for the majority of the seats on the commission from persons residing in the district or districts where the majority of the electors reside; or
- (4) elected by any combination of districts, in which candidates must reside and ~~which that~~ are apportioned by population, and at large.”

**Section 12.** Section 7-3-704, MCA, is amended to read:

**“7-3-704. Legislative body.** (1) The charter ~~shall~~ *must* provide for an elected legislative body (called a commission or council) or ~~shall~~ *must* provide for a legislative body comprised of all qualified electors. For elected legislative bodies, the charter shall specify the number of members ~~thereof of the body~~, their term of office, election on a partisan or nonpartisan basis, the grounds for their removal, and the method for filling vacancies.

(2) The charter ~~shall~~ *must* provide for the ~~nomination~~ and election of commissions:

- (a) at large;
- (b) by districts in which candidates must reside and ~~which that~~ are apportioned by population;
- (c) by a combination of districts, in which candidates must reside and ~~which that~~ are apportioned by population, and at large; or
- (d) elected at large and ~~nominated~~ by a plan of ~~nomination~~ that ~~may not preclude the possibility of~~ *allows* the majority of the electors ~~nominating to elect~~ candidates for the majority of the seats on the commission from persons residing in the district or districts where the majority of the electors reside.”

**Section 13.** Section 7-3-1256, MCA, is amended to read:

**“7-3-1256. Appointive officers not to seek other office.** Any appointive officer or employee of the municipality who ~~shall become~~ *becomes* a candidate for ~~nomination~~ or election to any public office shall immediately forfeit the office or employment held under the municipality.”

**Section 14.** Section 7-4-2106, MCA, is amended to read:

**“7-4-2106. Vacancy on board of county commissioners — resigning member not to participate in filling pending vacancy.** (1) For the purposes of this part, “vacancy” has the same meaning as prescribed in 2-16-501.

(2) Whenever a vacancy occurs in the board of county commissioners from a failure to elect or otherwise, the remaining county commissioners shall fill the vacancy and the appointee shall hold office until the next general election unless otherwise provided in subsection (3) or (4). The procedure to be used to fill the vacancy is as follows:

(a) If the former incumbent ~~represented a party eligible for a primary election under 13-10-601~~ *marked a party preference on the incumbent's most recent declaration of candidacy as filed with the election administrator and that party preference corresponds with a party with a county central committee organized under Title 13, chapter 38, part 2*, the county central committee of that party shall submit to the remaining commissioners three names of people who have lived in the unrepresented district for at least 2 years preceding the day the vacancy occurs. The remaining commissioners shall appoint one of these three to fill the vacancy. Whenever the remaining commissioners are unable to elect an appointee from the submitted list, they shall request a second list of three names from the county central committee. The second list may not contain any of the names submitted on the first list. The remaining commissioners shall then select an appointee from the individuals named on both lists.

(b) If the former incumbent was independent or ~~was originally nominated by~~ *indicated a party preference on the incumbent's most recent declaration of candidacy as filed with the election administrator with a party that does not have a county central committee organized under Title 13, chapter 38, part 2, meet the requirements of 13-10-601* or if the vacancy occurs from a failure to elect, the remaining commissioners shall invite applications for the vacancy in a notice published as provided in 13-1-108 and shall accept an application from any person who has lived in the unrepresented district for at least 2 years preceding the day the vacancy occurs. The remaining commissioners shall appoint one of these applicants to fill the vacancy.

(3) Whenever a vacancy occurs 75 days or more before the general election held during the second or fourth year of the term, an individual must be elected to complete the term at that general election. The election procedure to be used to elect the successor is as follows:

(a) Whenever the vacancy occurs 75 days or more before the primary election during the second or fourth year of the term, the same procedure must be used as is used to elect county commissioners to full 6-year terms.

(b) Whenever the vacancy occurs after the 75th day preceding the primary election, ~~any political party desiring to enter a candidate in the general election shall select a candidate as provided in 13-38-204. A political party shall notify the clerk and recorder of the party nominee. A person desiring to be a candidate as an independent on the ballot in the general election shall follow the procedures provided in 13-10-501 and 13-10-502. The petition for an independent candidate must be filed~~ *file a declaration of candidacy* with the clerk and recorder on or before the 75th day prior to the general election. A candidate for a nonpartisan office shall file as provided in Title 13, chapter 14.

(4) Whenever a vacancy occurs after the 75th day preceding the general election held during the fourth year of the term, the person appointed by the remaining county commissioners under subsection (2) shall serve until the end of the term.

(5) (a) If multiple vacancies occur simultaneously so that a quorum cannot be established, the county compensation board provided for in 7-4-2503 shall, subject to subsection (5)(c) of this section, appoint enough commissioners to

allow for a quorum to be established. The vacancies must be filled in the order in which the commissioners' terms would have expired.

(b) If vacancies occur at different times but, because appointments have not yet been made, a quorum cannot be established, the county compensation board shall, subject to subsection (5)(c), appoint enough commissioners to allow for a quorum to be established. The county compensation board shall appoint each commissioner in the order that the vacancy occurred.

(c) (i) A commissioner appointed under this subsection (5) must meet the residency requirement in 7-4-2104(2) and must be from the same district as the commissioner being replaced.

(ii) If a commissioner being replaced ~~represented a party eligible for a primary election under 13-10-601~~ *marked a party preference on the incumbent's most recent declaration of candidacy and that party preference corresponds with a party with a county central committee organized under Title 13, chapter 38, part 2*, the county central committee of that party shall, within 30 days of the occurrence of the vacancy, submit to the county compensation board three names of people who have lived in the unrepresented district for at least 2 years prior to the occurrence of the vacancy. The county compensation board shall appoint each commissioner from the list of names provided by the county central committee.

(d) Once a quorum can be established, the county commissioners forming the quorum shall appoint the remaining commissioners as provided in this section.

(e) If a county compensation board does not exist, appointments under this subsection (5) must be made by a district judge having jurisdiction in the county.

(6) If a member of the board of county commissioners has submitted the member's resignation as provided in 2-16-502 or if proceedings have begun to remove the member from office under 2-16-501, that member may not be considered to be a remaining member of the commission as provided in this section and may not participate in filling the vacancy to be created when the resignation becomes effective."

**Section 15.** Section 7-4-2206, MCA, is amended to read:

**"7-4-2206. Vacancies.** (1) For the purposes of this part, "vacancy" has the same meaning as prescribed in 2-16-501.

(2) Vacancies in all county offices, except that of county commissioner, must be filled by appointment by the board of county commissioners. Except as provided in subsections (3) through (5), the appointee holds the office, if elective, until the person elected at the next general election is certified pursuant to 13-15-406. If the office is not elective, the appointee serves at the pleasure of the commissioners.

(3) Whenever a vacancy occurs 75 days or more before the general election held during the second year of the term, an individual must be elected to complete the term at that general election. The election procedure to be used to elect the successor is as follows:

(a) Whenever the vacancy occurs 75 days or more before the primary election during the second year of the term, the same procedure must be used as is used to elect a person to that office for a full 4-year term.

(b) Whenever the vacancy occurs after the 75th day before the primary election, any ~~political party desiring to enter a candidate in the general election shall select a candidate as provided in 13-38-204. A political party shall notify the clerk and recorder of the party nominee.~~ A person desiring to be a candidate

as an independent shall follow the procedures provided in 13-10-501 and 13-10-502. The petition for an independent candidate must be filed *file a declaration of candidacy* with the clerk and recorder on or before the 75th day before the general election. A candidate for a nonpartisan office shall file as provided in Title 13, chapter 14.

(4) Whenever a vacancy occurs after the 75th day before the general election held during the second year of the term, the person appointed by the commissioners under subsection (2) shall serve until the end of the term.

(5) Vacancies occurring in the office of justice of the peace must be filled as provided in Title 3, chapter 10, part 2.”

**Section 16.** Section 7-4-2302, MCA, is amended to read:

**“7-4-2302. Petition for consolidation of county offices.** (1) At any time not later than 45 days before the date on which declarations ~~for nomination of candidacy~~ may first be filed for any county office, a petition in writing may be filed with the board of county commissioners of a county asking for the consolidation of any two or more of ~~said those~~ offices by the board of ~~such the~~ county.

(2) The petition ~~shall~~ *must* be signed by not less than 15% of the registered electors of ~~such the~~ county.”

**Section 17.** Section 7-4-2310, MCA, is amended to read:

**“7-4-2310. Order for consolidation of offices.** (1) In consolidating county offices, the board of county commissioners shall, not less than 7 days before the date on which declarations ~~for nomination of candidacy~~ may first be filed for any office to be consolidated or not less than 6 months prior to the appointment to the offices to be consolidated, make and enter an order combining any two or more of the within-named offices.

(2) Whenever an order consolidating two or more offices is made, the order ~~shall~~ *must* be entered in full on the board’s minutes of proceedings.

(3) The order ~~shall~~ *must* be published in a newspaper of general circulation, printed and published in the county or counties affected, for a period of 2 successive weeks following the date of the making and entering of the order.”

**Section 18.** Section 7-4-4112, MCA, is amended to read:

**“7-4-4112. Filling of vacancy.** (1) When a vacancy occurs in any elective office, ~~this the~~ position is considered open and subject to ~~nomination and~~ election ~~at during the next general~~ municipal election *cycle* in the same manner as the election of any other person holding the same office, except the term of office is limited to the unexpired term of the person who originally created the vacancy. Pending an election and qualification, the council shall, by a majority vote of the members, appoint a person within 30 days of the vacancy to hold the office until a successor is elected and qualified.

(2) If all council positions become vacant at one time, the board of county commissioners shall appoint persons within 5 days to hold office as a city council member. The appointed city council member shall then appoint persons to any other vacant elective offices.

(3) A vacancy in the office of city council member must be filled from the ward in which the vacancy exists.”

**Section 19.** Section 13-1-101, MCA, is amended to read:

**“13-1-101. Definitions.** As used in this title, unless the context clearly indicates otherwise, the following definitions apply:

(1) "Active elector" means an elector whose name has not been placed on the inactive list due to failure to respond to confirmation notices pursuant to 13-2-220 or 13-19-313.

(2) "Active list" means a list of active electors maintained pursuant to 13-2-220.

(3) "Anything of value" means any goods that have a certain utility to the recipient that is real and that is ordinarily not given away free but is purchased.

(4) "Application for voter registration" means a voter registration form prescribed by the secretary of state that is completed and signed by an elector, submitted to the election administrator, and contains voter registration information subject to verification as provided by law.

(5) "Ballot" means a paper ballot counted manually or a paper ballot counted by a machine, such as an optical scan system or other technology that automatically tabulates votes cast by processing the paper ballots.

(6) "Candidate" means:

(a) an individual who has filed a declaration of *candidacy*, ~~or~~ petition for nomination, ~~acceptance of nomination~~, or appointment as a candidate for public office as required by law;

(b) for the purposes of chapter 35, 36, or 37, an individual who has solicited or received and retained contributions, made expenditures, or given consent to an individual, organization, political party, or committee to solicit or receive and retain contributions or make expenditures on the individual's behalf to secure ~~nomination~~ *selection to advance* or election to any office at any time, whether or not the office for which the individual will seek ~~nomination~~ *selection to advance* or election is known when the:

(i) solicitation is made;

(ii) contribution is received and retained; or

(iii) expenditure is made; or

(c) an officeholder who is the subject of a recall election.

(7) "*Certificate of selection*" means a certificate awarded to the individual or individuals authorized by law to advance from a primary election and appear on the general election ballot.

(7)(8) (a) "Contribution" means:

(i) an advance, gift, loan, conveyance, deposit, payment, or distribution of money or anything of value to influence an election;

(ii) a transfer of funds between political committees;

(iii) the payment by a person other than a candidate or political committee of compensation for the personal services of another person that are rendered to a candidate or political committee.

(b) "Contribution" does not mean:

(i) services provided without compensation by individuals volunteering a portion or all of their time on behalf of a candidate or political committee or meals and lodging provided by individuals in their private residences for a candidate or other individual;

(ii) the cost of any bona fide news story, commentary, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, or other periodical publication of general circulation;

(iii) the cost of any communication by any membership organization or corporation to its members or stockholders or employees; or

(iv) filing fees paid by the candidate.

~~(8)~~(9) "Election" means a general, regular, special, or primary election held pursuant to the requirements of state law, regardless of the time or purpose.

~~(9)~~(10) "Election administrator" means the county clerk and recorder or the individual designated by a county governing body to be responsible for all election administration duties, except that with regard to school elections not administered by the county, the term means the school district clerk.

~~(10)~~(11) "Elector" means an individual qualified to vote under state law.

~~(11)~~(12) (a) "Expenditure" means a purchase, payment, distribution, loan, advance, promise, pledge, or gift of money or anything of value made for the purpose of influencing the results of an election.

(b) "Expenditure" does not mean:

(i) services, food, or lodging provided in a manner that they are not contributions under subsection ~~(7)~~ (8);

(ii) payments by a candidate for a filing fee or for personal travel expenses, food, clothing, lodging, or personal necessities for the candidate and the candidate's family;

(iii) the cost of any bona fide news story, commentary, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, or other periodical publication of general circulation; or

(iv) the cost of any communication by any membership organization or corporation to its members or stockholders or employees.

~~(12)~~(13) "Federal election" means a general or primary election in which an elector may vote for individuals for the office of president of the United States or for the United States congress.

~~(13)~~(14) "General election" or "regular election" means an election held for the election of public officers throughout the state at times specified by law, including elections for officers of political subdivisions when the time of the election is set on the same date for all similar political subdivisions in the state. For ballot issues required by Article III, section 6, or Article XIV, section 8, of the Montana constitution to be submitted by the legislature to the electors at a general election, "general election" means an election held at the time provided in 13-1-104(1). For ballot issues required by Article XIV, section 9, of the Montana constitution to be submitted as a constitutional initiative at a regular election, regular election means an election held at the time provided in 13-1-104(1).

~~(14)~~(15) "Inactive elector" means an individual who failed to respond to confirmation notices and whose name was placed on the inactive list pursuant to 13-2-220 or 13-19-313.

~~(15)~~(16) "Inactive list" means a list of inactive electors maintained pursuant to 13-2-220 or 13-19-313.

~~(16)~~(17) "Individual" means a human being.

~~(17)~~(18) (a) "Issue" or "ballot issue" means a proposal submitted to the people at an election for their approval or rejection, including but not limited to initiatives, referenda, proposed constitutional amendments, recall questions, school levy questions, bond issue questions, or a ballot question.

(b) For the purposes of chapters 35 and 37, an issue becomes a "ballot issue" upon certification by the proper official that the legal procedure necessary for its qualification and placement upon the ballot has been completed, except that a statewide issue becomes a "ballot issue" upon preparation and transmission by



the secretary of state of the form of the petition or referral to the person who submitted the proposed issue.

~~(18)~~(19) “Legally registered elector” means an individual whose application for voter registration was accepted, processed, and verified as provided by law.

~~(19)~~(20) “Mail ballot election” means any election that is conducted under Title 13, chapter 19, by mailing ballots to all active electors.

(21) “*Partisan primary*” means a presidential preference primary or a political party precinct committee officer race.

~~(20)~~(22) “Person” means an individual, corporation, association, firm, partnership, cooperative, committee, club, union, or other organization or group of individuals or a candidate as defined in subsection (6).

~~(21)~~(23) “Place of deposit” means a location designated by the election administrator pursuant to 13-19-307 for a mail ballot election conducted under Title 13, chapter 19.

~~(22)~~(24) “Political committee” means a combination of two or more individuals or a person other than an individual who makes a contribution or expenditure:

(a) to support or oppose a candidate or a committee organized to support or oppose a candidate ~~or a petition for nomination~~; or

(b) to support or oppose a ballot issue or a committee organized to support or oppose a ballot issue; or

(c) as an earmarked contribution.

~~(23)~~(25) “Political subdivision” means a county, consolidated municipal-county government, municipality, special district, or any other unit of government, except school districts, having authority to hold an election for officers or on a ballot issue.

~~(24)~~(26) “Polling place election” means an election primarily conducted at polling places rather than by mail under the provisions of Title 13, chapter 19.

~~(25)~~(27) “Primary” or “primary election” means an election held throughout the state *at times specified by law to nominate narrow the number of candidates for public office at times specified by law, including nominations of candidates for offices of political subdivisions when the time for nominations is set on the same date for all similar subdivisions in the state.*

~~(26)~~(28) “Provisional ballot” means a ballot cast by an elector whose identity or eligibility to vote has not been verified as provided by law.

~~(27)~~(29) “Provisionally registered elector” means an individual whose application for voter registration was accepted but whose identity or eligibility has not yet been verified as provided by law.

~~(28)~~(30) “Public office” means a state, county, municipal, school, or other district office that is filled by the people at an election.

~~(29)~~(31) “Random-sample audit” means an audit involving a manual count of ballots from designated races and ballot issues in precincts selected through a random process as provided in 13-17-503.

~~(30)~~(32) “Registrar” means the county election administrator and any regularly appointed deputy or assistant election administrator.

(33) “*Selection to advance*” or “*selected to advance*” means the status given to an individual authorized by law to advance from a primary election and appear on the general election ballot.



~~(31)~~(34) "Special election" means an election other than a statutorily scheduled primary or general election held at any time for any purpose provided by law. It may be held in conjunction with a statutorily scheduled election.

~~(32)~~(35) "Statewide voter registration list" means the voter registration list established and maintained pursuant to 13-2-107 and 13-2-108.

~~(36)~~ "Top two primary" means the primary election process for partisan public offices, except political party precinct committee offices or elections for a presidential preference primary, to narrow the number of candidates for each office to the two candidates who, irrespective of political party preference, receive the highest number of votes cast in the race.

~~(33)~~(37) "Transfer form" means a form prescribed by the secretary of state that may be filled out by an elector to transfer the elector's registration when the elector's residence address has changed within the county.

~~(34)~~(38) "Valid vote" means a vote that has been counted as valid or determined to be valid as provided in 13-15-206.

~~(35)~~(39) "Voted ballot" means a ballot that is:

- (a) deposited in the ballot box at a polling place;
- (b) received at the election administrator's office; or
- (c) returned to a place of deposit.

~~(36)~~(40) "Voting system" or "system" means any machine, device, technology, or equipment used to automatically record, tabulate, or process the vote of an elector cast on a paper ballot."

**Section 20.** Section 13-1-103, MCA, is amended to read:

**"13-1-103. Determination of winner.** (1) The individual receiving the highest number of valid votes for any office at ~~an~~ a general election, nonpartisan election, or partisan primary election is selected to advance or elected ~~or~~ ~~nominated~~ to that office.

(2) *In a top two primary, the two individuals receiving the most votes are selected to advance.*"

**Section 21.** Section 13-4-102, MCA, is amended to read:

**"13-4-102. Manner of choosing election judges.** (1) Subject to 13-4-107, election judges must be chosen from lists of qualified registered electors for each precinct in the county, submitted at least 45 days before the primary election in even-numbered years by the county central committees of the political parties eligible to nominate candidates in the *last presidential* primary.

(2) The list of each party may contain more names than the number of election judges to be appointed. The names of those not appointed as election judges must be given to the election administrator for use in making appointments to fill vacancies.

(3) Each board of election judges must include judges representing all parties that have submitted lists as provided in subsection (1). No more than the number of election judges needed to obtain a simple majority may be appointed from the list of one political party in each precinct. If any of the political parties entitled to do so fail to submit a list meeting the requirements of this section, the governing body shall, to the extent possible, appoint judges so that all parties eligible to participate in the primary are represented on each board.

(4) The election administrator shall make appointments to fill vacancies from the list provided for in subsection (2). If the list is insufficient or if one or more of the eligible political parties fails to submit a list meeting the requirements of this section, the election administrator may select enough

people meeting the qualifications of 13-4-107 to fill election judge vacancies in all precincts.

(5) An elector chosen to potentially serve as an election judge must be notified of selection at least 30 days before the primary election in even-numbered years. Each elector who agrees to serve as an election judge shall attend a training class conducted under 13-4-203 and shall continue to serve as provided in 13-4-103.”

**Section 22.** Section 13-10-201, MCA, is amended to read:

**“13-10-201. Declaration for nomination of candidacy — term limitations.** (1) Each candidate in the primary election, except nonpartisan candidates filing under the provisions of Title 13, chapter 14, shall file a declaration ~~for nomination of candidacy~~ with the secretary of state or election administrator. Except for a candidate who files under 13-38-201, a candidate may not file for more than one public office. Each candidate for governor shall file a joint declaration ~~for nomination of candidacy~~ with a candidate for lieutenant governor.

(2) A declaration ~~for nomination of candidacy~~ must be filed in the office of:

(a) the secretary of state for placement of a name on the ballot for the presidential preference primary, a congressional office, a state or district office to be voted for in more than one county, a member of the legislature, or a judge of the district court;

(b) the election administrator for a county, municipal, precinct, or district office (other than a member of the legislature or judge of the district court) to be voted for in only one county.

(3) Each candidate shall sign the declaration and send with it the required filing fee or, in the case of an indigent candidate, send with it the ~~documents~~ *statement* required by 13-10-203. Unless filed electronically with the secretary of state, the declaration ~~for nomination of candidacy~~ must be acknowledged by an officer empowered to acknowledge signatures or by the officer of the office at which the filing is made.

(4) (a) *In a top two primary, each candidate may state the candidate’s political party preference on the declaration of candidacy. A candidate may not declare a preference for more than one party. When identifying a political party preference, a candidate is not restricted to identifying an established party and may use a limited number of characters, according to rules adopted by the secretary of state, to identify a political party preference.*

(b) *In a top two primary, a declaration of political party preference is not evidence that the candidate has been nominated or endorsed by the political party or that the party approves of or associates with that candidate.*

~~(4)(5)~~ *The In a partisan primary, the declaration of candidacy, when filed, is conclusive evidence that the elector is a candidate for nomination by the elector’s party. For a partisan election, an elector may not file a declaration for more than one party’s nomination.*

~~(5)(6)~~ (a) The declaration ~~for nomination of candidacy~~ must be in the form and contain the information prescribed by the secretary of state.

(b) A person seeking ~~nomination~~ *election* to the legislature shall provide the secretary of state with a street address, legal description, or road designation to indicate the person’s place of residence. If a candidate for the legislature changes residence, the candidate shall, within 15 days after the change, notify the secretary of state on a form prescribed by the secretary of state.

(c) The secretary of state and election administrator shall furnish declaration ~~for nomination of candidacy~~ forms to individuals requesting them.

~~(6)(7)~~ (a) Except as provided in 13-10-211 and subsection ~~(6)(b)~~ ~~(7)(b)~~ of this section, a candidate's declaration ~~for nomination of candidacy~~ must be filed no sooner than 135 days before the election in which the office first appears on the ballot and no later than 5 p.m., 75 days before the date of the primary election.

(b) For an election held pursuant to 13-1-104(1)(a) or 13-1-107(1) or for a political subdivision that holds an election on the date of either of those elections, a candidate's declaration ~~for nomination of candidacy~~ must be filed no sooner than 145 days before the election in which the office first appears on the ballot and no later than 5 p.m., 85 days before the date of the primary election.

~~(7)(8)~~ A declaration ~~for nomination of candidacy~~ form may be sent by facsimile transmission if a facsimile facility is available for use by the election administrator or by the secretary of state, delivered in person, or mailed to the election administrator or to the secretary of state.

~~(8)(9)~~ For the purposes of implementing Article IV, section 8, of the Montana constitution, the secretary of state shall apply the following conditions:

(a) A term of office for an official serving in the office or a candidate seeking the office is considered to begin on January 1 of the term for which the official is elected or for which the candidate seeks election and end on December 31 of the term for which the official is elected or for which the candidate seeks election.

(b) A year is considered to start on January 1 and end on the following December 31.

(c) "Current term", as used in Article IV, section 8, of the Montana constitution, has the meaning provided in 2-16-214."

**Section 23.** Section 13-10-203, MCA, is amended to read:

**"13-10-203. Indigent candidates.** If an individual is unable to pay a filing fee, the filing officer shall accept ~~the following documents~~ in lieu of a filing fee:

~~(1) from a successful write-in candidate, a statement that the candidate is unable to pay the filing fee;~~

~~(2) from a candidate for nomination, a statement that the candidate is unable to pay the filing fee and a written petition for nomination as a candidate that meets the following requirements:~~

~~(a) the petition contains the name of the office to be filled and the candidate's name and residence address;~~

~~(b) the petition contains signatures numbering 5% or more of the total vote cast for the successful candidate for the same office at the last general election;~~

~~(c) the signatures are those of electors residing within the political subdivision of the state in which the candidate petitions for nomination; and~~

~~(d) the signatures have been submitted to the appropriate election administrator at least 1 week prior to the applicable deadline in 13-10-201(6) and have been certified by the appropriate election administrator by the procedure provided in 13-27-303 and 13-27-304."~~

**Section 24.** Section 13-10-204, MCA, is amended to read:

**"13-10-204. Write-in nominations candidates.** (1) An individual ~~nominated receiving the highest or second-highest number of votes in a primary election~~ by having the individual's name written in and counted as provided in 13-15-206(5) or otherwise placed on the primary ballot ~~and desiring to accept the nomination~~ may not have the individual's name appear on the general election ballot unless the individual:

~~(a) received at least 5% of the total votes cast for the successful candidate for the same office at the last general election;~~

~~(b) files with the secretary of state or election administrator, no later than 10 days after the official canvass, a written declaration indicating acceptance of the nomination; selection to advance and~~

~~(c) complies with the provisions of 13-37-126.~~

(2) A write-in candidate who was exempt from filing a declaration of intent under 13-10-211 shall, at the time of filing the declaration of acceptance, pay the filing fee specified in 13-10-202 or, if indigent, file the appropriate documents ~~statement~~ described in 13-10-203."

**Section 25.** Section 13-10-209, MCA, is amended to read:

**"13-10-209. Arrangement and preparing of primary ballots.** (1) (a) Ballots for a primary election must be arranged and prepared in the same manner and number as provided in chapter 12 for general election ballots, except that there must be separate ballots for each political party entitled to participate. The name of the political party must appear at the top of the separate ballot for that party and need not appear opposite each candidate's name.

(b) (i) *In a top two primary election, the political party preference declared by the candidate on the declaration of candidacy under 13-10-201 must appear with the candidate's name on the ballot. The word "preference" must follow the candidate's preferred party, if any. If a candidate has not declared a preference for a political party, the words "no party preference" must appear on the ballot with the candidate's name. Nothing in a top two primary election portion of the ballot may indicate whether a candidate has been endorsed or nominated by a political party. The top two primary portion or portions of the ballot must clearly and conspicuously state that candidates in that section are not nominees or members of or endorsed by or otherwise associated with the candidate's political party preference.*

(ii) *Information must be printed on the ballot and in the voter information pamphlet provided for in 13-27-401 to inform voters that in the top two primary the two candidates who receive the most votes for the office will advance to a general election regardless of either candidate's political party preference.*

~~(b) Nonpartisan offices and ballot issues may be prepared on separate ballots or may appear on the same ballot as partisan offices if:~~

(2) (a) *All offices and ballot issues must appear on one ballot. The ballot must be arranged to eliminate the possibility of widespread voter confusion.*

~~(i) each~~ *Each section is must be clearly identified as separate;*

~~(ii) the nonpartisan offices and ballot issues appear on each party's ballot; and~~

~~(iii) with~~ (b) *With respect to ballot issues, written approval is obtained as provided in 13-27-502.*

~~(2)(3) An election administrator does is not need required to prepare a primary ballot for a political party if:~~

~~(a) the party does not have candidates for more than half of the offices to appear on the ballot; or~~

~~(b) if no more than one candidate files for nomination by that party two candidates file for any of the offices to appear on the ballot.~~

~~(3)(4) If, pursuant to subsection (2) (3), in a primary election held under 13-1-107(1) a primary ballot for a political party is not prepared, the secretary of~~

state shall certify that a primary election is unnecessary for that party and shall instruct the election administrator to certify the names of the candidates for that party for the general election ballot only.

(4) ~~The separate ballots for each party must have the same appearance. Each set of party ballots must bear the same number. If prepared as a separate ballot, the nonpartisan ballot may have a different appearance than the party ballots but must be numbered in the same order as the party ballots.~~

~~(5) If a ballot issue is to be voted on at a primary election, it may be placed on the nonpartisan ballot or a separate ballot. A separate ballot may have a different appearance than the other ballots in the election but must be numbered in the same order.~~

(5) (a) *If a partisan primary is held, the ballot must contain the following:*

(i) *a clear and conspicuous, segregated area for the elector to mark the political party the elector wishes to affiliate with for the purposes of voting in the primary election;*

(ii) *an option for the elector to mark "none of the above" with respect to political party affiliation; and*

(iii) *a clear and conspicuous statement that only electors who mark a political party affiliation may vote on the partisan primary portion of the ballot.*

(b) *A vote cast in a partisan primary may be counted only if the elector has marked an affiliation with one political party, a vote cast in a partisan primary corresponds only to the marked party's primary, and the elector has voted only once for each office.*

(6) Each elector must receive a set of ballots that includes the ~~party~~ *partisan primary, top two primary, nonpartisan, and ballot issue choices.*"

**Section 26.** Section 13-10-211, MCA, is amended to read:

**"13-10-211. Declaration of intent for write-in candidates.** (1) Except as provided in subsection (8), a person seeking to become a write-in candidate for an office in any election shall file a declaration of intent. Except for a candidate who files under 13-38-201, a candidate may not file for more than one public office. The declaration of intent must be filed with the secretary of state or election administrator, depending on where a declaration of ~~nominat~~ *nomination candidacy* for the desired office is required to be filed under 13-10-201, or with the school district clerk for a school district office. When a county election administrator is conducting the election for a school district, the school district clerk or school district office that receives the declaration of intent shall notify the county election administrator of the filing. Except as provided in subsections (2) and (3), the declaration must be filed no later than 5 p.m. on the 10th day before the date established under 13-13-205 on which a ballot must be available for absentee voting for the election and must contain:

(a) (i) the candidate's first and last names;

(ii) the candidate's initials, if any, used instead of a first name, or first and middle name, and the candidate's last name;

(iii) the candidate's nickname, if any, used instead of a first name, and the candidate's last name; and

(iv) a derivative or diminutive name, if any, used instead of a first name, and the candidate's last name;

(b) the candidate's mailing address;

(c) a statement declaring the candidate's intention to be a write-in candidate;

- (d) the title of the office sought;
- (e) the date of the election;
- (f) the date of the declaration; and
- (g) the candidate's signature.

(2) A declaration of intent may be filed after the deadline provided for in subsection (1) but no later than 5 p.m. on the day before the election if, after the deadline prescribed in subsection (1), a candidate for the office that the write-in candidate is seeking dies or is charged with a felony offense.

(3) A person seeking to become a write-in candidate in a mail ballot election or for a trustee position in a school board election shall file a declaration of intent no later than 5 p.m. on the 26th day before the election.

(4) The secretary of state shall notify each election administrator of the names of write-in candidates who have filed a declaration of intent with the secretary of state. Each election administrator and school district clerk shall notify the election judges in the county or district of the names of write-in candidates who have filed a declaration of intent.

(5) A declaration of intent may be provided to the election administrator or secretary of state:

- (a) by facsimile transmission if a facsimile facility is available for receipt;
- (b) in person; or
- (c) by mail.

(6) A declaration is not valid until the filing fee required pursuant to 13-10-202 is received by the secretary of state or the election administrator.

(7) A write-in candidate who files a declaration of intent for a general election may not file with a partisan, nonpartisan, or independent designation.

(8) Except as provided in 13-38-201(5), the requirements in subsection (1) do not apply if:

- (a) an election is held;
- (b) a person's name is written in on the ballot;
- (c) the person is qualified for and seeks election to the office for which the person's name was written in; and
- (d) no other candidate has filed a declaration of *candidacy* or petition for nomination or a declaration of intent."

**Section 27.** Section 13-10-301, MCA, is amended to read:

**"13-10-301. Casting of ballot Primary election procedures.** (1) Unless otherwise provided by law, the conduct of the primary election, the voting procedure, the counting, tallying, and return of ballots and all election records and supplies, the canvass of votes, the certification and notification of ~~nominees~~ *candidates*, recounts, procedures upon tie votes, and any other necessary election procedures must be at the same times and in the same manner as provided for in the laws for the general election.

~~(2) At a primary election, the elector shall cast votes on only one of the party ballots, preparing the ballot as provided in 13-13-117. After casting votes on any other ballots received other than the party ballots, the elector shall ensure the proper disposition of the ballots in accordance with instructions provided pursuant to 13-13-112.~~

~~(3)~~(2) The elector's ballot must be handled as prescribed in 13-13-117."



**Section 28.** Section 13-10-325, MCA, is amended to read:

**“13-10-325. Withdrawal from nomination election.** (1) (a) A candidate ~~for nomination or candidate for election to an office~~ may withdraw from the election by sending a statement of withdrawal to the officer with whom the candidate’s declaration, petition, or acceptance of ~~nomination~~ *selection to advance* was filed. The statement must contain all information necessary to identify the candidate and the office sought. Unless filed electronically with the secretary of state, the statement of withdrawal ~~from nomination~~ must be acknowledged by an officer empowered to acknowledge signatures or by the officer of the office at which the filing is made.

(b) Except as provided in subsection (1)(c), a candidate may not withdraw later than 85 days before a general election or 75 days before a primary election.

(c) A candidate may not withdraw later than 85 days before a general election conducted pursuant to 13-1-104(1)(a) or a primary election conducted pursuant to 13-1-107(1).

(2) Filing fees paid by the candidate may not be refunded.”

**Section 29.** Section 13-10-326, MCA, is amended to read:

**“13-10-326. Vacancy prior to primary election.** (1) Except as provided in subsection (2):

(a) if a candidate ~~for nomination~~ for a partisan office dies or withdraws 75 days or more before the primary election, *an individual intending the affected political party may appoint someone* to replace ~~the that~~ candidate ~~by may use~~ the procedure provided in ~~13-10-327 13-10-201~~; or

(b) if a candidate ~~for nomination~~ for a partisan office *who marked a party preference on the candidate’s most recent declaration of candidacy* dies less than 75 days before the primary election, the affected political party shall appoint a candidate after the primary election as provided in 13-10-327 if ~~a the~~ candidate for that office ~~for who preferred or associated with~~ that party was ~~not nominated at the primary election selected to advance~~.

(2) For an election conducted pursuant to 13-1-104(1)(a) or 13-1-107(1):

(a) if a candidate ~~for nomination~~ for a partisan office dies or withdraws 85 days or more before the primary election, ~~the affected political party may appoint someone~~ *an individual intending* to replace the candidate ~~by in the primary election may use~~ the procedure provided in ~~13-10-327 13-10-201~~; or

(b) if a candidate ~~for nomination~~ for a partisan office *who marked a party preference on the candidate’s most recent declaration of candidacy* dies less than 85 days before the primary election, the affected political party shall appoint a candidate after the primary election as provided in 13-10-327 if ~~a the~~ candidate for that office ~~for who preferred or associated with~~ that party was ~~not nominated at the primary election selected to advance~~.

(3) This section does not allow a political party to appoint a candidate for an office if ~~no a~~ candidate ~~for nomination by who declared a preference for that party filed did not file~~ for the office before the primary election.”

**Section 30.** Section 13-10-327, MCA, is amended to read:

**“13-10-327. Vacancy after primary and prior to general election.** (1) Except as provided in 13-10-328 for a vacancy in the candidacy of either governor or lieutenant governor caused by the death of a candidate, if a ~~party~~ candidate *marked a party preference on the candidate’s most recent declaration of candidacy filed with the secretary of state or election administrator and that candidate* dies or withdraws after the primary and before the general election, the affected political party shall appoint someone to replace the candidate in one of the following ways:



(a) For offices to be filled by the state at large, the state central committee shall make the appointment as provided by the rules of the party.

(b) For offices to be filled in districts including more than one county, a committee appointed by the county central committees of all counties in the district shall make the appointment. Procedures for the appointment of the committee and making the appointment must be provided in party rules.

(c) For offices to be filled in counties, municipalities, or districts wholly within a county, the appointment must be made under rules adopted by the county central committee.

(2) Except as provided in this section, appointments to fill vacancies must be made no later than 76 days before the election. A candidate may not officially withdraw 85 days or less before a general election. However, if a candidate for partisan office dies less than 85 days before the general election, the affected political party *for which the candidate declared a preference, as stated on the most recent declaration of candidacy form filed with the secretary of state or election administrator*, shall appoint a candidate within 5 days after being notified of the vacancy. One of the procedures provided in 13-12-204 must be used to place the name of the appointee on the ballot if necessary.

(3) The appointing committee shall send a certificate to the officer with whom a declaration ~~for nomination of candidacy~~ for the office would be filed, with the information required on a declaration ~~for nomination of candidacy~~ and the name of the candidate for whom the appointee is to be substituted. The appointee shall send a signed and acknowledged acceptance of the appointment and the filing fee for the office.

(4) The officer receiving the certificate of appointment, accompanied by a statement of acceptance and the filing fee, shall certify the name of the appointee for the ballot.”

**Section 31. Top two primary restrictions — exceptions.** (1) If two or fewer candidates seek advancement to the general election, those candidates shall immediately advance without appearing on the primary election ballot.

(2) The top two primary may not be used as a process for a political party to nominate or endorse a candidate for a partisan public office. A top two primary may not be construed as a regulation of how a political party may nominate or endorse a candidate. A party preference may not be used to limit the voting options available to a voter.

**Section 32.** Section 13-10-402, MCA, is amended to read:

**“13-10-402. Ballot.** (1) The regular ~~party~~ primary ballots ~~shall must~~ be used for the presidential preference primary election.

(2) The presidential section of the ballot ~~shall must~~ be placed before any other section, *whether* national, state, or local.”

**Section 33.** Section 13-10-403, MCA, is amended to read:

**“13-10-403. Form of ballot.** The presidential preference ballot ~~shall must~~ list all candidates ~~nominated~~ in accordance with the provisions of this part and ~~shall, in addition, must~~ include a presidential ballot position ~~which shall be that~~ is designated as “no preference” and a blank write-in space.”

**Section 34.** Section 13-10-404, MCA, is amended to read:

**“13-10-404. Placement of candidate on primary ballot — methods of qualification.** Before an individual intending to qualify as a presidential candidate may qualify for placement on the ballot, the individual shall qualify by one or more of the following methods:

(1) The individual has submitted a ~~declaration~~ *petition* for nomination ~~as provided in 13-10-501~~ to the secretary of state ~~pursuant to 13-10-201(2)~~ and has been ~~nominated on petitions with containing~~ the verified signatures of at least 500 qualified electors. ~~The secretary of state shall prescribe the form and content of the petition.~~

(2) The individual has submitted a ~~declaration for nomination of candidacy~~ to the secretary of state pursuant to 13-10-201, and the secretary of state has determined, by the time that ~~declarations for nomination of candidacy~~ are to be filed, that the individual is eligible to receive payments pursuant to the federal Presidential Primary Matching Payment Account Act, 26 U.S.C. 9031, et seq.”

**Section 35.** Section 13-10-405, MCA, is amended to read:

**“13-10-405. Submission and verification of petition.** Petitions of nomination for the presidential preference primary election and the affidavits of circulation required by 13-27-302 must be presented to the election administrator of the county in which the signatures are gathered at least 1 week before the primary election filing deadline prescribed in ~~13-10-201(6)(b)~~ *13-10-201(7)(b)*. A filing fee is not required. The election administrator shall verify the signatures in the manner prescribed in 13-27-303 through 13-27-308 and ~~must~~ *shall* forward the petitions to the secretary of state by the filing deadline prescribed in ~~13-10-201(6)(b)~~ *13-10-201(7)(b)*.”

**Section 36.** Section 13-10-501, MCA, is amended to read:

**“13-10-501. Petition for nomination by independent candidates or political parties not eligible to participate in primary election — form.**

(1) ~~Except as provided in 13-10-504, nominations for public office by an independent candidate or a political party that does not meet the requirements of 13-10-601 may be made by a petition for nomination.~~

(2)(1) ~~The~~ *A* petition *for nomination* must contain the same information and the oath of the candidate required for a ~~declaration for nomination of candidacy~~.

(3)(2) If a petition is filed by a political party, it must contain the party name and, in five words or less, the principle that the body represents.

(4)(3) The form of the petition must be prescribed by the secretary of state, and the secretary of state shall furnish sample copies to the election administrators and on request to any individual.

(5)(4) Each sheet of a petition must contain signatures of electors residing in only one county.”

**Section 37.** Section 13-10-504, MCA, is amended to read:

**“13-10-504. Independent or minor party candidates for president or vice president.** (1) An individual who desires to run for president or vice president as an independent candidate ~~or as a candidate of a party not qualified under 13-10-601~~ shall file a petition for nomination *as provided in 13-10-501* with the secretary of state 76 days prior to the date of the general election.

(2) The petition and the affidavits of circulation required by 13-27-302 must first be submitted, at least 1 week before the deadline for filing, to the election administrator in the county where the signer resides for verification and certification by the procedures provided in 13-27-303 through 13-27-306.

(3) The petition must have the signatures of electors equal to 5% or more of the total votes cast for the successful candidate for governor at the last general election or 5,000 electors, whichever is less. The names of the candidates for the required number of presidential electors allowable to Montana must be certified to the secretary of state no later than 76 days before the general election.

(4) A qualified independent presidential candidate may amend the petition and designate or choose a named vice presidential candidate until the filing date provided in 13-25-101.”

**Section 38.** Section 13-10-505, MCA, is amended to read:

**“13-10-505. Applicability.** The provisions of 13-10-501 ~~through and~~ 13-10-504 ~~shall may~~ not be used to fill vacancies or to nominate candidates in nonpartisan elections ~~except for nominations to fill a vacancy as provided in 13-25-205.”~~

**Section 39.** Section 13-12-201, MCA, is amended to read:

**“13-12-201. Secretary of state to certify ballot.** (1) Seventy-five days or more before a federal general election, the secretary of state shall certify to the election administrators the name and party *preference, party*, or other designation of each candidate entitled to appear on the ballot and the ballot issues as shown in the official records of the secretary of state’s office, which must include the notification specified in 13-37-126.

(2) The election administrator shall certify the name and *party preference, party*, or other designation of each candidate entitled to appear on the ballot and the ballot issues as shown in the official records of the election administrator’s office, which must include the notification specified in 13-37-126, and shall have the official ballots prepared.

(3) If a candidate for the legislature is no longer eligible under Article V, section 4, of the Montana constitution to seek the office for which the candidate has filed because the candidate has changed residence, the secretary of state shall notify the candidate that the candidate is required to withdraw as provided in 13-10-325.”

**Section 40.** Section 13-12-202, MCA, is amended to read:

**“13-12-202. Ballot form and uniformity.** (1) The secretary of state shall adopt statewide uniform rules that prescribe the ballot form for each type of ballot used in this state. The rules must conform to the provisions of this title unless the voting system used clearly requires otherwise. At a minimum, the rules must address:

(a) the manner in which each type of ballot may be corrected under 13-12-204;

(b) what provisions must be made on the ballot for write-in candidates;

(c) the size and content of stubs on paper ballots, except as provided in 13-19-106(1);

(d) how unvoted ballots must be handled;

(e) how the number of individuals voting and the number of ballots cast must be recorded; ~~and~~

(f) the order and arrangement of voting system ballots; *and*

(g) *the difference in appearance between a party preference designation and a party designation to prevent the possibility of voter confusion.*

(2) The names of all candidates to appear on the ballots must be in the same font size and style.

(3) Notwithstanding 13-19-106(1), when the stubs are detached, it must be impossible to distinguish any one of the ballots from another ballot for the same office or issue.

(4) The ballots must contain the name of each candidate ~~whose nomination~~ is certified under law for an office and no other names, except that the names of

candidates for president and vice president of the United States must appear on the ballot as provided in 13-25-101(5).”

**Section 41.** Section 13-12-203, MCA, is amended to read:

**“13-12-203. Appearance of candidate’s name and party designation on ballot.** (1) ~~(a) Subject to 13-12-202 and except as provided in 13-10-209 for nonpartisan offices and 13-10-303 for certain other candidates,~~ in partisan elections, candidates’ names must appear under the title of the office sought, with the name of the *candidate’s political party preference or, in partisan primaries, the candidate’s party* in not more than three words appearing opposite or below the name.

*(b) If a candidate has not declared a preference for a political party, the words “no party preference” must appear on the ballot with the candidate’s name.*

(2) Subject to 13-12-202, in nonpartisan general elections, the candidates’ names must appear under the title of the office sought, with no description or designation appearing with the name unless partisan and nonpartisan offices appear on the same ballot. In such a case, the names of nonpartisan candidates must appear with the word “Nonpartisan.”

**Section 42.** Section 13-12-205, MCA, is amended to read:

**“13-12-205. Arrangement of names — rotation on ballot.** (1) The candidates’ names must be arranged alphabetically on the ballot according to surnames under the title of the respective offices and rotated as provided in this section.

(2) (a) If two or more individuals are candidates for ~~nomination or election to~~ the same office, the election administrator shall divide the ballot forms into sets equal in number to the greatest number of candidates for any office. ~~The candidates for nomination to an office by each political party must be considered separately in determining the number of sets necessary for a primary election.~~

(b) The election administrator shall begin with a form arranged alphabetically and rotate the names of the candidates so that each candidate’s name will be at the top of the list for each office on substantially an equal number of ballots. If it is not numerically possible to place each candidate’s name at the top of the list, the names must be rotated in groups so that each candidate’s name is as near the top of the list as possible on substantially an equal number of ballots.

(c) If the county contains more than one legislative district, the election administrator may rotate each candidate’s name so that it will be at or near the top of the list for each office on substantially an equal number of ballots in each house district.

(d) For purposes of rotation, the offices of president and vice president and of governor and lieutenant governor must be considered as a group.

(e) No more than one of the sets may be used in preparing the ballot for use in any one precinct, and all ballots furnished for use in any precinct must be identical.”

**Section 43.** Section 13-12-207, MCA, is amended to read:

**“13-12-207. Order of placement.** (1) The order on the ballot for state and federal offices must be as follows:

(a) If the election is in a year in which a president of the United States is to be elected, in spaces separated from the balance of the party tickets *or ballot* by a line must be the names and spaces for voting for candidates for president and

vice president. The names of candidates for president and vice president for each political party must be grouped together.

- (b) United States senator;
- (c) United States representative;
- (d) governor and lieutenant governor;
- (e) secretary of state;
- (f) attorney general;
- (g) state auditor;
- (h) state superintendent of public instruction;
- (i) public service commissioners;
- (j) clerk of the supreme court;
- (k) chief justice of the supreme court;
- (l) justices of the supreme court;
- (m) district court judges;
- (n) state senators;
- (o) members of the Montana house of representatives.

(2) The following order of placement must be observed for county offices:

- (a) clerk of the district court;
- (b) county commissioner;
- (c) county clerk and recorder;
- (d) sheriff;
- (e) coroner;
- (f) county attorney;
- (g) county superintendent of schools;
- (h) county auditor;
- (i) public administrator;
- (j) county assessor;
- (k) county treasurer;
- (l) surveyor;
- (m) justice of the peace.

(3) The secretary of state shall designate the order for placement on the ballot of any offices not on the above lists, except that the election administrator shall designate the order of placement for municipal, charter, or consolidated local government offices and district offices when the district is part of only one county.

(4) Constitutional amendments must be placed before statewide referendum and initiative measures. Ballot issues for a county, municipality, school district, or other political subdivision must follow statewide measures in the order designated by the election administrator.

(5) If any offices are not to be elected they may not be listed, but the order of the offices to be filled must be maintained.

(6) If there is a short-term and a long-term election for the same office, the long-term office must precede the short-term.”

**Section 44.** Section 13-13-214, MCA, is amended to read:

**“13-13-214. Mailing absentee ballot to elector — delivery to person other than elector.** (1) (a) Except as provided in 13-13-213 and in subsection

(1)(c) of this section, the election administrator shall mail, postage prepaid, to each legally registered elector and provisionally registered elector from whom the election administrator has received a valid absentee ballot application under 13-13-211 and 13-13-212 whatever official ballots are necessary.

(b) The election administrator shall mail the ballots in a manner that conforms to the deadlines established for ballot availability in 13-13-205.

(c) The election administrator may deliver a ballot in person to an individual other than the elector if:

(i) the elector has designated the individual, either by a signed letter or by making the designation on the application form in a manner prescribed by the secretary of state or pursuant to 13-1-116;

(ii) the individual taking delivery of the ballot on behalf of the elector verifies, by signature, receipt of the ballot;

(iii) the election administrator believes that the individual receiving the ballot is the designated person; and

(iv) the designated person has not previously picked up ballots for four other electors.

(2) The election administrator shall enclose with the ballots:

(a) a secrecy envelope, free of any marks that would identify the voter; and

(b) an envelope for the return of the ballots. The envelope must be self-addressed by the election administrator and an affirmation in the form prescribed by the secretary of state must be printed on the back of the envelope.

(3) The election administrator shall ensure that the ballots provided to an absentee elector are marked as provided in 13-13-116 and shall remove the stubs from the ballots, keeping the stubs in numerical order with the application for absentee ballots, if applicable, or in a precinct envelope or container for that purpose.

~~(4) If the ballots sent to the elector are for a primary election, the election administrator shall enclose an extra envelope marked "For Unvoted Party Ballot(s)". This envelope may not be numbered or marked in any way so that it can be identified as being used by any one elector.~~

~~(5)~~(4) Instructions for voting must be enclosed with the ballots. ~~Instructions for primary elections must include use of the envelope for unvoted ballots.~~ The instructions must include information concerning the type or types of writing instruments that may be used to mark the absentee ballot. The instructions must include information regarding use of the secrecy envelope and use of the return envelope. The election administrator shall include a voter information pamphlet with the instructions if:

(a) a statewide ballot issue appears on the ballot mailed to the elector; and

(b) the elector requests a voter information pamphlet."

**Section 45.** Section 13-13-225, MCA, is amended to read:

**"13-13-225. Special absentee election boards — members — appointment.** (1) The election administrator shall designate and appoint a number of special absentee election boards as needed to serve in various places to deliver ballots to electors who are entitled to vote by absentee ballot as provided in 13-13-229.

(2) In a partisan election, each special absentee election board must consist of two members, one from each of the two political parties receiving the highest number of votes in the state during the last preceding *presidential* general



election, if possible. Board members shall reside in the county in which they serve.

(3) A member of a special absentee election board may not be a candidate or a spouse, ascendant, descendant, brother, or sister of a candidate or of a candidate's spouse or the spouse of any one of these if the candidate's name appears on a ballot in the county."

**Section 46.** Section 13-13-241, MCA, is amended to read:

**"13-13-241. Examination of absentee ballot return envelopes — deposit of absentee and unvoted ballots — rulemaking.** (1) (a) Upon receipt of each absentee ballot signature envelope, an election administrator shall compare the signature of the elector or elector's agent on the absentee ballot request or on the elector's voter registration card with the signature on the return envelope.

(b) If the elector is legally registered and the signature on the return envelope matches the signature on the absentee ballot application or on the elector's voter registration card, the election administrator or an election judge shall handle the ballot as a regular ballot.

(c) (i) If the elector is provisionally registered and the signature on the return envelope matches the signature on the absentee ballot application or on the elector's voter registration card, the election administrator or an election judge shall open the outer return envelope and determine whether the elector's voter identification and eligibility information, if enclosed pursuant to 13-13-201, is sufficient pursuant to rules adopted under 13-2-109 to legally register the elector.

(ii) If the voter identification and eligibility information is sufficient to legally register the elector, the ballot must be handled as a regular ballot.

(iii) If voter identification or eligibility information was not enclosed or the information enclosed is insufficient to legally register the elector, the ballot must be handled as a provisional ballot under 13-15-107.

(2) If a voted absentee ballot has not been placed in a secrecy envelope, the election administrator shall place the ballot in a secrecy envelope without examining the ballot.

~~(3) In a primary election, unvoted party ballots must be separated from the secrecy envelopes and handled without being removed from their enclosure envelopes. If an unvoted party ballot is not received, the election administrator shall process the voted party ballot as if the unvoted party ballot had been received.~~

~~(4)~~(3) If an elector's ballot is to be handled as a provisional ballot, the election administrator shall notify the absentee elector as provided in 13-13-245.

~~(5)~~(4) If the signature on the absentee ballot return envelope does not match the signature on the absentee ballot request form or on the elector's voter registration card or if there is no signature on the absentee ballot return envelope, the election administrator shall notify the elector as provided in 13-13-245.

~~(6)~~(5) If at any point there is a question concerning the validity of a particular ballot, the question must be resolved as provided in 13-13-245.

~~(7)~~(6) After receiving an absentee ballot secrecy envelope and if the validity of the ballot is confirmed pursuant to 13-13-245, then no sooner than 1 business day before election day, the election official may, in the presence of a poll watcher, open the secrecy envelope and place the ballot in the proper, secured ballot box until tabulation occurs on election day.



(8)(7) The election administrator shall safely and securely keep the absentee ballots in the election administrator's office until delivered by the election administrator to the election judges.

(9)(8) The secretary of state shall develop administrative rules to establish the process and procedures to be used during the early preparation of ballots to ensure the security of the ballots and the secrecy of the votes during the early preparation period. The rules must include but are not limited to:

- (a) the allowable distance from the observers to the judges and ballots;
- (b) the security in the observation area;
- (c) secrecy of votes during the preparation of the ballots; and
- (d) security of the secured ballot boxes in storage until tabulation procedures begin on election day."

**Section 47.** Section 13-14-111, MCA, is amended to read:

**"13-14-111. Application of general laws.** Except as otherwise provided in this chapter, candidates for nonpartisan offices, including judicial offices, must be ~~nominated and~~ elected according to the provisions of this title."

**Section 48.** Section 13-14-112, MCA, is amended to read:

**"13-14-112. Declarations for nomination of candidacy — fee — filing.**

(1) Nonpartisan candidates shall file declarations ~~for nomination of candidacy~~ as required by the primary election laws in a form prescribed by the secretary of state except as provided in 13-14-113. A candidate may not file for more than one public office.

(2) Declarations may not indicate political affiliation. The candidate may not state in the declaration any principles or measures that the candidate advocates or any slogans.

(3) Each individual filing a declaration shall pay the fee prescribed by law for the office that the individual seeks.

(4) Declarations must be filed:

(a) in the office of the secretary of state or the appropriate election administrator as provided in 13-10-201; and

(b) within the applicable filing period provided in ~~13-10-201(6)(a)~~ 13-10-201(7)(a) or ~~(6)(b)~~ (7)(b) for the office that the individual seeks."

**Section 49.** Section 13-14-113, MCA, is amended to read:

**"13-14-113. Filing for offices without salary or fees.** (1) Candidates for nonpartisan offices for which a salary or fees are not paid shall file with the appropriate official a petition for nomination containing the information and the oath of the candidate required for a declaration ~~of nomination of candidacy~~ in a form prescribed by the secretary of state.

(2) Petitions for nomination must be filed within the applicable filing period provided in ~~13-10-201(6)(a)~~ 13-10-201(7)(a) or ~~(6)(b)~~ (7)(b).

(3) A candidate may not file for more than one public office."

**Section 50.** Section 13-14-114, MCA, is amended to read:

**"13-14-114. Register of candidates.** On receipt of a declaration or petition, the secretary of state or election administrator shall, if a register is kept, make an entry in the register of candidates ~~for nomination~~, on a page different from entries made for *partisan* candidates ~~of political parties~~."

**Section 51.** Section 13-14-115, MCA, is amended to read:

**"13-14-115. Preparation and distribution of nonpartisan primary ballots — determination on conducting primary.** (1) The election

administrators shall arrange, prepare, and distribute primary ballots for nonpartisan offices, designated "nonpartisan primary ballots". The ballots must be arranged and prepared as provided in 13-10-209 and *must* be without political *party* designation or preference.

(2) (a) The election administrator of a political subdivision may determine that a local nonpartisan portion of a primary election need not be held if:

(i) the number of candidates for an office exceeds three times the number to be elected to that office in no more than one-half of the offices on the ballot; and

(ii) the number of candidates in excess of three times the number to be elected is not more than one for any office on the ballot.

(b) If the election administrator determines that a primary election need not be held pursuant to subsection (2)(a), the administrator shall give notice to the governing body that a primary election will not be held.

(3) The governing body may require that a primary election be held if it passes a resolution not more than 10 days after the close of filing by candidates for election stating that a primary election must be held."

**Section 52.** Section 13-14-117, MCA, is amended to read:

**"13-14-117. Placing names on ballots for general election.** (1) Except as provided in 7-4-2106(3)(b), 7-4-2206(3)(b), 13-1-103(2), and subsection (2) of this section, candidates for nomination equal to twice the number to be elected at the general election who receive the highest number of votes cast at the primary are the nominees for the office *advance to the general election*. If the number of candidates is not more than twice the number to be elected, then all candidates are nominees for the office *advance to the general election*.

(2) If, pursuant to 13-14-115(2), a local nonpartisan portion of a primary election is not held, then all candidates who filed for an office are nominees for the office *advance to the general election*."

**Section 53.** Section 13-14-118, MCA, is amended to read:

**"13-14-118. Vacancies among nominees candidates after nomination primary and before general election.** (1) If after the primary election and before the 85th day before the general election a candidate is not able to run for the office for any reason, the vacancy must be filled by the candidate next in rank in number of votes received in the primary election.

(2) If a vacancy for a nonpartisan nomination cannot be filled as provided in subsection (1) and the vacancy occurs no later than 85 days before the general election, a 10-day period for accepting declarations for nomination or statements of candidacy and nominating petitions of candidacy for the office must be declared by:

(a) the governor for national, state, judicial district, legislative, or any multicounty district office;

(b) the governing body of the appropriate political subdivision for all other offices.

(3) The names of the candidates who filed as provided in subsection (2) must be certified and must appear on the general election ballot in the same manner as candidates nominated in the primary.

(4) If the vacancy occurs later than 85 days before the general election and a qualified individual is not elected to the office at the general election, the office is vacant and must be filled as provided by law."

**Section 54.** Section 13-15-201, MCA, is amended to read:

**“13-15-201. Preparation for count — absentee ballot count procedures.** (1) ~~Subject to 13-10-311, to~~ To prepare for a count of ballots, the counting board or, if appointed, the absentee counting board shall take ballots out of the box to determine whether each ballot is single.

(2) The board shall count all ballots to ensure that the total number of ballots corresponds with the total number of names in the pollbook.

(3) If the board cannot reconcile the total number of ballots with the pollbook, the board shall submit to the election administrator a written report stating how many ballots were missing or in excess and any reason of which they are aware for the discrepancy. Each judge on the board shall sign the report.

(4) A ballot that is not marked as official is void and may not be counted unless all judges on the board agree that the marking is missing because of an error by election officials, in which case the ballot must be marked “unmarked by error” on the back and must be initialed by all judges.

(5) If two or more ballots are folded or stuck together to look like a single ballot, they must be laid aside until the count is complete. The counting board shall compare the count with the pollbooks, and if a majority believes that the ballots folded together were voted by one elector, the ballots must be rejected and handled as provided in 13-15-108, otherwise they must be counted.

(6) Only valid absentee ballots may be counted in an election conducted under this chapter.

(7) For the purpose of this chapter, a voted absentee ballot is valid only if:

(a) the elector’s signature on the affirmation on the return envelope is verified pursuant to 13-13-241; and

(b) it is received before 8 p.m. on election day, except as provided in 13-21-206 and 13-21-207.

(8) (a) A ballot is invalid if:

(i) problems with the ballot have not been resolved pursuant to 13-13-245;

(ii) any identifying marks are placed on the ballot by the elector; or

(iii) except as provided in subsection (8)(b), more than one ballot is enclosed in a single return or secrecy envelope.

(b) The provisions of subsection (8)(a)(iii) do not apply if:

(i) there are multiple elections being held at the same time and the envelope contains only one ballot for each election; or

(ii) the return envelope contains ballots from the same household, each ballot is in its own secrecy envelope, and the return envelope contains a valid signature for each elector who has returned a ballot.”

**Section 55.** Section 13-15-205, MCA, is amended to read:

**“13-15-205. Items to be delivered to election administrator by election judges — disposition of other items.** (1) Before they adjourn, the election judges shall enclose in a strong envelope or package, securely fastened:

(a) the precinct register;

(b) the list of individuals challenged;

(c) the pollbook;

(d) both of the tally sheets.

(2) The election judges shall enclose in a separate container, securely sealed, all unused ballots with the numbered stubs attached.

(3) The election judges shall enclose in a separate container, securely sealed, all ballots voted, including those not counted or allowed, and detached stubs from all counted or rejected absentee ballots. This envelope must be endorsed on the outside "ballots voted". ~~At the primary election the unvoted party ballots must be enclosed in a separate container, securely sealed, and marked on the outside "unvoted ballots".~~

(4) Each election judge shall write the judge's name across all seals.

(5) The return form provided for in 13-15-101 must be returned with the items provided for in this section but may not be sealed in any of the containers.

(6) The containers required by this section must be delivered to the election administrator by the chief election judge or another judge appointed by the chief judge in the manner ordered by the election administrator.

(7) The election administrator shall instruct the chief election judge in writing on the proper disposition of all other election materials and supplies."

**Section 56.** Section 13-15-206, MCA, is amended to read:

**"13-15-206. Counting votes — uniformity — rulemaking — definitions.** (1) When conducting vote counts as provided by law, a counting board, absentee ballot counting board, or recount board shall count and determine the validity of each vote in a uniform manner as provided in this section.

(2) A manual count or recount of votes must be conducted as follows:

(a) One election judge on the board shall read the ballot while the two other judges on the board shall each record on an official tally sheet the number of valid votes cast for each individual or ballot issue. Write-in votes must be counted in accordance with subsection (5) and rules adopted pursuant to subsection (7). If a vote has not been cast according to instructions, the vote must be considered questionable and the entire ballot must be set aside and votes on the ballot must be handled as provided in subsection (4).

(b) (i) After the vote count is complete, the tally sheets of the two judges recording the votes must be compared.

(ii) If the two tallies match, the judges shall record in the pollbook:

(A) the names of all individuals who received votes;

(B) the offices for which individuals received votes;

(C) the total votes received by each individual as shown by the tally sheets; and

(D) the total votes received for or against each ballot issue, if any.

(iii) If the tallies do not match, the count must be conducted again as provided in this subsection (2) until the two tallies match.

(3) (a) When a voting system is counting votes:

(i) if a vote is recognized and counted by the system, it is a valid vote;

(ii) if a vote is not recognized and counted by the system, it is not a valid vote;

(iii) write-in votes must be counted in accordance with rules adopted pursuant to subsection (7).

(b) If the voting system cannot process the ballot because of the ballot's condition or if the voting system registers an unvoted ballot or an overvote, which must be considered a questionable vote, the entire ballot must be set aside and the votes on the ballot must be counted as provided in subsection (4).

(c) If an election administrator or counting board has reason to believe that a voting system is not functioning correctly, the election administrator shall follow the procedures prescribed in 13-15-209.

(d) After all valid votes have been counted and totaled, the judges shall record in the pollbook the information specified in subsection (2)(b)(ii).

(4) (a) (i) Before being counted, each questionable vote on a ballot set aside under subsection (2)(a) or (3)(b) must be reviewed by the counting board. The counting board shall evaluate each questionable vote according to rules adopted by the secretary of state.

(ii) If a majority of the counting board members agree that under the rules the voter's intent can be clearly determined, the vote is valid and must be counted according to the voter's intent.

(iii) If a majority of the counting board members do not agree that the voter's intent can be clearly determined under the rules, the vote is not valid and may not be counted.

(b) If a ballot was set aside under subsection (3)(b) because it could not be processed by the voting system due to the ballot's condition, the counting board shall transfer all valid votes to a new ballot that can be processed by the voting system.

(5) A write-in vote may be counted if:

(a) (i) the write-in vote identifies an individual by a designation filed pursuant to 13-10-211(1)(a); or

(ii) pursuant to 13-10-211(8), a declaration of ~~nomination~~ *candidacy* was not filed and the write-in vote identifies an individual who is qualified for the office; and

(b) the oval, box, or other designated voting area on the ballot is marked.

(6) A vote is not valid and may not be counted if the elector's choice cannot be determined as provided in this section.

(7) The secretary of state shall adopt rules defining a valid vote and a valid write-in vote for each type of ballot and for each type of voting system used in the state. The rules must provide a sufficient guarantee that all votes are treated equally among jurisdictions using similar ballot types and voting systems.

(8) Local election administrators shall adopt policies to govern local processes that are consistent with the provisions of this title and that provide for:

(a) the security of the counting process against fraud;

(b) the place and time and public notice of each count or recount;

(c) public observance of each count or recount, including observance by representatives authorized under 13-16-411;

(d) the recording of objections to determinations on the validity of an individual vote or to the entire counting process; and

(e) the keeping of a public record of count or recount proceedings.

(9) For purposes of this section, "overvote" means an elector's vote that has been interpreted by the voting system as an elector casting more votes than allowable for a particular office or ballot issue."

**Section 57.** Section 13-15-208, MCA, is amended to read:

**"13-15-208. Determining total ~~vote~~ votes cast for all candidates for an office.** When an elector may vote for two or more candidates for the same office, the total ~~vote~~ votes cast for all candidates for the office ~~is~~ *are* the total ~~vote~~ votes cast for all candidates divided by the number of candidates officially ~~declared nominated or declared as selected to advance or as elected~~ as shown by the official returns."

**Section 58.** Section 13-15-405, MCA, is amended to read:

**“13-15-405. Declaration or certification of results.** (1) The board shall declare ~~nominated~~ *as selected to advance* or *as elected* the individuals having the highest number of votes cast for each county and precinct office, except as provided in *13-1-103(2) and 13-10-204*.

(2) The board shall proclaim the adoption or rejection of a county ballot issue.

(3) The board shall certify the results of the canvass of votes cast for individuals for political subdivision offices and for and against political subdivision ballot issues to the governing body of each political subdivision participating in the election.

(4) If there is a tie vote for a county office, an office of a political subdivision wholly within the county, a precinct office, or a ballot issue voted on only in that county or portion of that county, the board shall certify the vote to the election administrator.

(5) The board shall certify the results of the canvass of votes cast for justice of the peace, city judge, and municipal court judge to the supreme court in order to ensure compliance with 3-1-1502 or 3-1-1503.”

**Section 59.** Section 13-15-406, MCA, is amended to read:

**“13-15-406. Certificates to be issued by the election administrator.** The election administrator shall, except as provided in 13-37-127, deliver a certificate of ~~nominat~~ *selection* or election to each individual declared elected by the board.”

**Section 60.** Section 13-15-507, MCA, is amended to read:

**“13-15-507. Declaration, proclamation, and certification of results.** The board shall declare ~~nominated or elected~~ the individual having the highest number of votes cast for each office *as selected to advance or as elected*, except as provided in 13-10-204. The board shall proclaim the adoption or rejection of ballot issues. Certified copies of the report required in 13-15-506, the declaration of ~~nominated or elected~~ individuals *selected to advance or elected*, the proclamation of adoption or rejection of ballot issues, and the effective date of adopted ballot issues ~~shall~~ *must* be delivered to the governor.”

**Section 61.** Section 13-16-101, MCA, is amended to read:

**“13-16-101. County governing body as county recount board.** (1) The county recount board must consist of three members.

(2) Three members of the governing body must be appointed by the presiding officer if there are more than three members of the governing body.

(3) If three members of the governing body cannot attend when the board meets, any vacant position must be filled by one or more county officers chosen by the remaining members of the governing body.

(4) If a member of the recount board is a candidate for an office ~~or nomination~~ for which votes are to be recounted, the member must be disqualified.

(5) The election administrator is secretary of the recount board, and the board may hire any additional clerks as needed.

(6) The board may appoint county employees or hire clerks to assist as needed.”

**Section 62.** Section 13-16-201, MCA, is amended to read:

**“13-16-201. Conditions under which recount to be conducted.** (1) A recount must be conducted if:



(a) a candidate for a precinct office or for a county, municipal, or district office voted for in only one county, other than a legislator or a judge of the district court, is defeated by a margin not exceeding 1/4 of 1% of the total votes cast or by a margin not exceeding 10 votes, whichever is greater, and the defeated candidate, within 5 days after the official canvass, files with the election administrator a verified petition stating that the candidate believes that a recount will change the result and that a recount of the votes for the office or nomination should be conducted;

(b) a candidate for a congressional office, a state or district office voted on in more than one county, the legislature, or judge of the district court is defeated by a margin not exceeding 1/4 of 1% of the total votes cast for all candidates for the same position and the defeated candidate, within 5 days after the official canvass, files a petition with the secretary of state as set forth in subsection (1)(a). The secretary of state shall immediately notify by certified mail each election administrator whose county includes any precincts that voted for the office, and a recount must be conducted in those precincts.

(c) a question submitted to the vote of the people of a county, municipality, or district within a county is decided by a margin not exceeding 1/4 of 1% of the total votes cast for and against the question and a petition as set forth in subsection (1)(a) is filed with the election administrator. This petition must be signed by not less than 10 electors of the jurisdiction and must be filed within 5 days after the official canvass.

(d) a question submitted to the vote of the people of the state is decided by a margin not exceeding 1/4 of 1% of the total votes cast for and against the question and a petition as set forth in subsection (1)(a) is filed with the secretary of state. This petition must be signed by not less than 100 electors of the state, representing at least five counties of the state, and must be filed within 5 days after the official canvass.

(e) a question submitted to the vote of the people of a multicounty district is decided by a margin not exceeding 1/4 of 1% of the total votes cast for and against the question and a petition as set forth in subsection (1)(a) is filed with the secretary of state. This petition must be signed by not less than 25 electors of the district, representing at least two counties, and must be filed within 5 days after the official canvass.

(f) a canvassing board petitions for a recount as provided in 13-15-403.

(2) If the election is a school election, the petition is filed with the filing officer with whom the declarations for nomination of candidacy for school district office were filed or with whom the school ballot issue was filed.

(3) When a recount is required under subsection (1)(b), (1)(d), or (1)(e), the secretary of state shall immediately notify each election administrator of the filing of the petition, and a recount must be conducted in all precincts in each affected county.”

**Section 63.** Section 13-16-211, MCA, is amended to read:

**“13-16-211. Recounts allowed if bond posted to cover all costs.** (1) If a candidate for a public office is defeated by a margin exceeding 1/4 of 1% but not exceeding 1/2 of 1% of the total votes cast for all candidates for the same position, the candidate may, within 5 days after the official canvass, file with the officer with whom the candidate’s declaration or petition for nomination of candidacy was filed a petition stating that the candidate believes a recount will change the result of the election.



(2) The unsuccessful candidate shall post a bond with the clerk and recorder of the county in which the candidate resides. The bond must be in an amount set by the clerk and recorder sufficient to cover all costs of the recount incurred by each county in which a recount is sought, including loss of time of regular employees caused by absence from their regular duties.

(3) Upon the filing of a petition and posting of a bond under this section, the board of county canvassers in each county affected shall meet and recount the ballots specified in the petition.”

**Section 64.** Section 13-16-412, MCA, is amended to read:

**“13-16-412. Procedure for recounting paper ballots.** To conduct a recount of paper ballots:

(1) the election administrator shall provide to the recount board, unopened, each sealed package or envelope received from the election judges of the precinct or precincts in which a recount is ordered, containing all the paper ballots voted in the precinct or precincts;

(2) a member of the recount board shall open each sealed package or envelope and remove the ballots, and the board shall count the votes on each ballot manually in the manner provided in 13-15-206(2), ~~except that if the office to be recounted is on a partisan primary election ballot, votes are recounted only on the party ballots that are subject to the recount;~~ and

(3) the recount must be tallied on previously prepared tally sheets. The tally sheets must show the names of the respective candidates, the office or offices for which a recount is made, and the number of each election precinct.”

**Section 65.** Section 13-16-418, MCA, is amended to read:

**“13-16-418. Certification after recount.** (1) Immediately after the recount, the county recount board shall certify the result.

(2) At least two members of the board shall sign the certificate, and it must be attested to under seal by the election administrator.

(3) The certificate must set forth in substance the proceedings of the board and the appearance of any candidates or representatives. The certificate must adequately designate:

(a) each precinct recounted;

(b) the vote of each precinct according to the official canvass previously made;

(c) the ~~nominations, positions,~~ office or question involved; and

(d) the correct vote of each precinct as determined by the recount.

(4) When the certificate relates to a recount for a congressional office, a state or district office voted on in more than one county, a legislative office, or an office of judge of the district court or a ballot issue voted on in more than one county, the certificate must be made in duplicate. One copy must be transmitted immediately to the secretary of state by certified mail.

(5) (a) If the recount relates to a county, municipal, or district office voted for in only one county, other than that of a legislator or a judge of the district court, or a precinct office or a ballot issue voted on in only one county, the county recount board shall immediately recanvass the returns as corrected by the certificate showing the result of the recount and make a corrected abstract of the votes.

(b) If the corrected abstract shows no change in the result, no further action is needed.

(c) If there is a change in the result, a new certificate of *selection or election* ~~or nomination~~ must be issued to each candidate found to be *selected to advance* or elected ~~or nominated~~ and the first certificate is void. The individual receiving the second certificate must be *selected to advance* or elected ~~or nominated to the office~~.

**Section 66.** Section 13-16-419, MCA, is amended to read:

**“13-16-419. Recount by board of state canvassers.** (1) When the secretary of state receives certificates from all county recount boards, the secretary of state shall file them, shall fix a time and place, as soon as possible, for reconvening the board of state canvassers, and shall notify the members.

(2) The board of state canvassers shall reconvass the official returns on the office, ~~nomination, position,~~ *selection to advance*, or question as corrected by the certificates and make a new and corrected abstract of the votes cast.

(3) (a) If the corrected abstract shows no change in the results, further action may not be taken.

(b) If there is a change in the results, the first certificate is void and a new certificate of *selection or election* ~~or nomination~~ must be issued in the same manner as the certificate of *election or nomination* was previously issued to each candidate ~~elected or nominated~~.

**Section 67.** Section 13-16-501, MCA, is amended to read:

**“13-16-501. Tie vote after recount.** (1) If the recount shows a tie vote for any office ~~and it cannot be determined who has been nominated by the primary election~~, the election officer with whom the candidates' ~~nominating~~ declarations of *candidatecy* or petitions were filed shall determine by lot which ~~candidate shall be nominated candidates advance to the general election~~. Written notice of the time and place of the drawing ~~shall~~ *must* be given to each candidate involved.

(2) If the recount after a general election shows a tie vote ~~and it cannot be determined who has been elected~~, the office or position shall *must* be filled as provided by 13-16-502 through 13-16-506.”

**Section 68.** Section 13-17-103, MCA, is amended to read:

**“13-17-103. Required specifications for voting systems.** (1) A voting system may not be approved under 13-17-101 unless the voting system:

(a) allows an elector to vote in secrecy;

(b) prevents an elector from voting for any candidate or on any ballot issue more than once;

(c) prevents an elector from voting on any office or ballot issue for which the elector is not entitled to vote;

(d) allows an elector to vote only for the candidates of the party selected by the elector in ~~the~~ *a partisan* primary election;

(e) allows an elector to vote a split ticket in a general election if the elector desires;

(f) allows each valid vote cast to be registered and recorded within the performance standards adopted pursuant to subsection (2);

(g) is protected from tampering for a fraudulent purpose;

(h) prevents an individual from seeing or knowing the number of votes registered for any candidate or on any ballot issue during the progress of voting;

(i) allows write-in voting;

(j) will, if purchased by a jurisdiction within the state, be provided with a guarantee that the training and technical assistance will be provided to election officials under the contract for purchase of the voting system;

(k) uses a paper ballot that allows votes to be manually counted; and

(l) allows auditors to access and monitor any software program while it is running on the system to determine whether the software is running properly.

(2) To implement the provisions of subsection (1)(f), the secretary of state shall adopt rules setting a benchmark performance standard that must be met in tests by each voting system prior to approval under 13-17-101. The standard must be based on commonly accepted industry standards for readily available technologies.”

**Section 69.** Section 13-19-205, MCA, is amended to read:

**“13-19-205. Written plan for conduct of election — amendments — approval procedures.** (1) The election administrator shall prepare a written plan for the conduct of the election and shall submit it to the secretary of state in a manner that ensures that it is received at least 60 days prior to the date set for the election.

(2) The written plan must include:

(a) a timetable for the election; and

(b) sample written instructions that will be sent to the electors. The instructions must include but are not limited to:

(i) information on the estimated amount of postage required to return the ballot;

(ii) (A) the location of the places of deposit and the days and times when ballots may be returned to the places of deposit, if the information is available; or

(B) if the information on location and hours of places of deposit is not available, a section that will allow the information to be added before the instructions are mailed to electors; and

(iii) any applicable instructions specified under 13-13-214~~(5)~~(4).

(3) The plan may be amended by the election administrator any time prior to the 35th day before election day by notifying the secretary of state in writing of any changes.

(4) Within 5 days of receiving the plan and as soon as possible after receiving any amendments, the secretary of state shall approve, disapprove, or recommend changes to the plan or amendments.

(5) When the written plan has been approved, the election administrator shall proceed to conduct the election according to the approved plan unless the election is canceled for any reason provided by law.”

**Section 70.** Section 13-21-205, MCA, is amended to read:

**“13-21-205. Federal write-in absentee ballot.** (1) A United States elector may register, if not already registered, and vote in any election by completing, signing, and returning a federal write-in absentee ballot and meeting the requirements in 13-21-206.

(2) (a) A United States elector voting a federal write-in absentee ballot for a federal general election may designate a candidate by writing in the name of the candidate or, *for a presidential preference primary or presidential general election*, by writing in the name of the political party for which the elector is voting. A written designation of the political party must be counted as a vote for the candidate of that party *in a presidential race*.

(b) (i) Except as provided in subsection (2)(b)(ii), a United States elector may vote in any election for a public office other than for a federal office by using the addendum provided in the federal write-in absentee ballot and writing in the title of the office and the name of the candidate for whom the elector is voting.

(ii) If the elector is voting in a *partisan* primary election, the elector shall identify the elector's political party affiliation as provided for in the appropriate section of the ballot. A vote cast by writing in the name of a candidate who is not affiliated with the elector's identified party is void and may not be counted.

(3) A vote may not be voided for reasons of misspellings, abbreviations, or other minor variations of the candidate's name.

(4) If the elector receives the regular absentee ballot after the elector has voted and mailed a federal write-in absentee ballot, the elector may vote and return the regular absentee ballot."

**Section 71.** Section 13-25-101, MCA, is amended to read:

**"13-25-101. Nomination of electors — ballot.** (1) In the manner and number provided by ~~law the rules of the political party pursuant to 13-10-407,~~ each political party ~~qualified under 13-10-601~~ with a presidential candidate on the ballot shall nominate presidential electors for this state and file with the secretary of state certificates of nomination in a form and by the date prescribed by the secretary of state.

(2) In the event of the death of a candidate for president or vice president after a certificate of nomination has been filed, a new candidate for president or vice president, or both, may be nominated for the affected political party and a new certificate of nomination may be filed with the secretary of state by the date prescribed by the secretary of state.

(3) A candidate for election to the office of president or vice president may withdraw from the election by sending a statement of withdrawal to the secretary of state. The statement of withdrawal:

(a) must contain all information necessary to identify the candidate and the office sought; and

(b) unless filed electronically, must be acknowledged by an officer empowered to acknowledge signatures or by the officer of the office at which the filing is made.

(4) A candidate may not withdraw later than the deadline prescribed by the secretary of state for nomination of presidential electors.

(5) The secretary of state shall certify to the election administrator the names of the candidates for president and vice president of the several political parties, which must be placed on the ballot by one of the methods provided in 13-12-204.

(6) If the name of a new candidate for president or vice president, or both, is certified to the secretary of state in less than 76 days pursuant to subsection (1), the secretary of state shall immediately certify the new name or names to the election administrators and the new name or names must be placed on the ballot by one of the methods provided in 13-12-204.

(7) The names of candidates for electors of president and vice president may not appear on the ballot."

**Section 72.** Section 13-25-201, MCA, is amended to read:

**"13-25-201. Election of United States senators and representatives.** (1) United States senators and representatives ~~shall~~ *must* be elected at the general election preceding commencement of the term to be filled.

(2) ~~Nominations and elections shall~~ *Elections must* be as provided by law for governor.”

**Section 73.** Section 13-25-205, MCA, is amended to read:

~~“13-25-205. Nominations for special~~ **Special election for United States representative.** (1) When a special election is ordered to fill a vacancy in the office of United States representative, ~~each political party shall choose a candidate according to the rules of the party~~ *a special primary election to narrow the number of candidates to the top two must be conducted prior to the special election. Nominations by parties must be made no later than 85 days before the date set for the election.*

(2) ~~Nominating petitions~~ *Declarations of candidacy* may be filed by independent candidates for the office up to 5 p.m. of the 85th day before the *special primary election.*”

**Section 74.** Section 13-25-303, MCA, is amended to read:

~~“13-25-303. Designation of electors.~~ Pursuant to 13-25-101, each political party ~~qualified under 13-10-601~~ or unaffiliated presidential candidate shall submit to the secretary of state the names of two qualified individuals for each elector position in this state. One of the individuals must be designated as the elector nominee and the other must be designated as the alternate elector nominee. Unless otherwise provided by 13-25-305 through 13-25-308, Montana’s electors are the winning electors under the laws of this state.”

**Section 75.** Section 13-35-106, MCA, is amended to read:

~~“13-35-106. Ineligibility to hold office because of conviction.~~ In addition to all other penalties prescribed by law:

(1) a candidate who is convicted of violating any provision of this title, except 13-35-207(9), is ineligible to be a candidate for any public office in the state of Montana until final discharge from state supervision;

(2) a campaign treasurer who is convicted of violating any provision of this title, except 13-35-207(9), is ineligible to be a candidate for any public office or to hold the position of campaign treasurer in any campaign in the state of Montana until final discharge from state supervision;

(3) if an elected official or a candidate is adjudicated to have violated any provision of this title, except 13-35-207(9), the individual must be removed from ~~nominating candidacy~~ or office, ~~as the case may be, even though the individual was regularly nominated or elected.~~”

**Section 76.** Section 13-35-205, MCA, is amended to read:

~~“13-35-205. Tampering with election records and information.~~ A person is guilty of tampering with public records or information and is punishable as provided in 45-7-208 whenever the person:

(1) suppresses any declaration or certificate of ~~nominating~~ *selection or election* that has been filed;

(2) purposely causes a vote to be incorrectly recorded as to the candidate or ballot issue voted on;

(3) in an election return, knowingly adds to or subtracts from the votes actually cast at the election;

(4) changes any ballot after it has been completed by the elector;

(5) adds a ballot to those legally polled at an election, either before or after the ballots have been counted, with the purpose of changing the result of the election;

(6) causes a name to be placed on the registry lists other than in the manner provided by this title; or

(7) changes a poll list or checklist.”

**Section 77.** Section 13-35-206, MCA, is amended to read:

**“13-35-206. Injury to election equipment, materials, and records.** A person is guilty of criminal mischief or tampering with public records and information, as appropriate, and is punishable as provided in 45-6-101 or 45-7-208, as applicable, whenever the person:

(1) prior to or on election day, knowingly defaces or destroys any list of candidates posted in accordance with the provisions of the law;

(2) during an election:

(a) removes or defaces instructions for the voters; or

(b) removes or destroys any of the supplies or other conveniences placed in the voting station for the purpose of enabling a voter to prepare the voter’s ballot;

(3) removes any ballots from the polling place before the closing of the polls with the purpose of changing the result of the election;

(4) carries away or destroys any poll lists, checklists, ballots, ballot boxes, or other equipment for the purpose of disrupting or invalidating an election;

(5) knowingly detains, mutilates, alters, or destroys any election returns;

(6) mutilates, secretes, destroys, or alters election records, except as provided by law;

(7) tampers with, disarranges, defaces, injures, or impairs a voting system with the intent to alter the outcome of an election;

(8) mutilates, injures, or destroys a ballot or appliance used in connection with a voting system; or

(9) fraudulently defaces or destroys a declaration of *candidacy* or certificate of ~~nominat~~ *selection*.”

**Section 78.** Section 13-35-207, MCA, is amended to read:

**“13-35-207. Deceptive election practices.** A person is guilty of false swearing, unsworn falsification, or tampering with public records or information, as appropriate, and is punishable as provided in 45-7-202, 45-7-203, or 45-7-208, as applicable, whenever the person:

(1) falsely represents the person’s name or other information required upon the person’s registry card and causes registration with the card;

(2) signs a registry card knowingly witnessing any false or misleading statement;

(3) knowingly causes a false statement, certificate, or return of any kind to be signed;

(4) falsely makes a declaration of *candidacy* or certificate of ~~nominat~~ *selection*;

(5) files or receives for filing a declaration of *candidacy* or certificate of ~~nominat~~ *selection* knowing that all or part of the declaration or certificate is false;

(6) forges or falsely makes the official endorsement of a ballot;

(7) forges or counterfeits returns of an election purporting to have been held at a precinct, municipality, or ward where no election was in fact held;



(8) knowingly substitutes forged or counterfeit returns of election in place of the true returns for a precinct, municipality, or ward where an election was held;

(9) signs a name other than the person's own to a petition, signs more than once for the same ballot issue, or signs a petition while not being a qualified elector of the state; or

(10) makes a false oath or affidavit where an oath or affidavit is required by law."

**Section 79.** Section 13-35-214, MCA, is amended to read:

**"13-35-214. Illegal influence of voters.** A person may not, directly or indirectly, individually or through any other person, for any election, in order to induce any elector to vote or refrain from voting or to vote for or against any particular candidate, political party ticket, or ballot issue:

(1) give, lend, agree to give or lend, offer, or promise any money, liquor, or valuable consideration or promise or endeavor to procure any money, liquor, or valuable consideration;

(2) promise to appoint another person or promise to secure or aid in securing the appointment, ~~nomination~~, or election of another person to a public or private position or employment or to a position of honor, trust, or emolument in order to aid or promote the candidate's ~~nomination~~ or election, except that the candidate may publicly announce or define the candidate's choice or purpose in relation to an election in which the candidate may be called to take part if elected."

**Section 80.** Section 13-35-218, MCA, is amended to read:

**"13-35-218. Coercion or undue influence of voters.** (1) A person, directly or indirectly, individually or through any other person, in order to induce or compel a person to vote or refrain from voting for any candidate, ~~the ticket of any candidates of or associating with any particular~~ political party, or any ballot issue before the people, may not:

(a) use or threaten to use any force, coercion, violence, restraint, or undue influence against any person; or

(b) inflict or threaten to inflict, individually or with any other person, any temporal or spiritual injury, damage, harm, or loss upon or against any person.

(2) A person who is a minister, preacher, priest, or other church officer or who is an officer of any corporation or organization, religious or otherwise, may not, other than by public speech or print, urge, persuade, or command any voter to vote or refrain from voting for or against any candidate, *any candidates of or associating with a particular* political party ticket, or ballot issue submitted to the people because of the person's religious duty or the interest of any corporation, church, or other organization.

(3) A person may not, by abduction, duress, or any fraudulent contrivance, impede or prevent the free exercise of the franchise by any voter at any election or compel, induce, or prevail upon any elector to give or to refrain from giving the elector's vote at any election.

(4) A person may not, in any manner, interfere with a voter lawfully exercising the right to vote at an election in order to prevent the election from being fairly held and lawfully conducted.

(5) A person on election day may not obstruct the doors or entries of any polling place or engage in any solicitation of a voter within the room where votes are being cast or elsewhere in any manner that in any way interferes with the election process or obstructs the access of voters to or from the polling place."

**Section 81.** Section 13-35-221, MCA, is amended to read:

**“13-35-221. Improper nominations candidacy.** (1) A person may not pay or promise valuable consideration to another, in any manner or form, for the purpose of inducing the other person to be or to refrain from or to cease being a candidate, and a person may not solicit or receive any payment or promise from another for that purpose.

(2) A person, in consideration of any gift, loan, offer, promise, or agreement, as mentioned in subsection (1), may not:

(a) be ~~nominated~~ *selected to advance* or refuse to be ~~nominated~~ *selected to advance as a candidate at an election*;

(b) become, individually or in combination with any other person ~~or persons~~, a candidate for the purpose of defeating the ~~nomination~~ *candidacy* or election of any other person, without a bona fide intent to obtain the office; or

(c) withdraw if the person has been nominated.

(3) Upon complaint made to any district court, the judge shall issue a writ of injunction restraining the officer whose duty it is to prepare official ballots for a ~~nominating~~ *primary* election from placing the name of a person on the ballot as a candidate for ~~nomination~~ *election* to any office if the judge is convinced that:

(a) the person ~~has sought the nomination~~ or seeks to have the person's name presented to the voters as a candidate for ~~nomination by any political party~~ *selection to advance to the general election* for any mercenary or venal consideration or motive; and

(b) the person's candidacy ~~for the nomination~~ is not in good faith.”

**Section 82.** Section 13-35-225, MCA, is amended to read:

**“13-35-225. Election materials not to be anonymous — statement of accuracy.** (1) All communications advocating the success or defeat of a candidate, political party, or ballot issue through any broadcasting station, newspaper, magazine, outdoor advertising facility, direct mailing, poster, handbill, bumper sticker, internet website, or other form of general political advertising must clearly and conspicuously include the attribution “paid for by” followed by the name and address of the person who made or financed the expenditure for the communication. When a candidate or a candidate's campaign finances the expenditure, the attribution must be the name and the address of the candidate or the candidate's campaign. In the case of a political committee, the attribution must be the name of the committee, the name of the committee treasurer, and the address of the committee or the committee treasurer.

(2) (a) Communications in a partisan ~~election~~ *primary* financed by a candidate or a political committee organized on the candidate's behalf must state the candidate's party affiliation or include the party symbol.

(b) *Communications in a top two primary financed by a candidate or a political committee organized on the candidate's behalf must state the candidate's party preference, if one was filed on the declaration of candidacy, with the word “preference” after the party or must include the party symbol and state that it is a candidate's party preference only.*

(3) (a) Printed election material described in subsection (1) that includes information about another candidate's voting record must include:

(i) a reference to the particular vote or votes upon which the information is based;

(ii) a disclosure of contrasting votes known to have been made by the candidate on the same issue if closely related in time; and

(iii) a statement, signed as provided in subsection (3)(b), that to the best of the signer's knowledge, the statements made about the other candidate's voting record are accurate and true.

(b) The statement required under subsection (3)(a) must be signed:

(i) by the candidate if the election material was prepared for the candidate or the candidate's political committee and includes information about another candidate's voting record; or

(ii) by the person financing the communication or the person's legal agent if the election material was not prepared for a candidate or a candidate's political committee.

(4) If a document or other article of advertising is too small for the requirements of subsections (1) through (3) to be conveniently included, the candidate responsible for the material or the person financing the communication shall file a copy of the article with the commissioner of political practices, together with the required information or statement, at the time of its public distribution.

(5) If information required in subsections (1) through (3) is omitted or not printed, upon discovery of or notification about the omission, the candidate responsible for the material or the person financing the communication shall:

(a) file notification of the omission with the commissioner of political practices within 5 days of the discovery or notification;

(b) bring the material into compliance with subsections (1) through (3); and

(c) withdraw any noncompliant communication from circulation as soon as reasonably possible."

**Section 83.** Section 13-35-226, MCA, is amended to read:

**"13-35-226. Unlawful acts of employers and employees.** (1) It is unlawful for any employer, in paying employees the salary or wages due them, to include with their pay the name of any candidate or any political mottoes, devices, or arguments containing threats or promises, express or implied, calculated or intended to influence the political opinions or actions of the employees.

(2) It is unlawful for an employer to exhibit in a place where the employer's workers or employees may be working any handbill or placard containing:

(a) any threat, promise, notice, or information that, in case any particular ticket or political party, organization, or candidate is elected:

(i) work in the employer's place or establishment will cease, in whole or in part, or will be continued or increased;

(ii) the employer's place or establishment will be closed; or

(iii) the salaries or wages of the workers or employees will be reduced or increased; or

(b) other threats or promises, express or implied, intended or calculated to influence the political opinions or actions of the employer's workers or employees.

(3) A person may not coerce, command, or require a public employee to support or oppose any political committee, ~~the nomination or~~ election of any person to public office, or the passage of a ballot issue.

(4) A public employee may not solicit support for or opposition to any political committee, ~~the nomination or~~ election of any person to public office, or the passage of a ballot issue while on the job or at the place of employment. However, subject to 2-2-121, this section does not restrict the right of a public employee to perform activities properly incidental to another activity required or authorized by law or to express personal political views.

(5) A person who violates this section is liable in a civil action authorized by 13-37-128, brought by the commissioner of political practices or a county attorney pursuant to 13-37-124 and 13-37-125.”

**Section 84.** Section 13-36-101, MCA, is amended to read:

**“13-36-101. Grounds for contest of ~~nomination or~~ election to public office.** An elector may contest ~~the right of any person to any nomination or~~ *person’s election to public office or selection to advance* for which the elector has the right to vote if the elector believes that:

(1) a deliberate, serious, and material violation of any provision of the law relating to ~~nominations or~~ *elections or selections to advance* has occurred;

(2) the person was not, at the time of the election, eligible to be a candidate for the office;

(3) votes were cast illegally or were counted or canvassed in an erroneous or fraudulent manner.”

**Section 85.** Section 13-36-102, MCA, is amended to read:

**“13-36-102. Time for commencing contest.** (1) Five days or less after a candidate has been certified as ~~nominated~~ *selected to advance*, a person wishing to contest the ~~nomination to~~ *selection to advance* for any public office shall give notice in writing to the candidate whose ~~nomination~~ *selection* the person intends to contest, briefly stating the cause for the contest. The contestant shall make application to the district court in the county where the contest is to be had. The judge shall then set the time for the hearing. The contestant shall serve notice 3 days before the hearing is scheduled. The notice must state the time and place of the hearing.

(2) Any action to contest the right of a candidate to be declared elected to an office or to annul and set aside the election or to remove from or deprive any person of an office of which the person is the incumbent for any offense mentioned in this title must, unless a different time is stated, be commenced within 1 year after the day of election at which the offense was committed.”

**Section 86.** Section 13-36-103, MCA, is amended to read:

**“13-36-103. Court having jurisdiction of proceedings.** An application for filing a statement, payment of a claim, or correction of an error or false recital in a filed statement or an action or proceeding to annul and set aside the election of any person declared elected to an office or to remove or deprive any person of the person’s office for an offense mentioned in this title or any petition to excuse any person or candidate in accordance with the power of the court to excuse, as provided in 13-36-209, must be made or filed in the district court of the county in which the certificate, declaration, or acceptance of the person’s ~~nomination as a~~ *candidate selection to advance* for the office to which the person is declared ~~nominated or elected~~ is filed or in which the incumbent resides.”

**Section 87.** Section 13-36-104, MCA, is amended to read:

**“13-36-104. ~~Nomination~~ Primary election contests.** In the case of ~~nomination~~ *primary election* contests, the judge of the district court shall hear and determine the case and make all necessary orders for the trial of the case and carrying the judgment into effect. The order of the judge must express the

will of a majority of the legal voters of the political party, as indicated by their votes, disregarding technicalities or errors in spelling. Each party is entitled to subpoenas. The registrar shall issue a certificate to the person declared ~~nominated~~ by the court *to have been selected to advance*. The certificate is conclusive evidence of the right of the person to hold the nomination.”

**Section 88.** Section 13-36-201, MCA, is amended to read:

**“13-36-201. Contents of contest petition.** Any petition contesting the right of any person to ~~a nomination~~ *a selection to advance* or to election must set forth the name of every person whose election is contested and the grounds of the contest. The petition may not be amended unless the amendment is authorized by a court.”

**Section 89.** Section 13-36-202, MCA, is amended to read:

**“13-36-202. Reception of illegal votes — allegations and evidence.** When the reception of illegal votes is alleged as a cause of contest, it is sufficient to state generally that in one or more specified voting precincts illegal votes were given to the candidate whose ~~nomination~~ *selection to advance* or election is contested that, if taken from the candidate, will reduce the number of the candidate’s legal votes below the number of legal votes given to some other candidate for the same office. Testimony may not be received of any illegal votes unless the party contesting the election delivers to the opposite party, at least 3 days before trial, a written list of the number of illegal votes and by whom given that the party intends to prove at trial. This provision may not prevent the contestant from offering evidence of illegal votes not included in the statement if the contestant did not know and by reasonable diligence was unable to learn of the additional illegal votes and by whom they were given before delivering the written list.”

**Section 90.** Section 13-36-203, MCA, is amended to read:

**“13-36-203. Form of complaint.** (1) A petition or complaint filed under the provisions of this chapter is sufficient if it is in substantially the following form:

In the District Court of the  
.... Judicial District,  
for the County of ....., State of Montana.  
A B (or A B and C D), Contestants,  
vs.  
E F, Contestee.

The petition of the contestant (or contestants) named above alleges:

That an election was held (in the state, district, county, or city of ...), on the .... day of ....., 20..., for the (nomination of a candidate for) (or election of a) (state the office).

That .... and .... were candidates at the election and the board of canvassers has returned .... as being ~~nominated~~ *selected to advance to the general election* (or elected) ~~at the election~~.

That contestant A B voted (or had a right to vote, as the case may be) at the election (or claims to have had a right to be returned as ~~the nominee~~ *selected to advance* or *as the officer elected* or ~~nominated at the election~~ or was a candidate at the election, as the case may be) and that contestant C D (here state in a similar manner the right of each contestant).

The contestant (or contestants) further allege (here state the facts and grounds on which the contestants rely).

The contestants ask that it be determined by the court that... was not ~~nominated~~ *selected to advance* (or elected) and that the election was void or that A B or C D, as the case may be, was ~~nominated~~ *selected to advance* (or elected) and ask for other relief that the court may find appropriate.

(2) The complaint must be verified by the affidavit of one of the petitioners in the manner required by law for the verification of complaints in civil cases.”

**Section 91.** Section 13-36-206, MCA, is amended to read:

**“13-36-206. Notice of filing — prompt hearing.** On the filing of a petition under this part, the clerk shall immediately notify the judge of the court and issue a citation to the person whose ~~nomination~~ *selection to advance* or office is contested, citing the person to appear and answer not less than 3 or more than 7 days after the date of filing the petition. The court shall hear the cause, and the contest must take precedence over all other business on the court docket and must be tried and disposed of with all convenient dispatch. The court is always considered to be in session for the trial of contest cases.”

**Section 92.** Section 13-36-207, MCA, is amended to read:

**“13-36-207. Hearing of contest.** The petitioner (contestant) and the contestee may appear and produce evidence at the hearing, but ~~no~~ *a* person other than the petitioner and contestee may *not* be made a party to the proceedings on the petition and ~~no~~ *a* person other than the parties and their attorneys may *not* be heard except by order of the court. If more than one petition is pending or the election of more than one person is contested, the court may in its discretion order the cases to be heard together and may apportion the costs, disbursements, and attorney fees between the parties and shall finally determine all questions of law and fact, except that the judge may impanel a jury to decide on questions of fact. In the case of ~~nominations~~ or elections or *selections to advance* other than for federal congressional offices, the court shall immediately certify its decision to the governing body or official issuing certificates of ~~nomination~~ *selection* or election and the governing body or official shall issue certificates of ~~nomination~~ *selection* or election to the person or persons entitled to the certificates by the court’s decision. If judgment of ouster against a defendant is rendered, the ~~nomination~~ *selection to advance* or office must be declared vacant by the judgment, except as provided in 13-36-212, and must be filled by a new election or by appointment as may be provided by law regarding vacancies in the ~~nomination~~ *candidate* or office.”

**Section 93.** Section 13-36-209, MCA, is amended to read:

**“13-36-209. Forfeiture of ~~nomination~~ election or office for violation of law — when inappropriate.** Upon the trial of any action or proceeding under the provisions of this title to contest the right of any person to be declared ~~nominated~~ *selected to advance* or elected to any office or to annul or set aside a ~~nomination~~ or a *primary or general* election *result* or to remove a person from office, the ~~nomination~~ or *selection to advance* or election of the candidate is not *void* by reason of the offense or omission complained of ~~void~~ and the candidate may not be removed from or deprived of office if under the circumstances it seems to the court to be unjust that the candidate forfeit a ~~nomination~~ *the selection to advance* or office or be deprived of any office of which the candidate is the incumbent. The decision of the court must be based upon the following:

(1) it appears from the evidence that the offense complained of was not committed by the candidate or with the candidate’s knowledge or consent or was committed without the candidate’s sanction or connivance and that all reasonable means for preventing the commission of the offense at the election were taken by and on behalf of the candidate;



(2) the offense or offenses complained of were trivial, unimportant, and limited in character and in all other respects the candidate's participation in the election was free from offenses or illegal acts; or

(3) any act or omission of the candidate arose from inadvertence or from accidental miscalculation or from some other reasonable cause of a like nature and in any case did not arise from any lack of good faith."

**Section 94.** Section 13-36-210, MCA, is amended to read:

**"13-36-210. Punishment.** If, upon the trial of any action or proceeding under the provisions of this title to contest the right of any person to be declared to be ~~nominated to an office or~~ *selected to advance* or elected to an office or to annul and set aside the election or to remove any person from office, it appears that the person was guilty of any corrupt practice, illegal act, or undue influence ~~in or about the nomination~~ *regarding the selection to advance* or election, the person must be punished by being deprived of the ~~nomination~~ *selection to advance* or office and the vacancy must be filled in the manner provided by law. The only exceptions to this judgment are those provided in 13-36-209. The judgment does not prevent the candidate or officer from being proceeded against by indictment or criminal information for any act or acts."

**Section 95.** Section 13-36-211, MCA, is amended to read:

**"13-36-211. When ~~nomination or selection to advance or election not to be vacated.~~** The ground of contest specified in 13-36-101(3) may not be construed to authorize ~~a nomination or~~ *the results of a primary or general* election to be set aside on account of illegal votes unless it appears:

(1) that the candidate ~~or nominee~~ whose right is contested had knowledge of or connived in the illegal votes; or

(2) that the number of illegal votes given to the ~~person whose right to the nomination or office~~ *candidate whose right* is contested, if taken from the person, would reduce the number of legal votes for the ~~person~~ *candidate* below the number of votes given to some other person for the same ~~nomination~~ *selection to advance* or office, after deducting the illegal votes that may be shown to have been given to the other person."

**Section 96.** Section 13-36-212, MCA, is amended to read:

**"13-36-212. Declaration of result of election after rejection of illegal votes.** If, in any case of a contest on the ~~ground~~ *grounds* of illegal votes, it appears that a person other than the one returned has the highest number of legal votes after the illegal votes have been eliminated, the court ~~must~~ *shall* declare ~~such~~ *the* person ~~nominated or selected to advance or~~ elected, as the case may be."

**Section 97.** Section 13-37-127, MCA, is amended to read:

**"13-37-127. Withholding of certificates of ~~nomination or~~ election.** (1) A certificate of election may not be granted to any candidate until the candidate or the candidate's treasurer has filed the reports and statements that must be filed pursuant to the provisions of this chapter. A candidate for an elective office may not assume the powers and duties of that office until the candidate has received a certificate of election as provided by law. A certificate of election may only be issued by the public official responsible for issuing a certificate or commission of election.

(2) In carrying out the mandate of this section, the commissioner must, by written statement, notify the public official responsible for issuing a certificate of ~~nomination~~ *selection* or election that a candidate or the candidate's treasurer

has complied with the provisions of this chapter as described in subsection (1) and that a certificate of ~~nominat~~ion *selection* or election may be issued.”

**Section 98.** Section 13-37-216, MCA, is amended to read:

**“13-37-216. Limitations on contributions — adjustment.** (1) (a) Subject to adjustment as provided for in subsection (4), aggregate contributions for each election in a campaign by a political committee or by an individual, other than the candidate, to a candidate are limited as follows:

(i) for candidates filed jointly for the office of governor and lieutenant governor, not to exceed \$500;

(ii) for a candidate to be elected for state office in a statewide election, other than the candidates for governor and lieutenant governor, not to exceed \$250;

(iii) for a candidate for any other public office, not to exceed \$130.

(b) A contribution to a candidate includes contributions made to the candidate’s committee and to any political committee organized on the candidate’s behalf.

(2) (a) A political committee that is not independent of the candidate is considered to be organized on the candidate’s behalf. For the purposes of this section, an independent committee means a committee that is not specifically organized on behalf of a particular candidate or that is not controlled either directly or indirectly by a candidate or candidate’s committee and that does not act jointly with a candidate or candidate’s committee in conjunction with the making of expenditures or accepting contributions.

(b) A leadership political committee maintained by a political officeholder is considered to be organized on the political officeholder’s behalf.

(3) All political committees except those of political party organizations are subject to the provisions of subsections (1) and (2). For purposes of this subsection, “political party organization” means any political organization that was represented on the official ballot at the most recent ~~gubernatorial~~ *presidential* election. Political party organizations may form political committees that are subject to the following aggregate limitations, adjusted as provided for in subsection (4), from all political party committees:

(a) for candidates filed jointly for the offices of governor and lieutenant governor, not to exceed \$18,000;

(b) for a candidate to be elected for state office in a statewide election, other than the candidates for governor and lieutenant governor, not to exceed \$6,500;

(c) for a candidate for public service commissioner, not to exceed \$2,600;

(d) for a candidate for the state senate, not to exceed \$1,050;

(e) for a candidate for any other public office, not to exceed \$650.

(4) (a) The commissioner shall adjust the limitations in subsections (1) and (3) by multiplying each limit by an inflation factor, which is determined by dividing the consumer price index for June of the year prior to the year in which a general election is held by the consumer price index for June 2002.

(b) The resulting figure must be rounded up or down to the nearest:

(i) \$10 increment for the limits established in subsection (1); and

(ii) \$50 increment for the limits established in subsection (3).

(c) The commissioner shall publish the revised limitations as a rule.

(5) A candidate may not accept any contributions, including in-kind contributions, in excess of the limits in this section.

(6) For purposes of this section, "election" means the general election or a primary election that involves two or more candidates for the same ~~nomination office~~. If there is not a contested primary, there is only one election to which the contribution limits apply. If there is a contested primary, then there are two elections to which the contribution limits apply."

**Section 99.** Section 13-37-218, MCA, is amended to read:

**"13-37-218. Limitations on receipts from political committees.** A candidate for the state senate may receive no more than \$2,150 in total combined monetary contributions from all political committees contributing to the candidate's campaign, and a candidate for the state house of representatives may receive no more than \$1,300 in total combined monetary contributions from all political committees contributing to the candidate's campaign. The limitations in this section must be multiplied by an inflation factor, which is determined by dividing the consumer price index for June of the year prior to the year in which a general election is held by the consumer price index for June 2003. The resulting figure must be rounded up or down to the nearest \$50 increment. The commissioner shall publish the revised limitations as a rule. In-kind contributions must be included in computing these limitation totals. The limitation provided in this section does not apply to contributions made by a political party ~~eligible for that held a presidential primary election under 13-10-601~~ *during the last presidential primary cycle.*"

**Section 100.** Section 13-38-101, MCA, is amended to read:

**"13-38-101. Powers of parties.** Each political party may:

- (1) make its own rules;
- (2) provide for and select its own offices;
- (3) call conventions and provide for the number and qualification of delegates;
- (4) adopt platforms;
- (5) provide for selection of delegates to national conventions;
- (6) provide for the nomination of presidential electors;
- (7) provide for the selection of national committee representatives;
- (8) make nominations to fill vacancies occurring among ~~its candidates nominated in a general election who chose to state their party preference or association on their most recent declaration of candidacy~~ for offices to be filled by the state at large or by any district consisting of more than one county where the vacancies are caused by death, resignation, or removal from the electoral district;
- (9) perform all other functions inherent in a party organization."

**Section 101.** Section 13-38-201, MCA, is amended to read:

**"13-38-201. Election of committee representatives at primary — vacancies.** (1) Except as provided in subsection (4), each political party shall elect at each primary election one person of each sex to serve as committee representatives for each election precinct. The committee representatives must be residents and registered voters of the precinct.

(2) An elector may be placed in nomination for precinct committee representative by a declaration of ~~nomination~~ *candidacy*, signed by the elector, notarized, and filed in the office of the county election administrator within the time for filing declarations ~~naming candidates for nomination at of candidacy~~ *for the regular biennial primary election.*

(3) Except as provided in subsection (4), the names of candidates for precinct committee representative of each political party must appear *in a separate section on the party ticket primary election ballot but* in the same manner as other candidates and are voted for in the same manner as other candidates.

(4) If the number of candidates nominated for a party's precinct committee representatives is less than or equal to the number of positions to be elected, the election administrator may give notice that a party's precinct committee election will not be held in that precinct.

(5) If a party precinct committee election is not held pursuant to subsection (4), the election administrator shall declare elected by acclamation the candidate who filed for the position or who filed a declaration of intent to be a write-in candidate. The election administrator shall issue a certificate of election to the designated party.

(6) Write-in votes for precinct committee representatives may be counted as specified in 13-15-206(5) only if the individual whose name is written in has filed a declaration of intent as a write-in candidate by the deadline prescribed in 13-10-211(1).

(7) Pursuant to 13-38-101, a vacancy in a precinct committee representative position must be filled by the party governing body as provided in its rules."

**Section 102. Repealer.** The following sections of the Montana Code Annotated are repealed:

- 13-10-302. Write-in votes for previously nominated candidates.
- 13-10-303. Nominations by more than one party.
- 13-10-305. Independent forfeits place on ballot.
- 13-10-311. Election judges' duties when preparing for count.
- 13-10-502. Signature requirements for petition.
- 13-10-503. Filing deadlines.
- 13-10-507. Independent candidates — association with political parties not allowed.
- 13-10-601. Parties eligible for primary election — petitions by minor parties.
- 13-10-602. Use of party name.
- 13-10-604. Nominations for minor parties.
- 13-38-204. Committees to fill vacancies among nominees under certain circumstances.

**Section 103. Codification instruction.** [Section 31] is intended to be codified as an integral part of Title 13, chapter 10, part 1, and the provisions of Title 13, chapter 10, part 1, apply to [section 31].

**Section 104. 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 105. Coordination instruction.** If House Bill No. 120 is passed and approved and if [this act] is passed by the legislature and approved by the electorate and both contain a section amending 5-2-402, then section 5-2-402 must be amended as follows:

**"5-2-402. Appointment by board of county commissioners — county central committee role — timeframes.** (1) Except as provided in subsection (5) or as otherwise provided by law, whenever a vacancy occurs in the

legislature, the vacancy must be filled by appointment by the board of county commissioners or, in the event of a multicounty district, the boards of county commissioners of the counties comprising the district sitting as one appointing board.

(2) (a) Whenever a vacancy is within a single county, the board of county commissioners shall make the appointment as described in 5-2-403, 5-2-404, or 5-2-406.

(b) Whenever a vacancy is within a multicounty district, the boards of county commissioners shall sit as one appointing board. The selection of an individual to fill the vacancy must be as follows:

(i) The presiding officer of the board of county commissioners of the county in which the person resided whose vacancy is to be filled shall call a meeting for the purpose of appointing the member of the legislature and shall preside at the meeting.

(ii) Each commissioner's vote is determined by the following formula: 100 multiplied by (A divided by B) multiplied by (1 divided by C), where:

(A) A is the total votes cast in the respective county for the person vacating the legislative seat or, if the vacating person was not elected, the votes cast for the last person to be elected for the current term;

(B) B is the total votes cast for that person in the legislative district; and

(C) C is the number of authorized commissioners on the board of the commissioner whose vote is being determined.

(iii) The person selected to fill the vacancy is the one who receives the highest number above 50 that results from the calculation in subsection (2)(b)(ii). If none of the candidates receives a number higher than 50 from that calculation, the selection board shall cast its votes again in the same manner for the persons receiving the two highest numbers. If neither vote results in a candidate receiving a number higher than 50 from the calculation provided in subsection (2)(b)(ii), then 5-2-404 applies.

(c) If a vacancy occurs in a holdover senate seat after holdover senators have been assigned to new districts under each reapportionment, the formula in subsection (2)(b)(ii) must be applied using the votes cast for the senatorial candidates at the last election in which votes were cast for a senate candidate. Only the number of votes cast by electors residing in the new senate district for senate candidates of the party to which the person vacating the seat belonged may be counted. The secretary of state shall provide an estimate of the number of votes cast for each party by county or portion of a county. The selection process is the same as provided in subsection (2)(b)(iii).

(3) The appointment process to fill a vacant legislative seat under this section is as follows:

(a) Within 7 days of being notified of a vacancy as described in 2-16-501, the secretary of state shall notify the board of county commissioners. *and If the vacating legislator marked a party preference on the legislator's most recent declaration of candidacy filed with the secretary of state or election administrator, the secretary of state shall notify the relevant state party that is responsible for notifying the county central committee of the county where the vacating legislator is a resident, if the legislative seat is within one county, or the boards of county commissioners and the corresponding county central committees if the legislative seat is in a multicounty district. If the legislator is an did not mark a party preference, marked "independent", or marked a party preference for a party that does not have a county central committee as the party*

*preference on the legislator's most recent declaration of candidacy filed with the secretary of state or election administrator, independent or belongs to a party for which there is no county central committee, the notification of county commissioners suffices.*

(b) The county central committee or committees, upon receipt of notification of a vacancy, have 45 days to propose a list of prospective appointees, pursuant to 5-2-403(1). The county central committee or the county central committees, acting together, shall forward the list of names to the appointing board within the 45-day period.

(c) The appointing board shall make and confirm an appointment and notify the secretary of state within 15 days:

(i) after receiving the list of prospective appointees from the county central committee or committees;

(ii) after 45 days have expired after the notification of vacancy if the county central committee or committees have not provided a list of prospective appointees; or

(iii) after notification of a vacancy if the legislator vacating the seat is an independent.

(4) If the legislature is in session, the notification process in subsection (3)(a) must be followed within 5 days. The process described in subsection (3)(b) must take place in 5 days. The process described in subsection (3)(c) must take place in 5 days.

(5) Notwithstanding subsection (6), if a vacancy occurs prior to a primary election, 13-10-326 applies. If a vacancy occurs after a primary and prior to a general election, 13-10-327 applies.

(6) If the legislature is called into special session within 85 days of a general election, a person must be appointed to fill a legislative vacancy pursuant to subsections (1) through (4)."

**Section 106. Coordination instruction.** If [this act] is passed by the legislature and approved by the electorate and if House Bill No. 120 is passed and approved:

(1) the reference to "declaration for nomination" in 13-10-201 must be changed to "declaration of candidacy"; and

(2) the reference to "declaration for nomination" in 13-14-113 must be changed to "declaration of candidacy".

**Section 107. Coordination instruction.** If [this act] is passed by the legislature and approved by the electorate and if Senate Bill No. 375 is passed and approved, then the section that amends 13-37-216 in [this act] is void and the reference to "gubernatorial" in the definition of "political party organization" in section 13-1-101 in Senate Bill No. 375 must be changed to "presidential".

**Section 108. Effective date.** [This act] is effective upon approval by the electorate.

**Section 109. Applicability.** [This act] applies to elections held on by after January 1, 2015.

**Section 110. Submission to electorate.** [This act] shall be submitted to the qualified electors of Montana at the general election to be held in November 2014 by printing on the ballot the full title of [this act] and the following:

YES on Legislative Referendum No. \_\_\_\_

NO on Legislative Referendum No. \_\_\_\_



**CHAPTER NO. 270**

[SB 405]

AN ACT PROTECTING THE INTEGRITY OF MONTANA ELECTIONS BY ENDING LATE VOTER REGISTRATION ON THE FRIDAY BEFORE ELECTION DAY AND ELIMINATING ELECTION DAY REGISTRATION; ENSURING COMPLIANCE WITH THE NATIONAL VOTER REGISTRATION ACT; PROVIDING THAT THE PROPOSED ACT BE SUBMITTED TO THE QUALIFIED ELECTORS OF MONTANA AT THE GENERAL ELECTION TO BE HELD IN NOVEMBER 2014; AMENDING SECTIONS 13-2-301, 13-2-304, 13-19-207, AND 61-5-107, MCA; AND PROVIDING AN EFFECTIVE DATE.

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

**Section 1.** Section 13-2-301, MCA, is amended to read:

**“13-2-301. Close of regular registration — notice — changes.** (1) The election administrator shall:

(a) close regular registrations for 30 days before any election; and

(b) publish a notice specifying the day regular registrations will close and the availability of the late registration option provided for in 13-2-304 in a newspaper of general circulation in the county at least three times in the 4 weeks preceding the close of registration or broadcast a notice on radio or television as provided in 2-3-105 through 2-3-107, using the method the election administrator believes is best suited to reach the largest number of potential electors. The provisions of this subsection (1)(b) are fulfilled upon the third publication or broadcast of the notice.

(2) Information to be included in the notice must be prescribed by the secretary of state.

(3) An application for voter registration properly executed and postmarked on or before the day regular registration is closed must be accepted as a regular registration for 3 days after regular registration is closed under subsection (1)(a).

(4) An individual who submits a completed registration form to the election administrator before the deadlines provided in this section is allowed to correct a mistake on the completed registration form until 5 p.m. on the 10th day following the close of regular registration, and the qualified elector is then eligible to vote in the election.

(5) An elector who misses the deadlines provided for in this section may register to vote or change the elector’s voter information and vote in the election; ~~except as otherwise~~ *as provided in 13-2-304.*”

**Section 2.** Section 13-2-304, MCA, is amended to read:

**“13-2-304. Late registration — late changes — nonapplicability for school elections.** (1) Except as provided in subsections (2) and (3), the following provisions apply:

(a) An elector may register or change the elector’s voter registration information after the close of regular registration in 13-2-301 and vote in the election if the election administrator in the county where the elector resides receives and verifies the elector’s voter registration information prior to ~~the close of the polls on election day.~~

~~(b) Late registration is closed from noon to 5 p.m. on the day *Friday* before the election.~~

(e)(b) Except as provided in 13-2-514(2)(a), an elector who registers or changes the elector's voter information pursuant to this section may vote in the election only if the elector obtains the ballot from and returns it to the location designated by the county election administrator.

(2) If an elector has already been issued a ballot for the election, the elector may change the elector's voter registration information only if the original voted ballot has not been received at the county election office and if the original ballot that was issued is marked by the issuing county as void in the statewide voter registration database prior to the change.

(3) The provisions of subsection (1) do not apply with respect to an elector's registration to vote in a school election held pursuant to Title 20."

**Section 3.** Section 13-19-207, MCA, is amended to read:

**"13-19-207. When materials to be mailed.** (1) Except as provided in subsection (2), for any election conducted by mail, ballots must be mailed no sooner than the 25th day and no later than the 15th day before election day.

(2) (a) All ballots mailed to electors on the active list and provisionally registered list must be mailed the same day.

(b) At any time before noon on the day before election day, a ballot may be mailed or, upon request, provided in person at the election administrator's office to:

(i) an elector on the inactive list after the elector reactivates the elector's registration as provided in 13-2-222; or

(ii) an individual who registers under the late registration option provided for in 13-2-304.

(c) An elector on the inactive list shall vote at the election administrator's office on election day if the elector reactivates the elector's registration after noon on the day before election day.

~~(d) An elector who registers pursuant to 13-2-304 on election day or on the day before election day must receive the ballot and vote it at the election administrator's office."~~

**Section 4.** Section 61-5-107, MCA, is amended to read:

**"61-5-107. Application for license, instruction permit, or motorcycle endorsement.** (1) Each application for an instruction permit, driver's license, commercial driver's license, or motorcycle endorsement must be made upon a form furnished by the department. Each application must be accompanied by the proper fee, and payment of the fee entitles the applicant to not more than three attempts to pass the examination within a period of 6 months from the date of application. A voter registration form for mail registration as prescribed by the secretary of state *and in compliance with the National Voter Registration Act of 1993, Public Law 103-31, 42 U.S.C. 1973gg, et seq.*, must be attached to each driver's license application. If the applicant wishes to register to vote, the department shall accept the registration and forward the form to the election administrator.

(2) Each application must include the full legal name, date of birth, sex, residence address of the applicant [and the applicant's social security number], must include a brief description of the applicant, and must provide the following additional information:

(a) the name of each jurisdiction in which the applicant has previously been licensed to drive any type of motor vehicle during the 10-year period immediately preceding the date of the application;

(b) a certification from the applicant that the applicant is not currently subject to a suspension, revocation, cancellation, disqualification, or withdrawal of a previously issued driver's license or any driving privileges in another jurisdiction and that the applicant does not have a driver's license from another jurisdiction;

(c) a brief description of any physical or mental disability, limitation, or condition that impairs or may impair the applicant's ability to exercise ordinary and reasonable control in the safe operation of a motor vehicle on the highway;

(d) a brief description of any adaptive equipment or operational restrictions that the applicant relies upon or intends to rely upon to attain the ability to exercise ordinary and reasonable control in the safe operation of a motor vehicle on the highway, including the nature of the equipment or restrictions; and

(e) if the applicant is a foreign national whose presence in the United States is temporarily authorized under federal law, the expiration date of the official document issued to the applicant by the bureau of citizenship and immigration services of the department of homeland security authorizing the applicant's presence in the United States.

[(3) The department shall keep the applicant's social security number from this source confidential, except that the number may be used for purposes of subtitle VI of Title 49 of the U.S.C. or as otherwise permitted by state law administered by the department and may be provided to the department of public health and human services for use in administering Title IV-D of the Social Security Act.]

(4) (a) When an application is received from an applicant who is not ineligible for licensure under 61-5-105 and who was previously licensed by another jurisdiction, the department shall request a copy of the applicant's driving record from each jurisdiction in which the applicant was licensed in the preceding 10-year period. The driving record may be transmitted manually or by electronic medium.

(b) When received, the driving records must be appended to the driver's record created and maintained in this state. The department may rely on information contained in driving records received under this section to determine the appropriate action to be taken against the applicant upon subsequent receipt of a report of a conviction or other conduct requiring suspension or revocation of a driver's license under state law.

(5) An individual who is under 26 years of age but at least 15 years of age and who is required to register in compliance with the federal Military Selective Service Act, 50 App. U.S.C. 453, must be provided an opportunity to fulfill those registration requirements in conjunction with an application for an instruction permit, driver's license, commercial driver's license, or state identification card. If under 18 years of age but at least 15 years of age, an individual must be provided an opportunity to be registered by the selective service system upon attaining 18 years of age. Any registration information supplied on the application must be transmitted by the department to the selective service system. (Bracketed language terminates on occurrence of contingency—sec. 1, Ch. 27, L. 1999.)”

**Section 5. Effective date.** [This act] is effective upon approval by the electorate.

**Section 6. Submission to electorate.** [This act] shall be submitted to the qualified electors of Montana at the general election to be held in November 2014 by printing on the ballot the full title of [this act] and the following:

YES on Legislative Referendum No. \_\_\_\_

NO on Legislative Referendum No. \_\_\_\_

**Section 7. Coordination instruction.** If House Bill No. 30 is passed and approved, then [this act] is void.

## CHAPTER NO. 271

[HB 104]

AN ACT CREATING CRIMINAL OFFENSES INVOLVING THE DEATH OF A FETUS OF ANOTHER AND PROVIDING EXCEPTIONS; AND AMENDING SECTIONS 45-5-102 AND 45-5-103, MCA.

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

**Section 1.** Section 45-5-102, MCA, is amended to read:

**“45-5-102. Deliberate homicide.** (1) A person commits the offense of deliberate homicide if:

(a) the person purposely or knowingly causes the death of another human being; ~~or~~

(b) the person attempts to commit, commits, or is legally accountable for the attempt or commission of robbery, sexual intercourse without consent, arson, burglary, kidnapping, aggravated kidnapping, felonious escape, assault with a weapon, aggravated assault, or any other forcible felony and in the course of the forcible felony or flight thereafter, the person or any person legally accountable for the crime causes the death of another human being; *or*

(c) *the person purposely or knowingly causes the death of a fetus of another with knowledge that the woman is pregnant.*

(2) A person convicted of the offense of deliberate homicide shall be punished by death as provided in 46-18-301 through 46-18-310, unless the person is less than 18 years of age at the time of the commission of the offense, by life imprisonment, or by imprisonment in the state prison for a term of not less than 10 years or more than 100 years, except as provided in 46-18-219 and 46-18-222.”

**Section 2.** Section 45-5-103, MCA, is amended to read:

**“45-5-103. Mitigated deliberate homicide.** (1) A person commits the offense of mitigated deliberate homicide when the person purposely or knowingly causes the death of another human being *or purposely or knowingly causes the death of a fetus of another with knowledge that the woman is pregnant* but does so under the influence of extreme mental or emotional stress for which there is reasonable explanation or excuse. The reasonableness of the explanation or excuse must be determined from the viewpoint of a reasonable person in the actor’s situation.

(2) Mitigated deliberate homicide is a lesser included offense of deliberate homicide as defined in 45-5-102(1)(a), but is not a lesser included offense of deliberate homicide as defined in 45-5-102(1)(b).

(3) Mitigating circumstances that reduce deliberate homicide to mitigated deliberate homicide are not an element of the reduced crime that the state is required to prove or an affirmative defense that the defendant is required to prove. Neither party has the burden of proof as to mitigating circumstances, but either party may present evidence of mitigation.

(4) A person convicted of mitigated deliberate homicide shall be imprisoned in the state prison for a term of not less than 2 years or more than 40 years and

may be fined not more than \$50,000, except as provided in 46-18-219 and 46-18-222.”

**Section 3. Definition.** As used in 45-5-102, 45-5-103, and [section 4], “fetus” means an organism of the species homo sapiens from 8 weeks of development until complete expulsion or extraction from a woman’s body.

**Section 4. Harm to fetus of another — exceptions.** A prosecution for a violation of 45-5-102 or 45-5-103 with regard to the death of a fetus of another may not be brought against:

(1) a person for conduct relating to an abortion for which the consent of the pregnant woman or a person authorized by law to act on her behalf has been obtained or for which the consent is implied by law;

(2) a person for any medical treatment of the pregnant woman or her fetus;  
or

(3) a woman with respect to her fetus.

**Section 5. Other convictions not barred.** A prosecution for or conviction of an offense under 45-5-102 or 45-5-103 is not a bar to conviction of or punishment for any other crime committed by the defendant as part of the same conduct.

**Section 6. 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 7. Codification instruction.** [Sections 3 through 5] are intended to be codified as an integral part of Title 45, chapter 5, and the provisions of Title 45, chapter 5, apply to [sections 3 through 5].

Approved April 22, 2013

## CHAPTER NO. 272

[HB 336]

AN ACT GENERALLY REVISING THE HIGHWAY PATROL OFFICERS’ RETIREMENT SYSTEM; DECREASING THE GUARANTEED ANNUAL BENEFIT ADJUSTMENT FOR NEW MEMBERS; REQUIRING NEW MEMBERS TO WAIT 3 YEARS BEFORE RECEIVING THE GUARANTEED ANNUAL BENEFIT ADJUSTMENT; INCREASING THE YEARS OF MEMBERSHIP SERVICE NEEDED FOR A NEW MEMBER TO PURCHASE SERVICE CREDIT AND TO RECEIVE A RETIREMENT BENEFIT; INCREASING EMPLOYEE CONTRIBUTIONS FOR EXISTING MEMBERS AND NEW HIRES; INCREASING THE STATE EMPLOYER CONTRIBUTION; INCREASING THE BENEFIT MULTIPLIER FOR ALL MEMBERS; RESTRICTING THE USES OF THE SPECIAL STATE REVENUE FUND TO FUND THE HIGHWAY PATROL OFFICERS’ SALARIES; AMENDING SECTIONS 19-2-303, 19-6-301, 19-6-402, 19-6-404, 19-6-502, 19-6-503, 19-6-601, 19-6-707, 19-6-710, 19-6-711, 19-6-801, 19-6-803, AND 19-6-804, MCA; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Article VIII, section 15, of the Montana Constitution requires that “Public retirement systems shall be funded on an actuarially sound basis”; and

WHEREAS, Article VIII, section 15, of the Montana Constitution also requires that “Public retirement system assets, including income and actuarially required contributions, shall not be encumbered, diverted, reduced,

or terminated and shall be held in trust to provide benefits to participants and their beneficiaries and to defray administrative expenses”; and

WHEREAS, the unprecedented collapse of the financial markets in 2008 and 2009 and the subsequent slow rate of economic recovery has resulted in little or no prospect that current statutory contribution rates together with future market returns will be sufficient to fund the Highway Patrol Officers’ Retirement System on an actuarially sound basis, and current contributions remain insufficient to pay the past and future accruals of retirement benefits for current members of the system; and

WHEREAS, failure to return the system to a position of actuarially sound funding places the benefits to be paid to the current system members in jeopardy and results in collection of employee contributions for which future benefits may not be guaranteed; and

WHEREAS, because reasonable increases in employer contributions and future employee contributions and reasonable reductions in benefits for future members alone will not be sufficient to return the system to a position of actuarially sound funding, increased contributions for current and future members and reduced benefits for future members are necessary to return the system to a position of actuarially sound funding; and

WHEREAS, during the past two legislative sessions and interims, the Legislature, interim committees, the retirement system board and staff, and the Governor’s office have analyzed a range of alternatives for returning all public employee retirement systems to a position of actuarially sound funding without raising contract impairment issues for current members, but recent actuarial analysis continues to show that several of the systems, including the Highway Patrol Officers’ Retirement System remain actuarially unsound; and

WHEREAS, due to significant strains on the Montana economy and taxpayers, a modest supplemental contribution rate increase applied to current Highway Patrol Officers’ Retirement System members, phased in over a 4-year period, in conjunction with additional employer and state contributions, is reasonable and necessary pursuant to the language of U.S. Trust Company of New York v. New Jersey, 431 U.S. 1 (1977), concerning contract impairment and is the least impairing alternative available to the Legislature as it seeks to fulfill its constitutional obligation to ensure the Highway Patrol Officers’ Retirement System is funded in an actuarially sound manner; and

WHEREAS, the defined benefit Highway Patrol Officers’ Retirement System is integral to the successful recruitment and retention of qualified Montana highway patrol officers.

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

**Section 1. Guaranteed annual benefit adjustment for employees hired after July 1, 2013.** (1) Subject to subsection (2), for employees hired on or after July 1, 2013, on January 1 of each year, the permanent monthly benefit payable during the preceding January to each recipient who is eligible under subsection (3) must be increased by 1.5%.

(2) (a) If the recipient’s benefit payable during the preceding January has been increased by one or more adjustments not provided for in this section and the adjustments amount to less than a 1.5% annualized increase, then the recipient’s benefit must be adjusted by an amount that will provide a total annualized increase of 1.5% in the benefit paid since the preceding January.

(b) If a recipient’s benefit payable during the preceding January has been increased by one or more adjustments not provided for in this section and the



adjustments amount to more than a 1.5% annualized increase, then the benefit increase provided for under this section must be 0%.

(3) Except as provided for in subsection (2)(b), a benefit recipient is eligible for and must receive the minimum annual benefit adjustment provided for in this section if:

(a) the benefit's commencement date is at least 36 months prior to January 1 of the year in which the adjustment is to be made; and

(b) the member first became an active member on or after July 1, 2013.

(4) The board shall adopt rules to administer the provisions of this section.

**Section 2.** Section 19-2-303, MCA, is amended to read:

**"19-2-303. Definitions.** Unless the context requires otherwise, for each of the retirement systems subject to this chapter, the following definitions apply:

(1) "Accumulated contributions" means the sum of all the regular and any additional contributions made by a member in a defined benefit plan, together with the regular interest on the contributions.

(2) "Active member" means a member who is a paid employee of an employer, is making the required contributions, and is properly reported to the board for the most current reporting period.

(3) "Actuarial cost" means the amount determined by the board in a uniform and nondiscriminatory manner to represent the present value of the benefits to be derived from the additional service to be credited based on the most recent actuarial valuation for the system and the age, years until retirement, and current salary of the member.

(4) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the mortality table and interest rate assumptions adopted by the board.

(5) "Actuarial liabilities" means the excess of the present value of all benefits payable under a defined benefit retirement plan over the present value of future normal costs in that retirement plan.

(6) "Actuary" means the actuary retained by the board in accordance with 19-2-405.

(7) "Additional contributions" means contributions made by a member of a defined benefit plan to purchase various types of optional service credit as allowed by the applicable retirement plan.

(8) "Annuity" means:

(a) in the case of a defined benefit plan, equal and fixed payments for life that are the actuarial equivalent of a lump-sum payment under a retirement plan and as such are not benefits paid by a retirement plan and are not subject to periodic or one-time increases; or

(b) in the case of the defined contribution plan, a payment of a fixed sum of money at regular intervals.

(9) "Banked holiday time" means the hours reported for work performed on a holiday that the employee may use for equivalent time off or that may be paid to the employee as specified by the employer's policy.

(10) "Benefit" means:

(a) the service retirement benefit, early retirement benefit, or disability retirement or survivorship benefit payment provided by a defined benefit retirement plan; or

(b) a payment or distribution under the defined contribution retirement plan, including a disability payment under 19-3-2141, for the exclusive benefit of a plan member or the member's beneficiary or an annuity purchased under 19-3-2124.

(11) "Board" means the public employees' retirement board provided for in 2-15-1009.

(12) "Contingent annuitant" means:

(a) under option 2 or 3 provided for in 19-3-1501, one natural person designated to receive a continuing monthly benefit after the death of a retired member; or

(b) under option 4 provided for in 19-3-1501, a natural person, charitable organization, estate, or trust that may receive a continuing monthly benefit after the death of a retired member.

(13) "Covered employment" means employment in a covered position.

(14) "Covered position" means a position in which the employee must be a member of the retirement system except as otherwise provided by law.

(15) "Defined benefit retirement plan" or "defined benefit plan" means a plan within the retirement systems provided for pursuant to 19-2-302 that is not the defined contribution retirement plan.

(16) "Defined contribution retirement plan" or "defined contribution plan" means the plan within the public employees' retirement system established in 19-3-103 that is provided for in chapter 3, part 21, of this title and that is not a defined benefit plan.

(17) "Department" means the department of administration.

(18) "Designated beneficiary" means the person, charitable organization, estate, or trust for the benefit of a natural person designated by a member or payment recipient to receive any survivorship benefits, lump-sum payments, or benefit from a retirement account upon the death of the member or payment recipient, including annuities derived from the benefits or payments.

(19) "Direct rollover" means a payment by the plan to the eligible retirement plan specified by the distributee.

(20) "Disability" or "disabled" means a total inability of the member to perform the member's duties by reason of physical or mental incapacity. The disability must be incurred while the member is an active member and must be one of permanent duration or of extended and uncertain duration, as determined by the board on the basis of competent medical opinion.

(21) "Distributee" means:

(a) a member;

(b) a member's surviving spouse;

(c) a member's spouse or former spouse who is the alternate payee under a family law order as defined in 19-2-907; or

(d) effective January 1, 2007, a member's nonspouse beneficiary who is a designated beneficiary as defined by section 401(a)(9)(E) of the Internal Revenue Code, 26 U.S.C. 401(a)(9)(E).

(22) "Early retirement benefit" means the retirement benefit payable to a member following early retirement and is the actuarial equivalent of the accrued portion of the member's service retirement benefit.

(23) "Eligible retirement plan" means any of the following that accepts the distributee's eligible rollover distribution:

(a) an individual retirement account described in section 408(a) of the Internal Revenue Code, 26 U.S.C. 408(a);

(b) an individual retirement annuity described in section 408(b) of the Internal Revenue Code, 26 U.S.C. 408(b);

(c) an annuity plan described in section 403(a) of the Internal Revenue Code, 26 U.S.C. 403(a);

(d) a qualified trust described in section 401(a) of the Internal Revenue Code, 26 U.S.C. 401(a);

(e) effective January 1, 2002, an annuity contract described in section 403(b) of the Internal Revenue Code, 26 U.S.C. 403(b);

(f) effective January 1, 2002, a plan eligible under section 457(b) of the Internal Revenue Code, 26 U.S.C. 457(b), that is maintained by a state, a political subdivision of a state, or any agency or instrumentality of a state or a political subdivision of a state that agrees to separately account for amounts transferred into that plan from a plan under this title; or

(g) effective January 1, 2008, a Roth IRA described in section 408A of the Internal Revenue Code, 26 U.S.C. 408A.

(24) "Eligible rollover distribution":

(a) means any distribution of all or any portion of the balance from a retirement plan to the credit of the distributee, as provided in 19-2-1011;

(b) effective January 1, 2002, includes a distribution to a surviving spouse or to a spouse or former spouse who is an alternate payee under a domestic relations order, as defined in section 414(p) of the Internal Revenue Code, 26 U.S.C. 414(p).

(25) "Employee" means a person who is employed by an employer in any capacity and whose salary is being paid by the employer or a person for whom an interlocal governmental entity is responsible for paying retirement contributions pursuant to 7-11-105.

(26) "Employer" means a governmental agency participating in a retirement system enumerated in 19-2-302 on behalf of its eligible employees. The term includes an interlocal governmental entity identified as responsible for paying retirement contributions pursuant to 7-11-105.

(27) "Essential elements of the position" means fundamental job duties. An element may be considered essential because of but not limited to the following factors:

(a) the position exists to perform the element;

(b) there are a limited number of employees to perform the element; or

(c) the element is highly specialized.

(28) "Fiscal year" means a plan year, which is any year commencing with July 1 and ending the following June 30.

(29) "Inactive member" means a member who terminates service and does not retire or take a refund of the member's accumulated contributions.

(30) "Internal Revenue Code" has the meaning provided in 15-30-2101.

(31) "Member" means either:

(a) a person with accumulated contributions and service credited with a defined benefit retirement plan or receiving a retirement benefit on account of the person's previous service credited in a retirement system; or

(b) a person with a retirement account in the defined contribution plan.

(32) "Membership service" means the periods of service that are used to determine eligibility for retirement or other benefits.

(33) (a) "Normal cost" or "future normal cost" means an amount calculated under an actuarial cost method required to fund accruing benefits for members of a defined benefit retirement plan during any year in the future.

(b) Normal cost does not include any portion of the supplemental costs of a retirement plan.

(34) "Normal retirement age" means the age at which a member is eligible to immediately receive a retirement benefit based on the member's age, length of service, or both, as specified under the member's retirement system, without disability and without an actuarial or similar reduction in the benefit.

(35) "Pension" means benefit payments for life derived from contributions to a retirement plan made from state- or employer-controlled funds.

(36) "Pension trust fund" means a fund established to hold the contributions, income, and assets of a retirement system or plan in public trust.

(37) "Plan choice rate" means the amount of the employer contribution as a percentage of payroll covered by the defined contribution plan members that is allocated to the public employees' retirement system's defined benefit plan pursuant to 19-3-2117 and that is adjusted by the board pursuant to 19-3-2121 to actuarially fund the unfunded liabilities and the normal cost rate changes in a defined benefit plan resulting from member selection of the defined contribution plan.

(38) "Regular contributions" means contributions required from members under a retirement plan.

(39) "Regular interest" means interest at rates set from time to time by the board.

(40) "Retirement" or "retired" means the status of a member who has:

(a) terminated from service; and

(b) received and accepted a retirement benefit from a retirement plan.

(41) "Retirement account" means an individual account within the defined contribution retirement plan for the deposit of employer and member contributions and other assets for the exclusive benefit of a member of the defined contribution plan or the member's beneficiary.

(42) "Retirement benefit" means:

(a) in the case of a defined benefit plan, the periodic benefit payable as a result of service retirement, early retirement, or disability retirement under a defined benefit plan of a retirement system. With respect to a defined benefit plan, the term does not mean an annuity.

(b) in the case of the defined contribution plan, a benefit as defined in subsection (10)(b).

(43) "Retirement plan" or "plan" means either a defined benefit plan or a defined contribution plan under one of the public employee retirement systems enumerated in 19-2-302.

(44) "Retirement system" or "system" means one of the public employee retirement systems enumerated in 19-2-302.

(45) "Service" means employment of an employee in a position covered by a retirement system.

(46) "Service credit" means the periods of time for which the required contributions have been made to a retirement plan and that are used to

calculate retirement benefits or survivorship benefits under a defined benefit retirement plan.

(47) "Service retirement benefit" means the retirement benefit that the member may receive at normal retirement age.

(48) "Statutory beneficiary" means the surviving spouse or dependent child or children of a member of the highway patrol officers', municipal police officers', or firefighters' unified retirement system who are statutorily designated to receive benefits upon the death of the member.

(49) "Supplemental cost" means an element of the total actuarial cost of a defined benefit retirement plan arising from benefits payable for service performed prior to the inception of the retirement plan or prior to the date of contribution rate increases, changes in actuarial assumptions, actuarial losses, or failure to fund or otherwise recognize normal cost accruals or interest on supplemental costs. These costs are included in the unfunded actuarial liabilities of the retirement plan.

(50) "Survivorship benefit" means payments for life to the statutory or designated beneficiary of a deceased member who died while in service under a defined benefit retirement plan.

(51) "Termination of employment", "termination from employment", "terminated employment", "terminated from employment", "terminate employment", or "terminates employment" means that:

(a) there has been a complete severance of a covered employment relationship by the positive act of either the employee, the employer, or both; and

(b) the member is no longer receiving compensation for covered employment, other than any outstanding lump-sum payment for compensatory leave, sick leave, or annual leave.

(52) "Termination of service", "termination from service", "terminated from service", "terminated service", "terminating service", or "terminates service" means that:

(a) there has been a complete severance of a covered employment relationship by the positive act of either the employee, the employer, or both for at least 30 days;

(b) no written or verbal agreement exists between employee and employer that the employee will return to covered employment in the future;

(c) the member is no longer receiving compensation for covered employment; and

(d) the member has been paid all compensation for compensatory leave, sick leave, or annual leave to which the member was entitled. For the purposes of this subsection (52), compensation does not mean compensation as a result of a legal action, court order, or settlement to which the board was not a party.

(53) "Unfunded actuarial liabilities" or "unfunded liabilities" means the excess of a defined benefit retirement plan's actuarial liabilities at any given point in time over the value of its cash and investments on that same date.

(54) "Vested account" means an individual account within a defined contribution plan that is for the exclusive benefit of a member or the member's beneficiary. A vested account includes all contributions and the income on all contributions in each of the following accounts:

(a) the member's contribution account;

(b) the vested portion of the employer's contribution account; and

(c) the member's account for other contributions.

(55) "Vested member" or "vested" means:

(a) with respect to a defined benefit plan, *except as provided in subsection (55)(b)*, a member or the status of a member who has at least 5 years of membership service; ~~or~~

(b) *with respect to a member of the highway patrol officers' retirement system established in Title 19, chapter 6, who was hired on or after [the effective date of this act], a member or the status of the member who has at least 10 years of membership service; or*

~~(b)~~(c) with respect to the defined contribution plan, a member or the status of a member who meets the minimum membership service requirement of 19-3-2116.

(56) "Written application" or "written election" means a written instrument, prescribed by the board or required by law, properly signed and filed with the board, that contains all required information, including documentation that the board considers necessary.

(57) "Written instrument" includes an electronic record containing an electronic signature, as defined in 30-18-102."

**Section 3.** Section 19-6-301, MCA, is amended to read:

**"19-6-301. Membership — inactive vested members — inactive nonvested members.** (1) All members of the Montana highway patrol, including the supervisor and assistant supervisors, must be members of the retirement system.

(2) (a) An inactive member *hired before July 1, 2013*, with at least 5 years of membership service is an inactive vested member and retains the right to purchase service and to receive a retirement benefit under the provisions of this chapter.

(b) *An inactive member hired on or after July 1, 2013, with at least 10 years of membership service is an inactive vested member and retains the right to purchase service and to receive a retirement benefit under the provisions of this chapter.*

~~(b)~~(c) If an inactive vested member chooses to take a lump-sum payment rather than a retirement benefit, the lump-sum payment consists of only the member's accumulated contributions and not the employer's contributions.

(3) (a) An inactive member *hired before July 1, 2013*, with less than 5 years of membership service is an inactive nonvested member and is not eligible for any benefits from the retirement system.

(b) *An inactive member hired on or after July 1, 2013, with less than 10 years of membership service is an inactive nonvested member and is not eligible for any benefits from the retirement system.*

~~(b)~~(c) An inactive nonvested member is eligible only for a refund of the member's accumulated contributions."

**Section 4.** Section 19-6-402, MCA, is amended to read:

**"19-6-402. Member's contribution.** (1) (a) A member not covered under 19-6-710 shall contribute ~~9%~~ *the following percentage* of the member's compensation:-

(i) *beginning July 1, 2013, through June 30, 2014, 10%;*

(ii) *beginning July 1, 2014, through June 30, 2015, 11%;*

(iii) *beginning July 1, 2015, through June 30, 2016, 12%; and*



(iv) beginning July 1, 2016, 13%.

(b) A member covered under 19-6-710, 19-6-711, or [section 1] shall contribute ~~9.05%~~ *the following percentage* of the member's compensation:

(i) beginning July 1, 2013, through June 30, 2014, 10.05%;

(ii) beginning July 1, 2014, through June 30, 2015, 11.05%;

(iii) beginning July 1, 2015, through June 30, 2016, 12.05%; and

(iv) beginning July 1, 2016, 13.05%.

(2) Each employer, pursuant to section 414(h)(2) of the federal Internal Revenue Code of 1954, as amended and applicable on July 1, 1985, shall pick up and pay the contributions that would be payable by the member under subsection (1) for service rendered after June 30, 1985.

(3) The member's contributions picked up by the employer must be designated for all purposes of the retirement system as the member's contributions, except for the determination of a tax upon a distribution from the retirement system. These contributions must become part of the member's accumulated contributions but must be accounted for separately from those previously accumulated.

(4) The member's contributions picked up by the employer must be payable from the same source as is used to pay compensation to the member and must be included in the member's wages, as defined in 19-1-102, and compensation as used to define the member's highest average compensation in 19-6-101. The employer shall deduct from the member's compensation an amount equal to the amount of the member's contributions picked up by the employer and remit the total of the contributions to the board."

**Section 5.** Section 19-6-404, MCA, is amended to read:

**"19-6-404. State employer contribution — statutory appropriation.**

The state shall pay as employer contributions ~~36.33%~~ *38.33%* of compensation paid to all of the employer's employees, except those properly excluded from membership, from the following sources:

(1) an amount equal to ~~26.15%~~ *28.15%* of the total compensation of the members, which is payable, as appropriated by the legislature, from the same source that is used to pay compensation to the members; and

(2) an amount equal to 10.18% of the total compensation of the members, which is statutorily appropriated, as provided in 17-7-502, from the general fund to the pension trust fund."

**Section 6.** Section 19-6-502, MCA, is amended to read:

**"19-6-502. Service retirement benefit.** After termination from service and upon application for service retirement, a member must receive a service retirement benefit equal to ~~2.5%~~ *2.6%* of the member's highest average compensation for each year of service credit."

**Section 7.** Section 19-6-503, MCA, is amended to read:

**"19-6-503. Early retirement benefit for member discontinued from service other than for cause.** (1) If a member *hired before July 1, 2013*, is discontinued from service other than for cause after having completed 5 years of membership service but before reaching normal retirement age, the member must, upon filing a written application with the board, be paid an early service retirement benefit that is of actuarial equivalent value to a service retirement based on a retirement age of 60.

(2) *If a member hired on or after July 1, 2013, is discontinued from service other than for cause after having completed 10 years of membership service but*

*before reaching normal retirement age, the member must, upon filing a written application with the board, be paid an early service retirement benefit that is of actuarial equivalent value to a service retirement based on a retirement age of 60.”*

**Section 8.** Section 19-6-601, MCA, is amended to read:

**“19-6-601. Disability retirement benefit.** (1) A member who becomes disabled must be granted a disability retirement benefit that is the actuarial equivalent of the service retirement benefit under 19-6-502 standing to the member’s credit at the time of the member’s disability retirement.

(2) A member who becomes disabled as a direct result of the member’s service in the line of duty:

(a) before completing 20 years of membership service must receive a disability retirement benefit equal to one-half the member’s highest average compensation; or

(b) after completing 20 years or more of membership service must receive a disability retirement benefit equal to ~~2.5%~~ 2.6% of the member’s highest average compensation for each year of service credit.

(3) Upon the death of a member receiving a disability retirement benefit under this section, the member’s surviving spouse or dependent child is eligible for benefits as provided in 19-6-505.”

**Section 9.** Section 19-6-707, MCA, is amended to read:

**“19-6-707. Minimum monthly benefit.** (1) Subject to the limitations contained in subsection (2), the following retired members, or their survivors, who are not covered by 19-6-710, ~~or~~ 19-6-711, *or [section 1]* are eligible to receive a monthly benefit of not less than 2% multiplied by the member’s service credits multiplied by the current base compensation received by a probationary highway patrol officer:

(a) a retired member who is 55 years of age or older, except as provided in subsection (3), or the member’s survivor, who is receiving a service retirement benefit;

(b) a retired member, or the member’s survivor, who is receiving a disability retirement benefit; and

(c) a recipient of a survivorship benefit.

(2) (a) The maximum monthly benefit paid under subsection (1) may not exceed 60% of the current base compensation of a probationary highway patrol officer.

(b) The annual increase in a monthly benefit under subsection (1) may not exceed 5% of the current monthly benefit paid to a retired member or the member’s survivor.

(3) A retired member otherwise qualified under subsection (1)(a) who is employed in a position covered by a retirement system under Title 19 is ineligible to receive the minimum monthly benefit provided for in this section until the member’s service in the covered position is terminated.”

**Section 10.** Section 19-6-710, MCA, is amended to read:

**“19-6-710. Guaranteed annual benefit adjustment.** (1) Subject to subsection (2), *for members hired before July 1, 2013*, on January 1 of each year, the permanent monthly benefit payable during the preceding January to each recipient who is eligible under subsection (3) must be increased by 3%.

(2) (a) If a recipient’s benefit payable during the preceding January has been increased by one or more adjustments not provided for in this section and the

adjustments amount to less than a 3% annualized increase, then the recipient's benefit must be adjusted by an amount that will provide a total annualized increase of 3% in the benefit paid since the preceding January.

(b) If a recipient's benefit payable during the preceding January has been increased by one or more adjustments not provided for in this section and the increases amount to more than a 3% annualized increase, then the benefit increase provided under this section must be 0%.

(3) Except as provided in subsection (2)(b), a benefit recipient is eligible for and must receive the minimum annual benefit adjustment provided for in this section if:

(a) the benefit's commencement date is at least 12 months prior to January 1 of the year in which the adjustment is to be made; and

(b) the member either:

(i) first became an active member on or after July 1, 1997; or

(ii) filed a voluntary, irrevocable election to be covered under this section.

The election must be filed with the board prior to January 1, 1998, and requires an active member to pay an increased contribution rate from July 1, 1997, forward. A retired member or the member's survivor who is receiving a monthly benefit before July 1, 1997, shall also file the voluntary, irrevocable election no later than January 1, 1998, to be covered under this section.

(4) The board shall adopt rules to administer the provisions of this section."

**Section 11.** Section 19-6-711, MCA, is amended to read:

**"19-6-711. Election — guaranteed annual benefit adjustment.** (1) Subject to subsection (2), *for members hired before July 1, 2013*, on January 1 of each year, the permanent monthly benefit payable during the preceding January to each recipient who is eligible under subsection (3) must be increased by 3%.

(2) (a) If a recipient's benefit payable during the preceding January has been increased by one or more adjustments not provided for in this section and the adjustments amount to less than a 3% annualized increase, then the recipient's benefit must be adjusted by an amount that will provide a total annualized increase of 3% in the benefit paid since the preceding January.

(b) If a recipient's benefit payable during the preceding January has been increased by one or more adjustments not provided for in this section and the increases amount to more than a 3% annualized increase, then the benefit increase provided under this section must be 0%.

(3) A benefit recipient is eligible for and must receive the minimum annual benefit adjustment provided for in this section if:

(a) the benefit's commencement date is at least 12 months prior to January 1 of the year in which the adjustment is to be made; and

(b) the member either:

(i) first became an active member on or after July 1, 1997; or

(ii) filed a voluntary, irrevocable election to be covered under this section. The election:

(A) must be filed with the board prior to December 1, 2001; and

(B) requires an active member to pay an increased or revised contribution rate from January 1, 2002, forward.

(4) The board shall adopt rules to administer the provisions of this section.

(5) The decision of a member who elected to participate under 19-6-710 remains valid. The decision of a member who elected not to participate under 19-6-710 may be reversed under this section.”

**Section 12.** Section 19-6-801, MCA, is amended to read:

**“19-6-801. Application to purchase military service.** (1) (a) Except as provided in subsection (1)(b) and subject to 19-6-805, an eligible member may, at any time prior to retirement, file a written application with the board to purchase service credit and membership service for up to 5 years of the member’s active service in the armed forces of the United States.

(b) A member is not eligible to purchase active military service credit and membership service under subsection (1)(a) if the member:

(i) has retired from active duty in the armed forces of the United States with military retirement benefits based on that military service;

(ii) is eligible, pursuant to 19-2-707, to receive credit in the system for that service; or

(iii) is eligible to receive credit for that service in any other retirement system or plan.

(2) (a) Except as provided in subsection ~~(2)(b)~~ (3) and subject to *subsection (2)(b) and* 19-6-805, a member ~~with at least 5 years of membership service~~ may, at any time prior to retirement, file a written application with the board to purchase service credit and membership service for up to 5 years of the member’s reserve military service in the armed forces of the United States.

(b) *A member must have at least the following years of membership service to apply to purchase service credit under subsection (2)(a):*

*(i) for a member hired before July 1, 2013, 5 years; and*

*(ii) for a member hired on or after July 1, 2013, 10 years.*

~~(b)(3)~~ A member is not eligible to purchase reserve military service credit and membership service under subsection (2)(a) if the member is eligible, pursuant to 19-2-707, to receive credit in the system for that service.

~~(a)(4)~~ To purchase service credit and membership service under this section:

(a) a member with at least 15 years of service credit who is not covered by 19-6-710 shall contribute the amount determined by the board to be due based on the member’s compensation and regular contribution rate in the member’s 16th year for the 1st year purchased and, for each subsequent year purchased, an amount based on the member’s compensation and contribution rate in each of as many years succeeding the member’s 16th year as are required to complete the purchase, with regular interest from the date the member becomes eligible for this benefit to the date the purchase is complete. The combined total of active and reserve military service credit and membership service that a member may purchase may be no more than the member’s service credit in excess of 15 years or 5 years, whichever is less.

(b) *(i) a member with at least 5 years of membership service who is covered by 19-6-710 shall pay the actuarial cost of the member’s active or reserve military service credit based on the system’s most recent actuarial valuation;*

*(ii) a member with at least 10 years of membership service who is covered by [section 1] shall pay the actuarial cost of the member’s active or reserve military service credit based on the system’s most recent actuarial valuation.”*

**Section 13.** Section 19-6-803, MCA, is amended to read:

**“19-6-803. Application to purchase law enforcement service performed in another state.** (1) (a) Subject to *subsection (1)(b) and* 19-6-805,

a member with at least 5 years of membership service may, at any time before retirement, file a written application with the board to purchase 1 year of out-of-state law enforcement employment for each year of service credit, unless the member is eligible to receive a retirement benefit in another system or plan for that same service.

(b) *A member must have at least the following years of membership service to apply to purchase service credit under this section:*

(i) *for a member hired before July 1, 2013, 5 years; and*

(ii) *for a member hired on or after July 1, 2013, 10 years.*

(2) To purchase this service credit, a member shall pay the actuarial cost of the service credit in the retirement system, as determined by the board, based on:

(a) the member's compensation for the 12 months immediately preceding the date of the member's election to purchase the service credit under the retirement system; and

(b) the actuarial rate in effect at the time of purchase of service credit.

(3) Service credit purchased under this section may not be used to qualify a member to purchase military service credit under 19-6-801.

(4) Service credit purchased under this section may not be used in calculating a member's retirement benefit unless the last 5 years of service credit were earned under the retirement system. If, upon retirement, a member's purchased service credit may not be used in calculating the member's retirement benefit, the member must receive a refund of the amount paid by the member to purchase the service credit, plus regular interest on that amount."

**Section 14.** Section 19-6-804, MCA, is amended to read:

**"19-6-804. Application to purchase additional service.** (1) (a) Subject to subsection (1)(b) and 19-6-805, a member with at least 5 years of membership service may, at any time before retirement, file a written application with the board to purchase 1 year of additional service credit for each 5 years of membership service that the member has in the retirement system.

(b) *A member must have at least the following years of membership service to apply to purchase additional service credit under this section:*

(i) *for a member hired before July 1, 2013, 5 years; and*

(ii) *for a member hired on or after July 1, 2013, 10 years.*

(2) To purchase service credit under this section, a member shall pay the actuarial cost of the service credit, based on the system's most recent actuarial valuation as determined by the board.

(3) Service credit purchased under this section is not membership service and may not be used to qualify a member for retirement or in the calculation of an actuarial reduction in benefits for a member who is not eligible for service retirement."

**Section 15.** Section 44-1-504, MCA, is amended to read:

**"44-1-504. Special revenue account to partially fund highway patrol officers' salaries.** (1) There is an account in the state special revenue fund provided for in 17-2-102.

(2) The money in the account is for the department of justice to fund, pursuant to 2-18-303(5):

(a) the base salary and associated operating costs for highway patrol officer positions; and

(b) biennial salary increases for highway patrol officers.

(3) *For the purposes of this section, the term “associated operating costs” does not include the state employer contribution provided for in 19-6-404.*

**Section 16. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 19, chapter 6, part 7, and the provisions of Title 19, chapter 6, part 7, apply to [section 1].

**Section 17. Effective date.** [This act] is effective July 1, 2013.

Approved April 22, 2013

## CHAPTER NO. 273

[SB 182]

AN ACT GENERALLY REVISING MONTANA AUTOMOBILE DEALER FRANCHISE LAW; CLARIFYING WHICH PARTIES ARE ENTITLED TO PROTEST ADDITIONAL FRANCHISE LOCATIONS; CLARIFYING THAT A DESIRE FOR FEWER FRANCHISE LOCATIONS IS NOT GOOD CAUSE FOR TERMINATION OF A FRANCHISE; ALLOWING FRANCHISEES TO PURCHASE CERTAIN GOODS AND SERVICES UNDER CERTAIN CIRCUMSTANCES; AMENDING SECTIONS 61-4-206, 61-4-207, AND 61-4-208, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

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

**Section 1.** Section 61-4-206, MCA, is amended to read:

**“61-4-206. Objections — hearing.** (1) (a) *Except as provided in subsection (1)(b), a person who receives or is entitled to receive a copy of a notice provided for in 61-4-205(4) may object to the approval of the proposed action by filing a written objection with the department within 15 days from the date the notice was received by the person entitled to receive the notice. If an objection is not filed within 15 days from the date the notice was received, the proposed action must be approved.*

(b) *A franchisee of the same line-make established in the same community as the proposed additional franchise of the same line-make may not object under subsection (1)(a) if the proposed additional franchise was first terminated by a franchisor and the franchise was subsequently awarded back by a legal or administrative proceeding to the franchisee from whom the franchise was terminated.*

(2) If a timely objection has been filed, the department shall appoint a hearings officer to preside over and conduct a contested case hearing under the provisions of Title 2, chapter 4, part 6. Within 30 days of the order of appointment, the hearings officer shall enter an order fixing the time for a scheduling conference for the contested case and shall send to the parties by certified mail with return receipt requested a copy of the scheduling conference order and the notice provided for in 61-4-205(4).

(3) Upon hearing or upon objection to the establishment of a new motor vehicle dealership, the franchisor has the burden of proof to establish that good cause exists to terminate, not continue, or not establish the franchise.

(4) The rules of evidence for a hearing provided for in subsection (2) are the same as those found in Title 2, chapter 4. The department shall reasonably apportion all costs related to the contested case hearing between the parties.

(5) The department may issue subpoenas, administer oaths, and compel the attendance of witnesses and production of books, papers, documents, and all



other evidence. The department may apply to the district court of the county in which the hearing is held for a court order enforcing this section. The hearing must be conducted pursuant to Title 2, chapter 4.

(6) A transcript of the testimony of each witness taken at the hearing must be made and preserved. Within 60 days after the hearing, the department shall make written findings of fact and conclusions and enter a final order.

(7) Any party to the hearing before the department may appeal pursuant to Title 2, chapter 4.

(8) The franchise agreement must continue in effect until the adjudication by the department on the verified complaint and the exhaustion of all appellate remedies available to the franchisee. The franchisor and the franchisee shall abide by the terms of the franchise and the laws of Montana during the appeals process.”

**Section 2.** Section 61-4-207, MCA, is amended to read:

**“61-4-207. Determination of good cause.** (1) In determining whether good cause has been established for terminating or not continuing a franchise, the department shall take into consideration the existing circumstances, including but not limited to:

- (a) the franchisee’s sales in relation to the market;
- (b) investment necessarily made and obligations incurred by the franchisee in the performance of the franchisee’s part of the franchise;
- (c) permanency of the investment;
- (d) whether it is injurious to the public welfare for the business of the franchisee to be discontinued;
- (e) whether the franchisee has adequate new motor vehicle facilities, equipment, parts, and qualified management, sales, and service personnel to reasonably provide consumer care for the new motor vehicles sold at retail by the franchisee and any other new motor vehicle of the same line-make;
- (f) whether the franchisee refuses to honor warranties of the franchisor to be performed by the franchisee if the franchisor reimburses the franchisee for warranty work performed by the franchisee pursuant to this part;
- (g) except as provided in subsection (2), actions by the franchisee that result in a material breach of the written and uniformly applied requirements of the franchise that are determined by the department to be reasonable and material; and
- (h) the enforceability of the franchise from a public policy standpoint, including issues of the reasonableness of the franchise’s terms and the parties’ relative bargaining power.

(2) Notwithstanding the terms, provisions, or conditions of an agreement or franchise, the following do not constitute good cause for the termination or noncontinuance of a franchise:

- (a) a change in ownership of the franchisee’s dealership;
- (b) the fact that the franchisee refused to purchase or accept delivery of a new motor vehicle, part, accessory, or any other commodity or service not ordered by the franchisee;
- (c) the failure of a franchisee to change location of the dealership or to make substantial alterations to the use or number of franchises or the dealership premises or facilities; or
- (d) the desire of a franchisor or a franchisor’s representative:

(i) for market penetration; or

(ii) to reduce the number of the franchisor's or franchisor's representative's franchises or dealer locations.

(3) In determining whether good cause has been established for entering into an additional franchise for the same line-make, the department shall take into consideration the existing circumstances, including but not limited to:

(a) amount of business transacted by other franchisees of the same line-make in that community;

(b) investment necessarily made and obligations incurred by other franchisees of the same line-make in that community in the performance of their part of their franchises; and

(c) whether the franchisees of the same line-make in that community are providing adequate consumer care, including satisfactory new motor vehicle dealer sales and service facilities, equipment, parts supply, and qualified management, sales, and service personnel, for the new motor vehicle products of the line-make."

**Section 3.** Section 61-4-208, MCA, is amended to read:

**"61-4-208. Prohibited acts — rights of franchisees.** (1) A manufacturer of new motor vehicles, a factory branch, a distributor, a distributor branch, an importer, a field representative, an officer, an agent, or any representative of the persons or entities listed may not:

(a) coerce, attempt to coerce, or require a new motor vehicle dealer or transferee of a new motor vehicle dealer to:

(i) accept delivery of a new motor vehicle, a part, or an accessory for a new motor vehicle or any other commodity that has not been ordered by the new motor vehicle dealer or transferee of a new motor vehicle dealer;

(ii) participate in or contribute to any local, regional, or national advertising fund or to participate in or to contribute to contests, giveaways, or other sales devices;

(iii) change location of the dealership or to make substantial alterations to the use or number of franchises or the dealership premises or facilities;

(iv) either establish or maintain exclusive facilities, personnel, or display space or to abandon an existing franchise relationship with another manufacturer in order to keep or enter into a franchise agreement or to participate in any program discount, credit, rebate, or sales incentive;

(v) subject to subsection (2)(b) and notwithstanding the terms of a franchise agreement or other agreement providing otherwise, purchase goods or services from a vendor identified, selected, or designated by a manufacturer, a factory branch, a distributor, a distributor branch, an importer, or an affiliate of the persons or entities listed without allowing the franchisee, after consultation with the franchisor, to obtain goods or services of like kind, quality, and design from a vendor that the franchisee chooses;

(~~v~~)(vi) require, coerce, or attempt to coerce a new motor vehicle dealer or transferee of a new motor vehicle dealer to refrain from participation in the management of, investment in, or acquisition of any other line-make of new motor vehicle or related products, as long as the new motor vehicle dealer or transferee of a new motor vehicle dealer maintains a reasonable line of credit for each franchise and the new motor vehicle dealer or transferee of a new motor vehicle dealer remains in substantial compliance with reasonable facilities requirements. The reasonable facilities requirements may not include any

requirement that a new motor vehicle dealer or transferee of a new motor vehicle dealer establish or maintain exclusive facilities, personnel, or display space.

~~(vi)~~(vii) refrain from participation in the management of, investment in, or acquisition of any other line of new motor vehicle or related products if the new motor vehicle dealer or transferee of a new motor vehicle dealer maintains a reasonable line of credit for each make or line of new motor vehicles and remains in compliance with any reasonable capital standards and facility requirements of the manufacturer; or

~~(vii)~~(viii) enter into an agreement with a manufacturer, factory branch, distributor, distributor branch, *importer*, or *any* representative of ~~the listed~~ *any of these* persons or entities or do any other act unfair to the new motor vehicle dealer or transferee of a new motor vehicle dealer by:

(A) threatening to cancel or not renew a franchise existing between the manufacturer, factory branch, distributor, distributor branch, *importer*, or *any* representative of ~~the listed~~ *any of these* persons or entities and the new motor vehicle dealer or transferee of a new motor vehicle dealer; or

(B) threatening to withhold, delay, or disrupt the receipt of new motor vehicles or any motor vehicle parts or supplies ordered by the new motor vehicle dealer or transferee of a new motor vehicle dealer from the manufacturer, factory branch, distributor, distributor branch, *importer*, or *any* representative or agent of ~~the listed~~ *any of these persons or entities*;

(b) delay, refuse, or fail to deliver new motor vehicles in a reasonable time in a reasonable quantity relative to the new motor vehicle dealer's or transferee of a new motor vehicle dealer's facilities and sales potential after accepting an order from a new motor vehicle dealer or transferee of a new motor vehicle dealer if the new motor vehicles are publicly advertised as being available for immediate delivery;

(c) impose unreasonable restrictions on the assertion of legal or equitable rights on the new motor vehicle dealer or transferee of a new motor vehicle dealer or franchise of a new motor vehicle dealer or transferee of a new motor vehicle dealer regarding transfer; sale; right to renew; termination; discipline; noncompetition covenants; site control, whether by sublease, collateral pledge of lease, or otherwise; or compliance with subjective standards; or

(d) notwithstanding the terms, provisions, or conditions of any agreement or franchise, use or consider the new motor vehicle dealer's or transferee of a new motor vehicle dealer's performance relating to the sale of new motor vehicles or ability to satisfy any minimum sales or market share quota or responsibility relating to the sale of new motor vehicles, parts, or service contracts in determining:

(i) eligibility to purchase program, certified, or other used motor vehicles;

(ii) the volume, type, or model of program, certified, or other used motor vehicles that the new motor vehicle dealer or transferee of a new motor vehicle dealer is eligible to purchase;

(iii) the price or prices of any program, certified, or other used motor vehicles that the new motor vehicle dealer or transferee of a new motor vehicle dealer is eligible to purchase; or

(iv) the availability or amount of any discount, credit, rebate, or sales incentive that the new motor vehicle dealer or transferee of a new motor vehicle dealer is eligible to receive for the purchase of any program, certified, or other used motor vehicles.

(2) (a) There is no violation of subsection (1)(a)(iii) or (1)(b) if a failure on the part of the manufacturer, factory branch, distributor, ~~or distributor branch, or importer~~ is beyond the control of the listed persons or entities.

(b) (i) *Subsection (1)(a)(v) does not apply to goods or services specifically eligible for reimbursement of over one-half the cost of the goods or services pursuant to a franchisor or distributor program or incentive granted to the franchisee on reasonable, written terms.*

(ii) *For the purposes of subsection (1)(a) and this subsection (2)(b), "goods" do not include:*

(A) *moveable displays, brochures, or promotional materials containing material subject to the intellectual property rights of a franchisor or parts to be used in repairs under warranty obligations of a franchisor; or*

(B) *special tools or training required by the franchisor.*

(3) (a) Except as provided in subsection (3)(b) or (3)(c), a manufacturer ~~of new motor vehicles~~, a factory branch, a distributor, a distributor branch, an importer, a field representative, an officer, an agent, or any representative of any of these persons or entities may not own or operate, directly or indirectly, a motor vehicle dealership in Montana that is for sale or has been for sale under a franchise agreement with a new motor vehicle dealer in Montana.

(b) If there is no independent person available to own and operate a motor vehicle dealership in a manner that is consistent with the public interest, a manufacturer ~~of new motor vehicles~~, a factory branch, a distributor, a distributor branch, an importer, a field representative, an officer, an agent, or any representative of any of these persons or entities may own and operate a motor vehicle dealership for a temporary period, not to exceed 1 year, during the transition from one owner of the dealership to another. Approval of the sale may not be unreasonably withheld by the manufacturer.

(c) A manufacturer ~~of new motor vehicles~~, a factory branch, a distributor, a distributor branch, an importer, a field representative, an officer, an agent, or any representative of any of these persons or entities may own an interest in a motor vehicle dealership but may not operate the dealership unless a manufacturer ~~of new motor vehicles~~, a factory branch, a distributor, a distributor branch, an importer, a field representative, an officer, an agent, or any representative of any of these persons or entities has a bona fide business relationship with an independent person who is not a franchisor or a franchisor's agent or affiliate, who has made an investment that is subject to loss in the dealership, and who reasonably expects to acquire full ownership of the dealership on reasonable terms and conditions."

**Section 4. Saving clause.** [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

**Section 5. Effective date.** [This act] is effective on passage and approval.

Approved April 22, 2013

## CHAPTER NO. 274

[SB 290]

AN ACT PROVIDING A PROCESS FOR NOTIFICATION OF NEARBY MUNICIPAL PROPERTY OWNERS WHEN A CHANGE IN USE IN CERTAIN COUNTY ZONING DISTRICTS OCCURS; AND REQUIRING THE COUNTY TO HOLD A PUBLIC HEARING UNDER CERTAIN CIRCUMSTANCES.

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

**Section 1. Wholly surrounded county property — change of use — hearing.** (1) If a county parcel for which zoning regulations have been adopted is wholly surrounded by municipal property and a change of an allowed use in the county zoning district occurs, the county governing body shall notify the municipality and all owners of municipal property within 300 feet of the county property of the change of use.

(2) Upon request of either the municipality or at least 10% of the property owners in the municipality who have received the notice, the county governing body shall hold a hearing on the change of use.

(3) If the county governing body determines, based on testimony provided at the hearing, that the regulations in the county district are no longer as compatible as possible with the municipal zoning ordinances as provided in 76-2-203(3), the county governing body may initiate a revision to the zoning district or amendments to the regulations as provided in this part.

**Section 2. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 76, chapter 2, part 2, and the provisions of Title 76, chapter 2, part 2, apply to [section 1].

Approved April 22, 2013

## CHAPTER NO. 275

[HB 61]

AN ACT TO ADD GAMBLING DEPENDENCE FOR PURPOSES OF ADDICTION COUNSELOR LICENSURE LAWS; AND AMENDING SECTION 37-35-102, MCA.

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

**Section 1.** Section 37-35-102, MCA, is amended to read:

**“37-35-102. Definitions.** As used in this chapter, the following definitions apply:

(1) “Accredited college or university” means a college or university accredited by a regional or national accrediting association for institutions of higher learning.

(2) “Addiction” means the condition or state in which an individual is physiologically or psychologically dependent upon alcohol or other drugs. The term includes chemical dependency as defined in 53-24-103.

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

(4) “Licensed addiction counselor” means a person who has the knowledge and skill necessary to provide the therapeutic process of addiction *and gambling dependence impulse control disorder* counseling and who is licensed under the provisions of this chapter.”

Approved April 24, 2013

## CHAPTER NO. 276

[HB 86]

AN ACT CREATING THE STRENGTHENING CAREER AND TECHNOLOGY STUDENT ORGANIZATIONS PROGRAM; AND PROVIDING AN EFFECTIVE DATE.

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

**Section 1. State-level strengthening career and technology student organizations.** (1) There is a state-level strengthening career and technology student organizations program.

(2) The purposes of the program are to:

(a) strengthen Montana's career and technology student organizations by increasing graduation rates, enhancing student leadership opportunities, developing workforce skills, and facilitating transitions to postsecondary education and employment for all participating students;

(b) ensure alignment of activities of local career and technology student organizations with nationally affiliated programs and activities; and

(c) provide a base of funding for the statewide coordination of state-approved career and technology student organizations.

(3) To be eligible for funding under this section, each state-approved career and technology student organization must be affiliated with a respective national career and technology student organization and be appropriately incorporated as a Montana nonprofit organization in compliance with state law and regulations regarding operations and financial reporting by May 1, 2013.

(4) The superintendent of public instruction shall distribute funds appropriated for grants to state-approved career and technology student organizations by November 1. Each grant recipient must receive a base amount of funding to support the position of state director for the organization.

(5) The superintendent of public instruction shall supervise and coordinate the program by establishing procedures and criteria for review and approval of grants to state-approved career and technology student organizations.

(6) Proposals submitted to the superintendent of public instruction by career and technology student organizations must contain:

(a) a program description, including measurable objectives;

(b) evidence of hiring a state director and a plan for expanding student leadership skills;

(c) evidence of appropriate activities that will serve to achieve the program objectives; and

(d) a method to evaluate the effectiveness of the program.

(7) Career and technology student organizations may request assistance from the staff of the superintendent of public instruction in formulating program proposals.

(8) Additional or remaining funds appropriated for the purposes of this section may be allocated to state-approved career and technology student organizations pursuant to policies adopted under 20-7-301.

(9) As used in this section, "career and technology student organization" means an organization for students enrolled in a state-approved career and technology program that engages in career and technology education activities as an integral part of the instructional program.

**Section 2. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 20, chapter 7, part 3, and the provisions of Title 20, chapter 7, part 3, apply to [section 1].

**Section 3. Effective date.** [This act] is effective July 1, 2013.

Approved April 24, 2013



**CHAPTER NO. 277**

[HB 116]

AN ACT GENERALLY REVISING THE MONTANA DEFERRED DEPOSIT LOAN ACT; EXTENDING THE TIME TO REQUEST A HEARING; ADDING PENALTIES INCLUDING FORFEITURE OF LOAN PRINCIPAL FOR LOANS MADE BY UNLICENSED PERSONS; ELIMINATING THE CAP ON CIVIL PENALTIES FOR A SINGLE ADMINISTRATIVE ACTION; REVISING LICENSING AND REPORTING REQUIREMENTS; AUTHORIZING THE DEPARTMENT OF ADMINISTRATION TO PARTICIPATE IN A NATIONWIDE LICENSING SYSTEM FOR PURPOSES OF LICENSING DEFERRED DEPOSIT LOAN LICENSEES; GRANTING RULEMAKING AUTHORITY; AMENDING SECTIONS 31-1-705, 31-1-706, 31-1-707, 31-1-712, 31-1-713, AND 31-1-714, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

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

**Section 1.** Section 31-1-705, MCA, is amended to read:

**“31-1-705. License — application requirements — business locations.** (1) A person may not engage in or offer to engage in the business of making deferred deposit loans unless licensed by the department. A license may be granted to a person located within the state or to a person located outside of the state who uses the internet, facsimiles, or third persons to conduct transactions with consumers in this state.

(2) An applicant for a license to engage in the business of making deferred deposit loans shall pay to the department a license application fee of \$500. *The department may direct that applicants remit fees to the department through a nationwide licensing system.*

(3) The application for licensure must be ~~in writing, under oath, and in the form and submitted in the manner prescribed by that~~ the department directs. The application must contain:

- (a) the name of the applicant;
- (b) the date of formation if a business entity;
- (c) ~~the physical address of each deferred deposit loan office to be operated by the applicant;~~
- (d) ~~the name and resident address of the owner or partners or, if a corporation or association, of the directors, trustees, and principal officers; and~~
- (e) any other pertinent information that the department may require.

(4) ~~A license may not be issued for longer than 1 year. The license year must coincide with the calendar year, and the license fee for any period less than 6 months is \$250. The license year is the calendar year, and all licenses expire on December 31 of each year.~~

(5) Each licensee shall post a bond in the amount of \$10,000 for each location *at or from which deferred deposit loan transactions are conducted with consumers in this state.* The bond must continue in effect for 2 years after the licensee ceases operation in the state. The bond must be available to pay damages *authorized under this part* and penalties to consumers harmed by any violation of this part *and to pay civil penalties, restitution, and costs ordered by the department pursuant to 31-1-712 for any violation of this part.*

(6) More than one place of business may not be maintained under the same license, ~~but the department may issue more than one license to the same~~

licensee upon compliance with the provisions of this section governing issuance of a single license. *A person shall obtain a license for the person's principal place of business and a separate branch license for each additional place of business or location at or from which deferred deposit loan transactions are conducted with consumers in this state.*"

**Section 2.** Section 31-1-706, MCA, is amended to read:

**"31-1-706. License renewal fee.** (1) A person licensed under 31-1-705 shall pay, on or before December 1 of each year, a *an annual* license renewal fee of \$500 for each license that the person holds under this part.

(2) ~~Failure to pay any yearly license renewal fee required by this section within the time prescribed will result in the automatic revocation of the license subject to renewal.~~ *The department may direct that fees due the department under subsection (1) be remitted to the department through a nationwide licensing system.*"

**Section 3.** Section 31-1-707, MCA, is amended to read:

**"31-1-707. Denial of license and license renewal.** (1) (a) Except as provided in subsection (1)(b), the department shall deny any new license or refuse to renew any license if:

(i) the applicant does not meet the qualifications stated in this part or in rules adopted pursuant to this part;

(ii) the department finds that the criminal history of any employee of the applicant at the time of application or renewal demonstrates any conviction involving fraud or financial dishonesty or if the department's findings show civil judgments involving fraudulent or dishonest financial dealings;

(iii) the financial responsibility, experience, character, and general fitness of the applicant do not warrant the belief that the business will be operated lawfully and fairly and within the provisions of this part;

(iv) the applicant does not have unencumbered assets of at least \$25,000 for each location to be operated by the applicant;

(v) the applicant has not provided a sworn statement that the applicant will not in the future, directly or indirectly, use a criminal process to collect the payment of deferred deposit loans or any civil process to collect the payment of deferred deposit loans not generally available to creditors to collect on loans in default;

(vi) other information that the department considers necessary has not been provided; or

(vii) the applicant makes any material misstatement of fact or any material omission of fact in the application.

(b) A denial is not required pursuant to subsection (1)(a)(ii) if the department finds that the applicant dismissed the employee promptly upon learning of the employee's conviction involving fraud or financial dishonesty or of civil judgments involving fraudulent or dishonest financial dealings by the employee.

(2) The department shall provide written notice to the applicant of the denial or refusal, setting forth in the notice the grounds upon which the denial or refusal is based.

(3) The applicant has the right to a hearing under the Montana Administrative Procedure Act on any denial or refusal to issue a license. The request for a hearing must be made within ~~10~~ 14 days of the date of receipt of the written notice of denial or refusal.

(4) An applicant whose application for licensure or renewal has been denied or refused may not reapply for 1 year following the denial or refusal.”

**Section 4.** Section 31-1-712, MCA, is amended to read:

**“31-1-712. License revocation or suspension — restitution — penalty.** (1) The department shall provide a ~~10-day~~ *14-day* written notice of a ~~proposed violation~~ that includes a statement of the alleged violation and provision for a hearing or an opportunity for hearing, as provided in the Montana Administrative Procedure Act. The notice must be based on a finding that any person, licensee, or officer, agent, employee, or representative, whether licensed or unlicensed, of the person or licensee has violated any of the provisions of this part, has failed to comply with the rules, regulations, instructions, or orders promulgated by the department, has failed or refused to make required reports to the department, has furnished false information to the department, or has operated without a required license. The department may impose a civil penalty not to exceed \$1,000 for each violation ~~and not to exceed \$5,000 for each administrative action~~ and may issue an order revoking or suspending the right of the person or licensee, directly or through an officer, agent, employee, or representative, to do business in this state as a licensee or to engage in the business of making deferred deposit loans. In addition, the department may order restitution to borrowers and reimbursement for the department’s cost in bringing the administrative action.

*(2) In addition to the penalties in subsection (1), any deferred deposit loan made by an unlicensed person is void, and the unlicensed person may not directly or indirectly collect, receive, or retain any loan principal, interest, fees, or other charges related to the loan.*

~~(2)~~*(3)* All notices, hearing schedules, and orders must be mailed to the person or licensee by certified mail to the address for which the license was issued or, in the case of an unlicensed business, to the last-known address of record.

~~(3)~~*(4)* A revocation, suspension, or surrender of a license does not relieve the licensee from civil or criminal liability for acts committed prior to the revocation, suspension, or surrender of the license.

~~(4)~~*(5)* The department may reinstate any suspended or revoked license if there is not a fact or condition existing at the time of reinstatement that would have justified the department’s refusal to originally issue the license. If a license has been suspended or revoked for cause, an application may not be made for the issuance of a new license or the reinstatement of a suspended or revoked license for a period of 6 months from the date of suspension or revocation.

~~(5)~~*(6)* All civil penalties collected pursuant to this section must be deposited in the state general fund.”

**Section 5.** Section 31-1-713, MCA, is amended to read:

**“31-1-713. Complaint procedure.** (1) The department shall maintain, *either directly or indirectly through a nationwide licensing system*, a list of licensees that is available to *and accessible by* interested persons and to the general public. The department shall also establish by rule a procedure under which an aggrieved consumer or any member of the public may file a complaint against a licensee or an unlicensed person who violates any provision of this part.

(2) The department may hold hearings, subject to the contested case provisions of Title 2, chapter 4, part 6, upon the request of a party to the complaint, make findings of fact or conclusions of law, issue cease and desist

orders, refer the matter to the appropriate law enforcement agency for prosecution for a violation of this part, seek injunctive or other relief in district court, or suspend or revoke a license granted under this part.”

**Section 6.** Section 31-1-714, MCA, is amended to read:

**“31-1-714. Information and annual reports.** (1) Each licensee shall keep and use books, accounts, and records that will enable the department to determine if the licensee is complying with the provisions of this part and maintain any other records required by the department. The department is authorized to examine the records at any reasonable time. The records must be kept for 2 years following the last entry on a loan and must be kept according to generally accepted accounting procedures that include an examiner being able to review the recordkeeping and reconcile each deferred deposit loan with documentation maintained in the consumer’s loan file records.

(2) Each licensee shall ~~file, on forms prescribed by the department, submit~~ an annual report with the department ~~on or before March 31 for the 12-month period in the preceding year ending as of December 31 the date and in the form and manner that the department directs regarding the licensee’s deferred deposit loan activity with consumers in this state during the preceding calendar year.~~ The report must ~~disclose in detail and under appropriate headings contain the following information:~~

- (a) the resources, assets, and liabilities of the licensee at the beginning and the end of the period;
- (b) the income, expense, gain, loss, and balance sheets;
- (c) the total number of deferred deposit loans made in the year ending as of December 31 of the previous year, including:
  - (i) the number of individual consumers with 12 or fewer new deferred deposit loans; and
  - (ii) the number of individual consumers with 13 or more new deferred deposit loans;
- (d) the average deferred deposit loan amount, average annual interest percentage rate, and average deferred deposit loan term;
- (e) the number of deferred deposit loans rescinded;
- (f) the total number of deferred deposit loans outstanding as of December 31 of the previous year;
- (g) the minimum and maximum amount of checks for which deposits were deferred in the year ending as of December 31 of the previous year;
- (h) the total number and dollar amount of returned checks, the total number and dollar amount of checks recovered, and the total number and dollar amount of checks charged off during the year ending as of December 31 of the previous year;
- (i) the total number and dollar amount of agreements involving electronic transactions or deductions, the total number and dollar amount of electronic deductions made by the licensee, and the total number and dollar amount of electronic deductions for insufficient funds charged off during the year ending as of December 31 of the previous year; and
- (j) verification that the licensee has not used a criminal process or caused a criminal process to be used in the collection of any deferred deposit loans or used any civil process to collect the payment of deferred deposit loans not generally available to creditors to collect on loans in default during the year ending as of December 31 of the previous year.

(3) A report must be *executed by an individual representative of the licensee in the manner the department may direct, and the department may require that the report be executed in conformance with any protocols of a nationwide licensing system verified by the oath or affirmation of the owner, manager, or president of the deferred deposit lender.*

(4) (a) If a licensee conducts another business or is affiliated with other licensees under this part or if any other situation exists under which allocations of expense are necessary, the licensee shall make the allocation according to appropriate and reasonable accounting principles as approved by the department.

(b) Information about any other business conducted on the same premises where deferred deposit loans are made must be provided as required by the department.

(5) Each licensee shall file a copy of the disclosure documents described in 31-1-721 with the department prior to the date of commencement of business at each location, at the time any changes are made to the documents, and annually upon renewal of the license. These documents must be available to interested parties and to the general public through the department.”

**Section 7. Department authorized to participate in nationwide licensing system for purposes of licensing deferred deposit loan licensees — rulemaking.** (1) The department may participate in a nationwide licensing system for licensing purposes under this part and may require deferred deposit loan license applicants to apply for licensure in the manner that the department may direct on applications approved by the nationwide licensing system.

(2) The department may establish rules that are necessary to comply with the nationwide licensing system protocols and procedures pertaining to fees, renewal dates, amending or surrendering a license, and any other activity necessary for participation in the nationwide licensing system.

(3) The department’s portion of the licensing fees collected through the nationwide licensing system must be deposited into the department’s account in the state special revenue fund for use in the administration of this part.

**Section 8. Codification instruction.** [Section 7] is intended to be codified as an integral part of Title 31, chapter 1, part 7, and the provisions of Title 31, chapter 1, part 7, apply to [section 7].

**Section 9. Effective date.** [This act] is effective on passage and approval.

Approved April 24, 2013

## CHAPTER NO. 278

[HB 118]

AN ACT REPEALING THE MONTANA TITLE LOAN ACT; AMENDING SECTIONS 31-1-106, 31-1-111, 31-1-112, 31-1-401, AND 32-5-103, MCA; REPEALING SECTIONS 31-1-801, 31-1-802, 31-1-803, 31-1-804, 31-1-805, 31-1-810, 31-1-811, 31-1-812, 31-1-813, 31-1-815, 31-1-816, 31-1-817, 31-1-818, 31-1-819, 31-1-820, 31-1-821, 31-1-822, 31-1-825, 31-1-826, 31-1-827, 31-1-828, 31-1-829, 31-1-841, 31-1-842, AND 32-5-102, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE.

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

**Section 1.** Section 31-1-106, MCA, is amended to read:

**“31-1-106. Legal interest.** (1) Except as otherwise provided by the Uniform Commercial Code, 31-1-111, and 31-1-112, ~~or 31-1-817~~, unless there is an express contract in writing fixing a different rate or a law or ordinance or resolution of a public body fixing a different rate on its obligations, interest is payable on all money at the rate of 10% a year after it becomes due on:

- (a) any instrument of writing, except a judgment;
- (b) an account stated;
- (c) money lent or due on any settlement of accounts from the date on which the balance is ascertained; and
- (d) money received for the use of another person and detained from that person.

(2) In the computation of interest for a period of less than 1 year, 365 days constitute a year.”

**Section 2.** Section 31-1-111, MCA, is amended to read:

**“31-1-111. Definition of regulated lender.** The term “regulated lender”, as used in 31-1-112 and 31-1-116, means:

(1) a bank, building and loan association, savings and loan association, trust company, credit union, credit association, consumer loan licensee, deferred deposit loan licensee, ~~title loan licensee~~, residential mortgage lender licensee, development corporation, bank holding company, or mutual or stock insurance company organized pursuant to state or federal statutory authority and subject to supervision, control, or regulation by:

- (a) an agency of the state of Montana; or
- (b) an agency of the federal government;
- (2) a subsidiary of an entity described in subsection (1);
- (3) a Montana state agency or a federal agency that is authorized to lend money;
- (4) a corporation or other entity established by congress or the state of Montana that is owned, in whole or in part, by the United States or the state of Montana and that is authorized to lend money.”

**Section 3.** Section 31-1-112, MCA, is amended to read:

**“31-1-112. Interest rate limitation exemption — regulated lenders — merchant finance.** (1) A regulated lender, except for a deferred deposit loan licensee, ~~title loan licensee~~, or consumer loan licensee, is exempt from all limitations on the rate of interest that it may charge and is exempt from the operation and effect of all usury statutes.

(2) A finance operation that finances transactions between merchants, as defined in 30-2-104, is also exempt from usury limits.”

**Section 4.** Section 31-1-401, MCA, is amended to read:

**“31-1-401. Interest pawnbrokers may receive — civil enforcement — prohibited activities.** (1) A person may not carry on the business of pawnbroker or junk dealer by receiving goods pawned or in pledge for loans at any rate of interest above 10% a year without first obtaining a license. A pawnbroker or junk dealer or the pawnbroker’s or junk dealer’s employees or agents may not charge a fee of more than 25% of the amount of the loan for a 30-day period. The fee for extending a pawn agreement for 30 days may not exceed 25% of the amount of the loan. For purposes of this section, a fee includes



all costs or fees charged, including but not limited to interest, commission, discount, storage, care of property, and purchase option.

(2) The taking, receiving, reserving, or charging of a fee greater than that allowed under subsection (1) is considered a forfeiture of a sum double the amount of the fee for storage or caring that was agreed to be paid.

(3) (a) When a rate or charge greater than that provided for in subsection (1) has been paid, the person by whom it has been paid may recover from the pawnbroker or junk dealer reasonable attorney fees and an amount double the amount of the fee paid.

(b) An action under this subsection (3) must be brought within 2 years after the payment of the fee. Before a suit may be brought, the party bringing suit shall make written demand for return of the fee paid.

(4) Unless licensed as a consumer loan licensee, *or a* deferred deposit loan licensee, ~~or title loan licensee~~, a pawnbroker or junk dealer may not:

(a) cash or advance money for a postdated or deferred presentment check in exchange for a fee or finance charge;

(b) use a check, authorization for electronic access, or other method of access to a deposit account, savings account, or other financial or asset account as a condition of or security for an extension of credit;

(c) receive the title to a motor vehicle for the purpose of a pawn transaction or in pledge for a loan; or

(d) engage in any device or subterfuge intended to evade the requirements of this chapter, including assisting a borrower to obtain a loan at a rate of interest prohibited by Montana law, making loans disguised as personal property sales and leaseback transactions, or disguising loan proceeds as cash rebates for the pretextual installment sale of goods or services.

(5) In addition to other penalties provided by law, a violation of subsection (4) is a violation of Title 30, chapter 14, part 1."

**Section 5.** Section 32-5-102, MCA, is amended to read:

**"32-5-102. Definitions.** Unless the context requires otherwise, in this chapter, the following definitions apply:

(1) "Balloon payment" means any repayment option in which the borrower is required to repay the entire amount of any outstanding balance as of a specific date or at the end of a specified term and the aggregate amount of the required minimum periodic payments would not fully amortize the outstanding balance by the specific date or at the end of the loan term.

(2) (a) "Consumer loan" means credit offered or extended to an individual primarily for personal, family, or household purposes, including loans for personal, family, or household purposes that are not primarily secured by a mortgage, deed of trust, trust indenture, or other security interest in real estate.

(b) Consumer loans do not include:

(i) deferred deposit loans provided for in Title 31, chapter 1, part 7;

~~(ii) title loans provided for in Title 31, chapter 1, part 8; or~~

~~(iii)~~ (ii) residential mortgage loans as defined in 32-9-103.

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

(4) "Interest" means the compensation allowed by law or fixed by the parties for the use or forbearance or detention of money and includes loan origination fees, points, and prepaid finance charges, as defined in 12 CFR 226.2.

(5) "License" means a license provided for by this chapter.

(6) "Licensee" means the person holding a license.

(7) "Person" means individuals, partnerships, associations, corporations, and all legal entities."

**Section 6.** Section 32-5-103, MCA, is amended to read:

**"32-5-103. Engaging in business of making consumer loans restricted.** (1) Except as provided in subsection (5), a person may not engage in the business of making consumer loans in any amount and contract for, charge, or receive directly or indirectly on or in connection with any loan any compensation, whether for interest, fees, other consideration, or expense, except as provided in and authorized by this chapter. The provisions of this chapter do not apply to any exempted person.

(2) A licensee may sell its business and assets to a bank, building and loan association, savings and loan association, trust company, credit union, credit association, development credit corporation, other licensee, or bank holding company organized pursuant to state or federal statutory authority and subject to supervision, control, or regulation by an agency of the state of Montana or an agency of the federal government. All contracts for loans and all other contracts entered into by the licensee pursuant to the provisions of this chapter that are sold and transferred to an acquiring organization continue to be governed by the provisions of this chapter.

(3) The provisions of subsection (1) apply to any person who seeks to evade its applications by any device, subterfuge, or pretense.

(4) Any loan made or collected in violation of subsection (1) by a person other than a licensee or a person exempt under subsection (5) is void, and the person does not have the right to collect, receive, or retain any principal, interest, fees, or other charges.

(5) A consumer loan licensee or a person who seeks a regulated lender exemption under 31-1-112 as a consumer loan licensee shall fully comply with this chapter. A regulated lender as defined in 31-1-111, other than a consumer loan licensee or a person who makes fewer than four consumer loans a year with the person's own funds and does not represent that the person is a licensee, who complies with the provisions of Title 31, chapter 1, part 1, is not required to comply with this chapter. A deferred deposit lender, as defined in 31-1-703, who complies with the provisions of Title 31, chapter 1, part 7, is not required to comply with this chapter. A title lender, as defined in 31-1-803, who complies with the provisions of Title 31, chapter 1, part 8, is not required to comply with this chapter."

**Section 7. Repealer.** The following sections of the Montana Code Annotated are repealed:

- 31-1-801. Short title.
- 31-1-802. Purpose — rules — fees.
- 31-1-803. Definitions.
- 31-1-804. Licensure of title lenders
- 31-1-805. Qualifications for licensure.
- 31-1-810. Examinations — fees.
- 31-1-811. License revocation or suspension — unlicensed activity — restitution — penalty.
- 31-1-812. Complaint procedure.
- 31-1-813. Investigations by department — subpoenas — oaths — examination of witnesses and evidence.

- 31-1-815. Information and annual reports.
- 31-1-816. Title loan requirements — liability of borrower — right of rescission — arbitration.
- 31-1-817. Interest rates — fees charged.
- 31-1-818. Title loan agreements — required disclosures.
- 31-1-819. Required disclosure pamphlet.
- 31-1-820. Redemption of certificate of title — failure to take possession.
- 31-1-821. Records of title loan agreements.
- 31-1-822. Safekeeping of certificates of title — liability insurance — liability.
- 31-1-825. Prohibited acts.
- 31-1-826. Civil remedies.
- 31-1-827. Criminal penalties.
- 31-1-828. Denial of license and license renewal.
- 31-1-829. Violation of specified federal laws — rulemaking authority.
- 31-1-841. Cease and desist orders.
- 31-1-842. Injunctions — receivers.

**Section 8. Effective date.** [This act] is effective December 31, 2013.

Approved April 24, 2013

## CHAPTER NO. 279

[HB 258]

AN ACT REVISING CIRCUMSTANCES UNDER WHICH A LOCAL GOVERNMENT IS CONSIDERED TO HAVE COMPLIED WITH CERTAIN REQUIREMENTS FOR PUBLICATION OF NOTICE; AMENDING SECTIONS 7-1-2121 AND 7-1-4127, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

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

**Section 1.** Section 7-1-2121, MCA, is amended to read:

**“7-1-2121. Publication and content of notice — proof of publication.**

Unless otherwise specifically provided, whenever a local government unit other than a municipality is required to give notice by publication, the following applies:

(1) Publication must be in a newspaper meeting the qualifications of subsections (2) and (3), except that in a county where a newspaper does not meet these qualifications, publication must be made in a qualified newspaper in an adjacent county. If there is no qualified newspaper in an adjacent county, publication must be made by posting the notice in three public places in the county, designated by resolution of the governing body.

(2) (a) The newspaper must:

(i) be of general circulation;

(ii) be published at least once a week;

(iii) be published in the county where the hearing or other action will take place; and

(iv) have, prior to July 1 of each year, submitted to the clerk and recorder a sworn statement that includes:

(A) circulation for the prior 12 months;

- (B) a statement of net distribution;
- (C) itemization of the circulation that is paid and that is free; and
- (D) the method of distribution.

(b) A newspaper of general circulation does not include a newsletter or other document produced or published by the local government unit.

(3) In the case of a contract award, the newspaper must have been published continuously in the county for the 12 months preceding the awarding of the contract.

(4) If a person is required by law or ordinance to pay for publication, the payment must be received before the publication may be made.

(5) The notice must be published twice, with at least 6 days separating each publication.

(6) The published notice must contain:

- (a) the date, time, and place of the hearing or other action;
- (b) a brief statement of the action to be taken;
- (c) the address and telephone number of the person who may be contacted for further information on the action to be taken; and

(d) any other information required by the specific section requiring notice by publication.

(7) A published notice required by law may be supplemented by a radio or television broadcast of the notice in the manner prescribed in 2-3-105 through 2-3-107.

(8) Proof of the publication or posting of any notice may be made by affidavit of the owner, publisher, printer, or clerk of the newspaper or of the person posting the notice.

*(9) If the newspaper fails to publish a second notice, the local government unit must be considered to have met the requirements of this section as long as the local government unit submitted the required information prior to the submission deadline and the notice was posted in three public places in the county that were designated by resolution and, if the county has an active website, was posted on the county's website at least 6 days prior to the hearing or other action for which notice was required."*

**Section 2.** Section 7-1-4127, MCA, is amended to read:

**"7-1-4127. Publication of notice — content — proof.** (1) When a municipality is required to publish notice, publication must be in a newspaper, except that in a municipality with a population of 500 or less or in which a newspaper is not published, publication may be made by posting in three public places in the municipality that have been designated by ordinance.

(2) The newspaper must:

- (a) be of general circulation;
- (b) be published at least once a week;
- (c) be published in the county where the municipality is located; and
- (d) have, prior to July 1 of each year, submitted to the city clerk a sworn statement that includes:
  - (i) circulation for the prior 12 months;
  - (ii) a statement of net distribution;
  - (iii) itemization of paid circulation and circulation that is free; and
  - (iv) the method of distribution.

(3) A newspaper of general circulation does not include a newsletter or other document produced or published by the municipality.

(4) In the case of a contract award, the newspaper must have been published continuously in the county for the 12 months preceding the awarding of the contract.

(5) In a county where a newspaper does not meet the qualifications in subsection (2), publication must be made in a qualified newspaper in an adjacent county.

(6) If a person is required by law or ordinance to pay for publication, the payment must be received before the publication may be made.

(7) The notice must be published twice, with at least 6 days separating each publication.

(8) The published notice must contain:

(a) the date, time, and place of the hearing or other action;

(b) a brief statement of the action to be taken;

(c) the address and telephone number of the person who may be contacted for further information on the action to be taken; and

(d) any other information required by the specific section requiring notice by publication.

(9) A published notice required by law may be supplemented by a radio or television broadcast of the notice in the manner prescribed in 2-3-105 through 2-3-107.

(10) Proof of the publication or posting of any notice may be made by affidavit of the owner, publisher, printer, or clerk of the newspaper or of the person posting the notice.

*(11) If the newspaper fails to publish a second notice, the municipality must be considered to have met the requirements of this section as long as the municipality submitted the required information prior to the submission deadline and the notice was posted in three public places in the municipality that were designated by ordinance and, if the municipality has an active website, was posted on the municipality's website at least 6 days prior to the hearing or other action for which notice was required."*

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

Approved April 24, 2013

## CHAPTER NO. 280

[HB 286]

AN ACT EXPANDING THE ELIGIBILITY FOR TUITION AND FEE WAIVERS TO INCLUDE RESIDENTS OF MONTANA WHO ARE ENROLLED MEMBERS OF A STATE-RECOGNIZED OR FEDERALLY RECOGNIZED INDIAN TRIBE LOCATED WITHIN THE BOUNDARIES OF THE STATE OF MONTANA; AMENDING SECTION 20-25-421, MCA; AND PROVIDING AN EFFECTIVE DATE.

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

**Section 1.** Section 20-25-421, MCA, is amended to read:

**"20-25-421. Charges for tuition — waivers.** (1) The regents may prescribe tuition rates, matriculation charges, and incidental fees for students in institutions under their jurisdiction.

(2) The regents may:

(a) waive nonresident tuition for selected and approved nonresident students, not to exceed at any unit 2% of the full-time equivalent enrollment at that unit during the preceding year; however, when necessary, tuition may be waived in excess of 2% of unit enrollment for nonresident students who enroll under provisions of any WICHE-sponsored state reciprocal agreements that provide for the payment, when required, of the student support fee by the reciprocal state;

(b) waive resident tuition for students at least 62 years of age;

(c) waive tuition and fees for:

(i) persons ~~of one-fourth Indian blood or more~~ *who have one-fourth Indian blood or more or are enrolled members of a state-recognized or federally recognized Indian tribe located within the boundaries of the state of Montana and who have been bona fide residents of Montana for at least 1 year prior to enrollment in the Montana university system;*

(ii) persons designated by the department of corrections pursuant to 52-5-112 or 53-1-214;

(iii) residents of Montana who served with the armed forces of the United States in any of its wars and who were honorably discharged from military service;

(iv) children of residents of Montana who served with the armed forces of the United States in any of its wars and who were killed in action or died as a result of injury, disease, or other disability incurred while in the service of the armed forces of the United States;

(v) the spouses or children of residents of Montana who have been declared to be prisoners of war or missing in action; or

(vi) the spouse or children of a Montana national guard member who was killed or died as a result of injury, disease, or other disability incurred in the line of duty while serving on state active duty;

(d) waive tuition charges for qualified survivors of Montana firefighters or peace officers killed in the course and scope of employment. For purposes of this subsection, a qualified survivor is a person who meets the entrance requirements at the state university or college of the person's choice and is the surviving spouse or child of any of the following who were killed in the course and scope of employment:

(i) a paid or volunteer member of a municipal or rural fire department;

(ii) a law enforcement officer as defined in 7-32-201; or

(iii) a full-time highway patrol officer.

(3) If funds are available after the waivers provided for in subsection (2), the regents may waive tuition for up to 5,000 credits each academic year."

**Section 2. Notification to tribal governments.** The secretary of state shall send a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell Chippewa tribe.

**Section 3. Effective date.** [This act] is effective July 1, 2013.

Approved April 24, 2013



**CHAPTER NO. 281**

[HB 313]

AN ACT REVISING SCHOOL TRUANCY LAWS; CLARIFYING CONSEQUENCES TO A TRUANT CHILD AND THE CHILD'S PARENT OR GUARDIAN; CLARIFYING THAT A HABITUALLY TRUANT CHILD MAY BE REFERRED TO YOUTH COURT; AMENDING SECTIONS 20-5-104, 20-5-105, 20-5-106, AND 41-5-103, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE.

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

**Section 1.** Section 20-5-104, MCA, is amended to read:

**"20-5-104. Attendance officer.** In order to enforce the compulsory attendance provisions of this title, each district shall have at least one person serving as an attendance officer according to the following requirements:

(1) districts of the first ~~and second~~ class *and districts of the second class with a dropout rate higher than the statewide average dropout rate as calculated by the office of public instruction shall employ and* appoint one or more of the district's staff as attendance officers;

(2) districts of the second class with a dropout rate at or below the statewide average dropout rate as calculated by the office of public instruction and districts of the third class may ~~employ and~~ appoint ~~an one or more of the district's staff as attendance officer or may appoint a constable or other peace officer as an attendance officer~~ officers; or

(3) the county superintendent ~~shall~~ *must* be the attendance officer in second-class or third-class districts that do not appoint an attendance officer."

**Section 2.** Section 20-5-105, MCA, is amended to read:

**"20-5-105. Attendance officer — powers and duties.** The attendance officer of a district:

(1) *must, subject to district policy,* be vested with police powers, the authority to serve warrants, and the authority to enter places of employment of children in order to enforce the compulsory attendance provisions of this title;

(2) ~~shall~~ *may, subject to district policy,* take into custody any child subject to compulsory attendance who is not excused under the provisions of this title and conduct the child to the school in which the child is or should be enrolled;

(3) ~~shall~~ *may, subject to district policy,* do whatever else is required to investigate and enforce the compulsory attendance provisions of this title and the pupil attendance policies of the trustees;

(4) ~~shall~~ *may, subject to district policy,* institute proceedings against any parent, guardian, or other person violating the compulsory attendance provisions of this title;

(5) ~~shall~~ *may, subject to district policy,* keep a record of transactions for the inspection and information of the trustees and *shall* make reports in the manner and to whomever the trustees designate; and

(6) ~~shall~~ *may, subject to district policy,* perform any other duties prescribed by the trustees to preserve the morals and secure good conduct of the pupils of the district."

**Section 3.** Section 20-5-106, MCA, is amended to read:

**"20-5-106. Truancy.** (1) *For the purposes of this part "truant" or "truancy" means the persistent nonattendance without excuse, as defined by district policy,*

*for all or any part of a school day equivalent to the length of one class period of a child required to attend a school under 20-5-103.*

~~(1)(2) Whenever the~~ *If an attendance officer discovers a child is truant from school or a child subject to compulsory attendance who is not enrolled in a school providing the required instruction and has not been excused under the provisions of this title, the officer shall, the attendance officer may make a reasonable effort to notify in writing the parent, guardian, or other person responsible for the care of the child that the continued truancy or nonenrollment of the child will may result in the person's prosecution of the parent, guardian, or other person responsible for the care of the child under the provisions of this section. If the child is not enrolled and in attendance at a school or excused from school within 2 days after the receipt of the notice, discovered to be truant after the attendance officer has made a reasonable effort to notify the parent, guardian, or other person responsible for the care of the child, the attendance officer shall file a complaint against the person in a court of competent jurisdiction may require that the parent, guardian, or other person responsible for the care of the child and the child meet with an individual designated by the school district to formulate a truancy plan to address and resolve the truancy. If the parent, guardian, or other person responsible for the care of the child fails to meet with the designated individual or fails to uphold the responsibilities under the provisions of the truancy plan, the attendance officer may refer the matter to the prosecuting attorney in a court of competent jurisdiction for a determination regarding whether to prosecute the parent, guardian, or other person responsible for the care of the child.*

~~(2)(3) (a)~~ *If convicted, the person shall be fined not less than \$5 or more than \$20. \$100, ordered to perform up to 20 hours of community service, In the alternative, the person may be required or required to give bond in the penal sum of \$100, with sureties, conditioned upon on the person's agreement to cause the enrollment of the child within 2 days in a school providing the courses of instruction required by this title and to cause the child to attend that school to cooperate with the district in implementing the truancy plan provided for in subsection (2) for the remainder of the current school term.*

~~(b)~~ *If a person refuses to pay a fine and costs or to give a bond as ordered by the court, fails to comply with an order of the court issued under subsection (3)(a), the person shall may be imprisoned in the county jail for a term of not less than 10 days or more than 30 3 days.*

~~(4) (a)~~ *If the child is discovered by the attendance officer to be truant on 9 or more days or 54 or more parts of a day in 1 school year, the child may be referred to youth court as habitually truant under Title 41, chapter 5.*

~~(b)~~ *Following a referral to youth court under subsection (4)(a), an attendance officer shall inform the youth court of any subsequent trancies by the child, and the youth court may find the child to be a youth in need of intervention pursuant to 41-5-103 and make any of the dispositions provided in 41-5-1512."*

**Section 4.** Section 41-5-103, MCA, is amended to read:

**"41-5-103. Definitions.** As used in the Montana Youth Court Act, unless the context requires otherwise, the following definitions apply:

(1) "Adult" means an individual who is 18 years of age or older.

(2) "Agency" means any entity of state or local government authorized by law to be responsible for the care or rehabilitation of youth.

(3) "Assessment officer" means a person who is authorized by the court to provide initial intake and evaluation for a youth who appears to be in need of intervention or an alleged delinquent youth.

(4) "Commit" means to transfer legal custody of a youth to the department or to the youth court.

(5) "Correctional facility" means a public or private, physically secure residential facility under contract with the department and operated solely for the purpose of housing adjudicated delinquent youth.

(6) "Cost containment pool" means funds allocated by the department under 41-5-132 for distribution by the cost containment review panel.

(7) "Cost containment review panel" means the panel established in 41-5-131.

(8) "Court", when used without further qualification, means the youth court of the district court.

(9) "Criminally convicted youth" means a youth who has been convicted in a district court pursuant to 41-5-206.

(10) (a) "Custodian" means a person, other than a parent or guardian, to whom legal custody of the youth has been given.

(b) The term does not include a person who has only physical custody.

(11) "Delinquent youth" means a youth who is adjudicated under formal proceedings under the Montana Youth Court Act as a youth:

(a) who has committed an offense that, if committed by an adult, would constitute a criminal offense; or

(b) who has been placed on probation as a delinquent youth and who has violated any condition of probation.

(12) "Department" means the department of corrections provided for in 2-15-2301.

(13) (a) "Department records" means information or data, either in written or electronic form, maintained by the department pertaining to youth who are committed under 41-5-1513(1)(b) or who are under parole supervision.

(b) Department records do not include information provided by the department to the department of public health and human services' management information system or information maintained by the youth court through the office of court administrator.

(14) "Detention" means the holding or temporary placement of a youth in the youth's home under home arrest or in a facility other than the youth's own home for:

(a) the purpose of ensuring the continued custody of the youth at any time after the youth is taken into custody and before final disposition of the youth's case;

(b) contempt of court or violation of a valid court order; or

(c) violation of a youth parole agreement.

(15) "Detention facility" means a physically restricting facility designed to prevent a youth from departing at will. The term includes a youth detention facility, short-term detention center, and regional detention facility.

(16) "Emergency placement" means placement of a youth in a youth care facility for less than 45 days to protect the youth when there is no alternative placement available.

(17) "Family" means the parents, guardians, legal custodians, and siblings or other youth with whom a youth ordinarily lives.

(18) "Final disposition" means the implementation of a court order for the disposition or placement of a youth as provided in 41-5-1422, 41-5-1503, 41-5-1504, 41-5-1512, 41-5-1513, and 41-5-1522 through 41-5-1525.

(19) (a) "Formal youth court records" means information or data, either in written or electronic form, on file with the clerk of district court pertaining to a youth under the jurisdiction of the youth court and includes petitions, motions, other filed pleadings, court findings, verdicts, orders and decrees, and predispositional studies.

(b) The term does not include information provided by the youth court to the department of public health and human services' management information system.

(20) "Foster home" means a private residence licensed by the department of public health and human services for placement of a youth.

(21) "Guardian" means an adult:

(a) who is responsible for a youth and has the reciprocal rights, duties, and responsibilities with the youth; and

(b) whose status is created and defined by law.

(22) "Habitual truancy" means recorded *unexcused* absences of ~~10 9 days or more days or 54 or more parts of a day, whichever is less, in 1 school year of unexcused absences in a semester or absences without prior written approval of a parent or a guardian.~~

(23) (a) "Holdover" means a room, office, building, or other place approved by the board of crime control for the temporary detention and supervision of youth in a physically unrestricting setting for a period not to exceed 24 hours while the youth is awaiting a probable cause hearing, release, or transfer to an appropriate detention or shelter care facility.

(b) The term does not include a jail.

(24) (a) "Informal youth court records" means information or data, either in written or electronic form, maintained by youth court probation offices pertaining to a youth under the jurisdiction of the youth court and includes reports of preliminary inquiries, youth assessment materials, medical records, school records, and supervision records of probationers.

(b) The term does not include information provided by the youth court to the department of public health and human services' management information system.

(25) (a) "Jail" means a facility used for the confinement of adults accused or convicted of criminal offenses. The term includes a lockup or other facility used primarily for the temporary confinement of adults after arrest.

(b) The term does not include a colocated juvenile detention facility that complies with 28 CFR, part 31.

(26) "Judge", when used without further qualification, means the judge of the youth court.

(27) "Juvenile home arrest officer" means a court-appointed officer administering or supervising juveniles in a program for home arrest, as provided for in Title 46, chapter 18, part 10.

(28) "Law enforcement records" means information or data, either in written or electronic form, maintained by a law enforcement agency, as defined in 7-32-201, pertaining to a youth covered by this chapter.

(29) (a) "Legal custody" means the legal status created by order of a court of competent jurisdiction that gives a person the right and duty to:

(i) have physical custody of the youth;  
(ii) determine with whom the youth shall live and for what period;  
(iii) protect, train, and discipline the youth; and  
(iv) provide the youth with food, shelter, education, and ordinary medical care.

(b) An individual granted legal custody of a youth shall personally exercise the individual's rights and duties as guardian unless otherwise authorized by the court entering the order.

(30) "Necessary parties" includes the youth and the youth's parents, guardian, custodian, or spouse.

(31) (a) "Out-of-home placement" means placement of a youth in a program, facility, or home, other than a custodial parent's home, for purposes other than preadjudicatory detention.

(b) The term does not include shelter care or emergency placement of less than 45 days.

(32) (a) "Parent" means the natural or adoptive parent.

(b) The term does not include:

(i) a person whose parental rights have been judicially terminated; or

(ii) the putative father of an illegitimate youth unless the putative father's paternity is established by an adjudication or by other clear and convincing proof.

(33) "Probable cause hearing" means the hearing provided for in 41-5-332.

(34) "Regional detention facility" means a youth detention facility established and maintained by two or more counties, as authorized in 41-5-1804.

(35) "Restitution" means payments in cash to the victim or with services to the victim or the general community when these payments are made pursuant to a consent adjustment, consent decree, or other youth court order.

(36) "Running away from home" means that a youth has been reported to have run away from home without the consent of a parent or guardian or a custodian having legal custody of the youth.

(37) "Secure detention facility" means a public or private facility that:

(a) is used for the temporary placement of youth or individuals accused or convicted of criminal offenses or as a sanction for contempt of court, violation of a parole agreement, or violation of a valid court order; and

(b) is designed to physically restrict the movements and activities of youth or other individuals held in lawful custody of the facility.

(38) "Serious juvenile offender" means a youth who has committed an offense that would be considered a felony offense if committed by an adult and that is an offense against a person, an offense against property, or an offense involving dangerous drugs.

(39) "Shelter care" means the temporary substitute care of youth in physically unrestricting facilities.

(40) "Shelter care facility" means a facility used for the shelter care of youth. The term is limited to the facilities enumerated in 41-5-347.

(41) "Short-term detention center" means a detention facility licensed by the department for the temporary placement or care of youth, for a period not to exceed 10 days excluding weekends and legal holidays, pending a probable

cause hearing, release, or transfer of the youth to an appropriate detention facility, youth assessment center, or shelter care facility.

(42) "State youth correctional facility" means the Pine Hills youth correctional facility in Miles City or the Riverside youth correctional facility in Boulder.

(43) "Substitute care" means full-time care of youth in a residential setting for the purpose of providing food, shelter, security and safety, guidance, direction, and, if necessary, treatment to youth who are removed from or are without the care and supervision of their parents or guardians.

(44) "Victim" means:

(a) a person who suffers property, physical, or emotional injury as a result of an offense committed by a youth that would be a criminal offense if committed by an adult;

(b) an adult relative of the victim, as defined in subsection (44)(a), if the victim is a minor; and

(c) an adult relative of a homicide victim.

(45) "Youth" means an individual who is less than 18 years of age without regard to sex or emancipation.

(46) "Youth assessment" means a multidisciplinary assessment of a youth as provided in 41-5-1203.

(47) "Youth assessment center" means a staff-secured location that is licensed by the department of public health and human services to hold a youth for up to 10 days for the purpose of providing an immediate and comprehensive community-based youth assessment to assist the youth and the youth's family in addressing the youth's behavior.

(48) "Youth care facility" has the meaning provided in 52-2-602.

(49) "Youth court" means the court established pursuant to this chapter to hear all proceedings in which a youth is alleged to be a delinquent youth or a youth in need of intervention and includes the youth court judge, juvenile probation officers, and assessment officers.

(50) "Youth detention facility" means a secure detention facility licensed by the department for the temporary substitute care of youth that is:

(a) (i) operated, administered, and staffed separately and independently of a jail; or

(ii) a colocated secure detention facility that complies with 28 CFR, part 31; and

(b) used exclusively for the lawful detention of alleged or adjudicated delinquent youth or as a sanction for contempt of court, violation of a parole agreement, or violation of a valid court order.

(51) "Youth in need of intervention" means a youth who is adjudicated as a youth and who:

(a) commits an offense prohibited by law that if committed by an adult would not constitute a criminal offense, including but not limited to a youth who:

(i) violates any Montana municipal or state law regarding alcoholic beverages; or

(ii) continues to exhibit behavior, including running away from home or habitual truancy, beyond the control of the youth's parents, foster parents, physical custodian, or guardian despite the attempt of the youth's parents, foster parents, physical custodian, or guardian to exert all reasonable efforts to mediate, resolve, or control the youth's behavior; or



(b) has committed any of the acts of a delinquent youth but whom the youth court, in its discretion, chooses to regard as a youth in need of intervention.”

**Section 5. Effective date.** [This act] is effective July 1, 2013.

**Section 6. Applicability.** [This act] applies to school years beginning after July 1, 2013.

Approved April 24, 2013

## CHAPTER NO. 282

[HB 320]

AN ACT RENAMING THE OPTIONAL RETIREMENT PROGRAM; AND AMENDING SECTIONS 19-2-511, 19-3-112, 19-3-2101, 19-3-2106, 19-3-2112, 19-3-2113, 19-20-208, 19-20-302, 19-20-426, 19-20-621, 19-20-731, 19-21-101, 19-21-102, 19-21-211, AND 19-21-212, MCA.

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

**Section 1.** Section 19-2-511, MCA, is amended to read:

**“19-2-511. Limitation of liability.** (1) The board shall exercise its fiduciary authority in the same manner that would be used by a prudent person acting in the same capacity who is familiar with the circumstances and in an enterprise of a similar character with similar aims.

(2) Plan fiduciaries are not liable for any loss to a participant’s or beneficiary’s account under a defined contribution plan or ~~an optional~~ *the university system* retirement program established pursuant to 19-21-101 that results from the participant’s or beneficiary’s exercise of control.

(3) Plan fiduciaries are not responsible for the acts or omissions of any employer or reporting agency or of any vendor providing services to the defined contribution plan or ~~optional~~ *the university system* retirement program. Nothing in this subsection limits the liability of any vendor for services required by contract.

(4) Plan fiduciaries are not liable for their reliance on the express provisions of the defined contribution plan or ~~optional~~ *the university system* retirement program.

(5) Plan fiduciaries are not liable for investment losses incurred in the defined contribution plan or ~~optional~~ *the university system* retirement program as a result of incorrect reporting by an employer or other reporting agency.”

**Section 2.** Section 19-3-112, MCA, is amended to read:

**“19-3-112. Education fund established — allocation of employer contributions — educational program requirements.** (1) (a) The board shall establish an education fund to be used to educate and inform system members in a manner consistent with the provisions of this section.

(b) For the ongoing educational services and communication services established pursuant to this section, from the employer contributions made pursuant to 19-3-316, 0.04% of the compensation paid to all of the employer’s employees who are members of the system must be allocated to the education fund established in subsection (1)(a). The board shall from time to time review the sufficiency of this amount and recommend to the legislature the adjustments that it considers appropriate.

(2) (a) The educational services must provide system members with impartial and balanced information about plan choices, benefits, and features.

The services must be provided in a variety of formats. Plan comparisons must, to the greatest extent possible, be based upon historical rates of return on investments or benefits available in each retirement plan.

(b) If educational services are conducted by a contractor, the board shall monitor the performance of the contract to ensure that the services are conducted in accordance with the contract, applicable law, and the rules of the board. A contractor hired to provide the educational program provided for in subsection (3) may not be the same entity contracted to provide other services for the defined contribution plan or the ~~optional~~ *university system* retirement program.

(3) The board shall offer an ongoing transfer educational program to provide new system members with information necessary to make informed plan choice decisions. The program must include but is not limited to information on:

(a) determining the amount of money available to transfer to the defined contribution plan;

(b) the features of and differences between the defined benefit plan and the defined contribution plan, both generally and specifically, as those differences may affect the member;

(c) the expected benefit available if the member were to retire under each of the retirement plans, based on appropriate alternative sets of assumptions;

(d) the rate of return from investments in the defined contribution plan that must be achieved to equal or exceed the expected monthly benefit payable to the member under the defined benefit plan, assuming the same time period in each plan;

(e) the historical rates of return for the investment alternatives available in the defined contribution plan;

(f) determining retirement income needs and comparing determined retirement income needs to each plan's possible or expected benefit;

(g) use of supplemental retirement savings programs to enhance retirement income;

(h) the plan choices available to employees of the university system pursuant to 19-3-2112 and the comparative benefits of each available plan; and

(i) payout options available in each of the retirement plans.

(4) Ongoing educational services and communication services must be provided after members have made their initial retirement plan choice. These services must continually provide members with information about their chosen plan, alternatives within their chosen plan, and decisions necessary for retirement preparation. The services must include but not be limited to information concerning:

(a) rights and conditions of membership;

(b) benefit features within the plan, options, and the effects of certain decisions;

(c) planning for retirement, including coordination of contributions and benefits with supplemental retirement savings programs;

(d) significant plan changes; and

(e) contribution rates and plan funding status.

(5) The board shall also establish a communication program to provide plan information to participating employers and the employer's personnel and payroll officers and to explain their respective responsibilities in conjunction with the retirement plans.

(6) This section does not prohibit a contracted plan vendor or vendors from providing system members with information and tools necessary to understand the available investment alternatives and to appropriately manage their selected retirement plan.”

**Section 3.** Section 19-3-2101, MCA, is amended to read:

**“19-3-2101. Definitions.** Unless the context requires otherwise, as used in this part, the following definitions apply:

(1) “Member” means a person with a retirement account in the defined contribution plan.

~~(2) “Optional retirement program” means the retirement plan established by the board of regents under chapter 21 of this title.~~

~~(3)~~(2) “Plan” or “defined contribution plan” means the defined contribution retirement plan.

(3) “*University system retirement program*” means the retirement plan established by the board of regents under Title 19, chapter 21.”

**Section 4.** Section 19-3-2106, MCA, is amended to read:

**“19-3-2106. Limited contract right.** The statutory provisions governing the defined contribution plan and the ~~optional~~ *university system* retirement program are subject to amendment by the legislature. Employees choosing the defined contribution plan or the ~~optional~~ *university system* retirement program pursuant to this part do not have a contract right to the specific terms and conditions specified in statute on the date the employee’s choice becomes effective.”

**Section 5.** Section 19-3-2112, MCA, is amended to read:

**“19-3-2112. Plan choices for members employed by university system — amount available to transfer — effect on rights.** (1) If a member who is employed by the Montana university system is eligible to make an election under this part to transfer to the defined contribution plan, the employee may, instead of electing the defined contribution plan, elect to transfer membership to the university system’s ~~optional~~ *university system* retirement program provided for under Title 19, chapter 21 of this title.

(2) Except as otherwise provided in this part, an election to transfer membership to the ~~optional~~ *university system* retirement program must be made in accordance with the following provisions:

(a) (i) A member employed by the university system who is an active member of the defined benefit plan on the effective date of the defined contribution plan may, within the 12-month period provided for in subsection (2)(b), elect to transfer to and become a member of the ~~optional~~ *university system* retirement program regardless of whether the member remains active, becomes inactive, or terminates employment and plan membership within the 12-month period.

(ii) A member who was an inactive member of the defined benefit plan on the effective date of the defined contribution plan and who is hired or rehired into covered employment with the university system after that date may, within the 12-month period provided for in subsection (2)(b), elect to transfer to and become a member of the ~~optional~~ *university system* retirement program regardless of whether the member remains active, becomes inactive, or terminates employment and plan membership within the 12-month period.

(iii) A member who is initially hired into covered employment with the university system on or after the effective date of the defined contribution plan may, within the 12-month period provided for in subsection (2)(b), elect to become a member of the ~~optional~~ *university system* retirement program

regardless of whether the member remains active, becomes inactive, or terminates employment and plan membership within the 12-month period.

(b) Elections made pursuant to this section must be made on a form prescribed by the board and must be made within 12 months from the month that the employer properly reports the new or rehired member to the board.

(c) A member failing to make an election prescribed by this section remains a member of the defined benefit plan.

(d) An election under this section, including the default election pursuant to subsection (2)(c), is a one-time irrevocable election. Subject to 19-3-2113, this subsection (2)(d) does not prohibit a new election after an employee has terminated membership in the ~~optional~~ *university system* retirement program and returned to employment in a position covered under the system.

(e) A member in either the defined benefit plan or the ~~optional~~ *university system* retirement program who becomes inactive after an election under this section and who returns to active membership remains in the plan previously elected.

(f) Except as provided in subsection (2)(g), a university employee in a position covered under the system may not simultaneously be a member of more than one retirement plan under *Title 19*, chapters 3 and 21 of this title, but must be a member of the defined benefit plan, the defined contribution plan, or the ~~optional~~ *university system* retirement program as provided by applicable provisions of this title. The same period of service may not be credited in more than one retirement system or plan.

(g) A university system employee who is or has been a member of the ~~optional~~ *university system* retirement program and returns to or accepts covered employment other than with the university system may make an election pursuant to 19-3-2111. That election is valid only for covered employment other than with the university system.

(h) The provisions of this part do not prohibit the board from adopting rules to allow an eligible employee to elect the ~~optional~~ *university system* retirement program from the first day of covered employment.

(i) A member of the defined benefit plan who is subject to a family law order pursuant to 19-2-907 or an execution or income-withholding order pursuant to 19-2-909 may not transfer to the ~~optional~~ *university system* retirement program unless the order is modified to apply under the ~~optional~~ *university system* retirement program.

(j) (i) A member of the defined benefit plan who is purchasing service credit through installment payments, either made directly to the board or pursuant to a payroll deduction agreement, may not transfer membership to the ~~optional~~ *university system* retirement program unless the member completes or terminates the contract for purchase of service credit.

(ii) A member who files an election to transfer membership may make a lump-sum payment for up to the balance of the service credit remaining to be purchased prior to transferring, subject to the limitations of section 415 of the Internal Revenue Code. The lump-sum payment, unless made by a rollover pursuant to 19-2-708, must be made with after-tax dollars.

(iii) If a member who files an election to transfer fails to complete or terminate the contract for purchase of service credit by the end of the member's 12-month election window, the board shall terminate the service purchase contract and credit the member with the prorated amount of service credit purchased under the contract.

(3) For an employee electing to transfer membership to the ~~optional~~ *university system* retirement program, the board shall transfer to the ~~optional~~ *university system* retirement program the amount that the employee would have been able to transfer to the defined contribution plan under 19-3-2114.

(4) An election to become a member of the ~~optional~~ *university system* retirement program pursuant to this section is a waiver of all rights and benefits under the public employees' retirement system."

**Section 6.** Section 19-3-2113, MCA, is amended to read:

**"19-3-2113. Reinstatement of plan membership — purchase of prior service credit in defined benefit plan.** (1) (a) A member who terminates membership in the defined benefit plan, the defined contribution plan, or the ~~optional~~ *university system* retirement program after making an election pursuant to 19-3-2111 or 19-3-2112 and who returns to covered employment in less than 24 months is a member of the plan that the member last selected and is not eligible for a new plan choice election.

(b) A member who terminated membership in the defined benefit plan, the defined contribution plan, or the ~~optional~~ *university system* retirement program after making an election pursuant to 19-3-2111 or 19-3-2112 and who returns to covered employment after 24 months or more is eligible to make a plan choice election as though initially hired as provided for in 19-3-2111(1)(b).

(2) (a) An employee who returns to covered employment after terminating membership in the defined benefit plan, who is eligible to make a plan choice, and who elects to join the defined benefit plan pursuant to 19-3-2111 or 19-3-2112 may reinstate prior membership service and service credit as provided in 19-2-603.

(b) An employee who returns to covered employment after terminating membership in the defined contribution plan or the ~~optional~~ *university system* retirement program, who is eligible to make a plan choice, and who elects to join the defined benefit plan pursuant to 19-3-2111 or 19-3-2112 may purchase prior membership service and service credit by paying to the board the full actuarial cost of the service credit as of the latest actuarial valuation of the defined benefit plan. The member may not purchase membership service and service credit under this section in excess of the member's length of service in the defined contribution plan or the ~~optional~~ *university system* retirement program."

**Section 7.** Section 19-20-208, MCA, is amended to read:

**"19-20-208. Duties and liability of employer.** (1) Each employer shall:

(a) pick up the contribution of each employed member at the rate prescribed by 19-20-602 and transmit the contribution each month to the executive director of the retirement board;

(b) transmit to the executive director of the retirement board the employer's contribution prescribed by 19-20-605, at the time that the employee contributions are transmitted;

(c) keep records and, as required by the retirement board, furnish information to the board that is required in the discharge of the board's duties;

(d) upon the employment of a person who is required to become a member of the retirement system, inform the person of the rights and obligations relating to the retirement system;

(e) each month, report the name, social security number, time worked, and gross earnings of each retired member of the system who has been employed in a position that is reportable to the retirement system pursuant to 19-20-731;

(f) whenever applicable, inform an employee of the right to elect to participate in the ~~optional~~ *university system* retirement program under Title 19, chapter 21;

(g) at the request of the retirement board, certify the names of all persons who are eligible for membership or who are members of the retirement system;

(h) notify the retirement board of the employment of a person eligible for membership and forward the person's membership application to the board; and

(i) if the employer has converted to earned compensation amounts excluded from earned compensation, for each retiring member, certify to the board the amounts reported to the system in each of the 5 years preceding the member's retirement.

(2) An employer that fails to timely or accurately report the employment of, time worked by, or compensation paid to a retired member as required under subsection (1)(e) is jointly and severally liable with the retired member for repayment to the retirement system of retirement benefits paid to which the member was not entitled, plus interest."

**Section 8.** Section 19-20-302, MCA, is amended to read:

**"19-20-302. Active membership.** (1) Unless otherwise provided by this chapter, the following persons employed by an employer must be active members of the retirement system:

(a) a person who is a teacher, principal, or district superintendent as defined in 20-1-101;

(b) a person who is an administrative officer or a member of the instructional or scientific staff of a unit of the Montana university system and who has not elected or is not required to participate in the ~~optional~~ *university system* retirement program under Title 19, chapter 21;

(c) a person employed as a speech-language pathologist, school nurse, professionally qualified person as defined in 20-7-901, paraprofessional who provides instructional support, dean of students, or school psychologist;

(d) a person employed in a teaching or an educational services capacity by the office of a county superintendent, an education cooperative, a public institution of the state of Montana, the Montana state school for the deaf and blind, or a school district;

(e) a person who is an administrative officer or a member of the instructional staff of the board of public education;

(f) the superintendent of public instruction or a person employed as a teacher or in an educational services capacity by the office of public instruction;

(g) except as provided in subsection (2), a person elected to the office of county superintendent of schools;

(h) a person who is an administrative officer or a member of the instructional or scientific staff of a community college; and

(i) a person employed in a nonclerical position and who is reported on an employer's annual data collection report submitted to the office of public instruction.

(2) A retired member elected to the office of county superintendent of schools or appointed to complete the term of an elected county superintendent of schools after July 1, 1995, is not eligible for optional membership in the public employees' retirement system under the provisions of 19-3-412 and shall, within 30 days of taking office, file an irrevocable written election to become or to not become an active member of the teachers' retirement system. The retirement



system membership of an elected county superintendent of schools as of June 30, 1995, must remain unchanged for as long as the person continues to serve in the capacity of county superintendent of schools.

(3) In order to be eligible for active membership, a person described in subsection (1) or (2) must:

(a) be employed in the capacity prescribed for the person's eligibility for at least 30 days in any fiscal year; and

(b) have the compensation for the person's creditable service totally paid by an employer.

(4) (a) A substitute teacher or a part-time teacher's aide:

(i) shall file an irrevocable written election determining whether to become an active member of the retirement system on the first day of employment; or

(ii) is required to become an active member of the retirement system after completing 210 hours of employment in any fiscal year if the substitute teacher or part-time teacher's aide has not elected membership under subsection (4)(a)(i).

(b) Once a part-time teacher's aide becomes a member, the aide is required to remain an active member as long as the aide is employed in that capacity. Once a substitute teacher becomes a member, the substitute teacher is required to remain a member as long as the teacher is available for employment in that capacity.

(c) The employer shall give written notification to a substitute teacher or part-time teacher's aide on the first day of employment of the option to elect membership under subsection (4)(a)(i).

(d) If a substitute teacher or part-time teacher's aide declines to elect membership during the election period, the teacher or part-time teacher's aide shall file a written statement with the employer waiving membership and the employer shall retain the statement.

(5) A school district clerk or business official may not become a member of the teachers' retirement system. A school district clerk or business official who is a member of the system on July 1, 2001, is required to remain an active member of the system while employed in that capacity, and any postretirement earnings from employment as a school district clerk or school business official are subject to the limit on earnings provided in 19-20-731.

(6) At any time that a person's eligibility to become a member of the retirement system is in doubt, the retirement board shall determine the person's eligibility for membership. All persons in similar circumstances must be treated alike.

(7) As used in this section, "part-time teacher's aide" means an individual who works less than 7 hours a day assisting a certified teacher in a classroom.

(8) (a) An active member of the system concurrently employed in a position identified in subsection (1)(b) may not elect to participate in the ~~optional~~ *university system* retirement program under Title 19, chapter 21.

(b) An employee of the Montana university system who is a participant in the ~~optional~~ *university system* retirement program under Title 19, chapter 21, and who is concurrently employed in a position identified in subsections (1)(a) or (1)(c) through (1)(i) is ineligible to be an active member of this system."

**Section 9.** Section 19-20-426, MCA, is amended to read:

**"19-20-426. Creditable service for employment under ~~optional~~ university system retirement program.** (1) (a) A member who has at least 5

years of membership service, who has completed 1 full year of active membership subsequent to the member's participation in the ~~optional university system~~ retirement program pursuant to 19-21-201, and who contributes to the retirement system as provided in subsection (2) may receive up to 5 years of creditable service in the retirement system for service covered under the ~~optional university system~~ retirement program.

(b) Employment to be credited must be of an instructional nature, as an administrative officer, or as a member of the scientific staff with an individual contract under the authority of the board of regents.

(c) A member may not receive credit for service as a student employed by the institution.

(2) For each year of service to be credited under this section, the member shall contribute the actuarial cost of the service based on the most recent valuation of the system.

(3) The contributions and interest may be made in a lump-sum payment or in installments as agreed between the person and the retirement board.

(4) The provisions of 19-20-405 apply to creditable service purchased under this section."

**Section 10.** Section 19-20-621, MCA, is amended to read:

**"19-20-621. Montana university system ~~optional~~ retirement program supplemental contributions.** (1) Each employer within the university system with employees participating in the ~~optional university system~~ retirement program under Title 19, chapter 21, shall contribute to the teachers' retirement system a supplemental employer contribution sufficient to amortize, by July 1, 2033, the past service liability of the teachers' retirement system for the university system members.

(2) The ~~optional university system~~ retirement program supplemental employer contribution as a percentage of the total compensation of all employees participating in the program is:

(a) 4.04% beginning July 1, 2001, through June 30, 2007; and

(b) 4.72% beginning July 1, 2007.

(3) The board shall periodically review the supplemental employer contribution rate and recommend adjustments to the legislature as needed to maintain the amortization of the university system's past service liability by July 1, 2033."

**Section 11.** Section 19-20-731, MCA, is amended to read:

**"19-20-731. Postretirement employment limitations — cancellation and recalculation of benefits — reporting obligation of retired member.** (1) (a) Except as [provided in 19-20-732 or as] otherwise provided in this section, a retired member may be employed by an employer in a position that is reportable to the retirement system and may earn, without an adjustment of retirement benefits, an amount not to exceed the greater of:

(i) one-third of the sum of the member's average final compensation; or

(ii) one-third of the median of the average final compensation for members retired during the preceding fiscal year as determined by the retirement board.

(b) The maximum compensation that a retired member may earn under subsection (1)(a) without an adjustment of retirement benefits includes all amounts paid to or on behalf of the retired member and the value of all benefits provided to or on behalf of the retired member by the employer, including any amounts deferred for payment to a later year, excluding:

(i) health insurance premiums directly paid by the employer on the retired member's behalf for health care coverage provided by the employer;

(ii) the value of housing provided by the employer to the retired member;

(iii) the amount of employment-related travel expenses reimbursed to the retired member by the employer;

(iv) de minimis fringe benefits, as defined in 26 U.S.C. 132(e), paid by the employer to or on behalf of the retired member; and

(v) payroll taxes paid by the employer on behalf of the retired member.

(2) On July 1 of each year following the member's retirement effective date, the maximum that a retired member may earn under subsection (1)(a)(i) is increased by an amount equal to the consumer price index increase for urban wage earners compiled by the bureau of labor statistics of the United States department of labor or its successor agency in the preceding calendar year.

(3) [Except as provided in 19-20-732,] the retirement benefit of a retired member:

(a) employed and earning more than allowed by subsections (1) and (2) must be temporarily reduced by \$1 for each dollar earned over the maximum allowed. Monthly benefits must be reduced beginning as soon as practical after the excess earnings have been reported to the retirement system by the employer. The retirement benefit must be suspended if the retired member's earnings over the maximum allowed exceed the gross monthly benefit amount.

(b) employed in one or more part-time positions under one or more contracts providing for an aggregate payment of a total amount that is more than the maximum allowed must be suspended effective on the date on which the retired member returns to employment.

(4) For purposes of this section, the term "employed in a position that is reportable to the retirement system" includes any work performed or service provided by a retired member to or on behalf of an employer, including but not limited to work performed or service provided through a professional employer arrangement, an employee leasing arrangement, as a temporary service contractor, or as an independent contractor.

(5) For purposes of this section, the employment status and maximum compensation of a retired member who is employed in more than one position or under more than one contract, whether with one employer or more than one employer, is the aggregate full-time equivalency and compensation derived from all positions reportable to the retirement system in which the retired member is employed.

(6) Within 30 days of the date of the execution of an agreement for the employment of a retired member or of the first date on which the retired member provides services if no agreement is entered into, the retired member shall provide written notice of the postretirement employment to the retirement system.

(7) For purposes of this section, if a retired member is employed by an employer in a position that is reportable to the retirement system and the retired member is concurrently working for the employer in another position that is not reportable to the system, the position that is not reportable is considered to be part of the position that is reportable to the retirement system. All earnings of the retired member that are generated by these positions are reportable to the retirement system.

(8) The retirement allowance of any retired member who is employed in a position and who elects to participate in the ~~optional~~ *university system*

retirement program under Title 19, chapter 21, must be suspended until the member is no longer employed in the position and is no longer participating in the ~~optional~~ *university system* retirement program. (Bracketed language terminates June 30, 2015—sec. 5, Ch. 129, L. 2009.)”

**Section 12.** Section 19-21-101, MCA, is amended to read:

**“19-21-101. Authority to establish ~~optional~~ *university system* retirement program.** The board of regents may establish ~~an optional a~~ *university system* retirement program, as provided in this chapter, for the administrative officers and members of the instructional and scientific staff of the Montana university system. The program may be an independent plan or part of a larger plan with respect to some or all of the benefits provided. The benefits under the program must be provided through individual annuity contracts, either fixed or variable, or a combination of contracts, issued to and owned by the participants in the program. The program must comply with applicable sections of the Internal Revenue Code.”

**Section 13.** Section 19-21-102, MCA, is amended to read:

**“19-21-102. Definitions.** Unless the context requires otherwise, as used in this chapter, the following definitions apply:

(1) “Program” means the ~~optional~~ *university system* retirement program established pursuant to this chapter.

(2) “Public employees’ retirement system” means the retirement system established in 19-3-103.

(3) “Teachers’ retirement system” or “system” means the teachers’ retirement system provided for in Title 19, chapter 20.”

**Section 14.** Section 19-21-211, MCA, is amended to read:

**“19-21-211. Payment of benefits.** A retirement, death, or other benefit may not be paid by the state or the board of regents under the ~~optional~~ *university system* retirement program. Benefits are payable to a participant and the participant’s beneficiaries only by the designated company or companies in accordance with the terms of the contracts.”

**Section 15.** Section 19-21-212, MCA, is amended to read:

**“19-21-212. Exemption from taxation, legal process, and assessments.** Except for execution or withholding for the payment of child support or for the payment of spousal support for a spouse or former spouse who is the custodial parent of the child, contracts, benefits, and contributions under the ~~optional~~ *university system* retirement program and the earnings on the contributions are:

(1) except for a retirement allowance received in excess of the amount determined pursuant to 15-30-2110(2)(c), exempt from any state, county, or municipal tax;

(2) not subject to execution, garnishment, attachment, or other process;

(3) not covered or assessable by an insurance guaranty association; and

(4) unassignable except as specifically provided in the contracts.”

**Section 16. Instructions to code commissioner.** Whenever the phrase “optional retirement program” appears in the Montana Code Annotated or in legislation enacted during the 63rd legislative session, the code commissioner shall change the phrase to “university system retirement program”.

Approved April 24, 2013

**CHAPTER NO. 283**

[HB 433]

AN ACT REVISING LAWS RELATED TO REGISTRATION OF SEXUAL OR VIOLENT OFFENDERS; PROVIDING THAT OFFENDERS MUST REGISTER WHEN THEY ARE LOCATED IN A COUNTY THAT IS NOT THEIR COUNTY OF RESIDENCE FOR MORE THAN 10 DAYS; REQUIRING OFFENDERS TO REGISTER IN ANY COUNTY WHERE THEY REMAIN FOR 24 HOURS UNTIL THEY RETURN TO THEIR COUNTY OF RESIDENCE; AMENDING SECTION 46-23-505, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

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

**Section 1.** Section 46-23-505, MCA, is amended to read:

**“46-23-505. Notice of change of name or residence or student, employment, or transient status — duty to inform — forwarding of information.** (1) If an offender required to register under this part has a change of name or residence or a change in student, employment, or transient status, the offender shall within 3 business days of the change appear in person and give notification of the change to the registration agency with whom the offender last registered or, if the offender was initially registered under 46-23-504(1)(b), to the registration agency for the county or municipality from which the offender is moving. The registration agency shall require the offender to appear before the registration agency for a new photograph every year.

(2) If an offender required to register under this part is a transient, the offender shall provide written notification to the registration agency with which the offender last registered or, if the offender initially registered pursuant to 46-23-504(1)(b), shall provide notice within 3 business days to the registration agency in the county or municipality in which the offender resides.

(3) Within 3 business days after receipt of the information concerning the new name or residence or a change in the student, employment, or transient status, the registration agency shall forward the information to the department of justice, which shall forward a copy of the information and photograph to:

(a) in the event of a change in residence, the registration agency for the county to which the offender moves and, if the offender lives in a municipality, the registration agency for that municipality to which the offender moves;

(b) in the event of a change of name or of student, employment, or transient status, the registration agency of the appropriate county or municipality.

(4) *If an offender who is required to register under this part is physically absent from the offender’s county of residence for more than 10 consecutive days, the offender shall register in the county where the offender is physically located on the 11th day even if the offender claims to maintain a residence, as defined in 46-23-502, in that county. The offender shall register again in the offender’s county of residence when the offender returns to that county.*

(5) *If an offender is required to register under subsection (4), the offender shall register in any subsequent county where the offender is present for more than 24 hours until the offender registers again in the offender’s county of residence.”*

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

Approved April 24, 2013

**CHAPTER NO. 284**

[HB 560]

AN ACT REVISING THE LAWS REGARDING THE LEGISLATIVE BRANCH COMPUTER SYSTEM PLANNING COUNCIL; CHANGING THE NAME OF THE PLANNING COUNCIL; PROVIDING FOR AN ENTERPRISE ARCHITECTURE PROGRAM, TECHNOLOGY STANDARDS, AND PRINCIPLES; AMENDING SECTIONS 2-15-1021, 2-17-518, 5-11-401, 5-11-402, 5-11-403, 5-11-404, 5-11-405, 5-11-406, AND 5-11-407, MCA; AND PROVIDING AN EFFECTIVE DATE.

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

**Section 1.** Section 2-15-1021, MCA, is amended to read:

**“2-15-1021. Information technology board — membership — qualifications — vacancies — compensation.** (1) There is an information technology board. The board consists of 19 members who are appointed as follows:

- (a) the director of the department of administration, who serves as presiding officer of the board;
- (b) the chief information officer provided for in 2-17-511;
- (c) the director of the office of budget and program planning;
- (d) six members who are directors of state agencies and who are appointed by the governor;
- (e) two members representing local government, appointed by the governor;
- (f) one member representing the public service commission, appointed by the public service commission;
- (g) one member representing the private sector, appointed by the governor;
- (h) one member of the house of representatives, appointed by the speaker of the house of representatives;
- (i) one member of the senate, appointed by the president of the senate;
- (j) one member representing the legislative branch, appointed by the legislative branch ~~computer system~~ *information technology* planning council;
- (k) one member representing the judicial branch, appointed by the chief justice of the supreme court;
- (l) one member representing the university system, appointed by the board of regents; and
- (m) one member representing K-12 education, appointed by the superintendent of public instruction.

(2) Appointments must be made without regard to political affiliation and must be made solely for the wise management of the information technology resources used by the state.

(3) A vacancy occurring on the board must be filled by the appointing authority in the same manner as the original appointment.

(4) The board shall function in an advisory capacity as defined in 2-15-102.

(5) Members of the board must be reimbursed and compensated in the same manner as members of quasi-judicial boards under 2-15-124(7), except that legislative members are reimbursed and compensated as provided in 5-2-302.”

**Section 2.** Section 2-17-518, MCA, is amended to read:

**“2-17-518. Rulemaking authority.** (1) The department shall adopt rules to implement this part, including the following:



(a) rules to guide the review and approval process for state agency software and management systems that provide similar functions for multiple state agencies, which must include but are not limited to:

(i) identifying the software and management systems that must be approved;

(ii) establishing the information that state agencies are required to provide to the department; and

(iii) establishing guidelines for the department's approval decision;

(b) rules to guide the review and approval process for state agency acquisition of information technology resources, which must include but are not limited to processes and requirements for:

(i) agency submissions to gain approval for acquiring information technology resources;

(ii) approving specifications for information technology resources; and

(iii) approving contracts for information technology resources; and

(c) rules for granting exceptions from the requirements of this part, which must include but are not limited to:

(i) a process for applying for an exception; and

(ii) guidelines for determining the department's approval decision.

(2) The department may adopt rules to guide the development of state agency information technology plans. The rules may include:

(a) agency plan review procedures;

(b) agency plan content requirements;

(c) guidelines for the department's approval decision; and

(d) dispute resolution processes and procedures.

(3) Adequate rules for the use of any information technology resources must be adopted by the:

(a) supreme court for judicial branch agencies; ~~and~~.

~~(b)(4)~~ *The legislative council shall adopt enterprise principles and technical standards within an enterprise architecture program as a part of the legislative branch ~~computer system~~ information technology plan, as provided for in 5-11-405, that will fulfill the intent of adequate rules for use of information technology resources for the consolidated legislative branch, as provided for in 5-2-504.*

**Section 3.** Section 5-11-401, MCA, is amended to read:

**"5-11-401. Purpose.** It is the purpose of this part to establish a mechanism for ~~computer system~~ information technology planning encompassing broad policy needs, long-term direction for ~~computer~~ information systems use, and the effective implementation of a detailed plan for the legislative branch. It is the purpose of the plan to ~~assure~~ *ensure* coordination of information system decisions so that the overall effectiveness of the senate, the house of representatives, and legislative agencies may be improved. It is the further purpose of the plan to enhance the coordination of legislative branch systems with executive branch systems ~~wherever~~ *whenever* possible."

**Section 4.** Section 5-11-402, MCA, is amended to read:

**"5-11-402. Legislative branch ~~computer system~~ information technology planning council.** There is a legislative branch ~~computer system~~ information technology planning council composed of:

(1) the secretary of the senate;

- ~~(2) or another one~~ representative of the senate designated by the president;
- ~~(2)(3)~~ the chief clerk of the house of representatives;
- ~~(4) or another one~~ representative of the house designated by the speaker;
- ~~(3) the sergeants-at-arms in the two houses or another representative of each house designated by the presiding officer of that house;~~
- ~~(4)(5)~~ the executive director of the legislative services division, who shall chair the planning council;
- ~~(5)(6)~~ the legislative auditor;
- ~~(6)(7)~~ the legislative fiscal analyst;
- ~~(7)(8)~~ the consumer counsel;
- ~~(9)~~ *the chief information officer of the legislative branch;* and
- ~~(8)(10)~~ a person designated by the director of the department of administration to represent the information technology responsibilities of the department, who shall serve as a nonvoting member of the planning council.”

**Section 5.** Section 5-11-403, MCA, is amended to read:

**“5-11-403. Duties of legislative branch computer system information technology planning council.** ~~(1)~~ The legislative branch ~~computer system~~ *information technology* planning council shall develop and maintain a legislative branch ~~computer system~~ *information technology* plan. In developing and maintaining this plan, the planning council shall:

~~(1)~~ *approve and validate the branch enterprise architecture program that includes principles to maintain alignment with evolving business and technology needs;*

~~(a)(2)~~ continuously review ~~or have reviewed~~ *analyses of existing and alternate information systems that are to identify candidates for automation, modernization, or enhancement, as well as review existing automated systems that may be improved or integrated improvement, or integration with new applications to support evolving legislative branch needs or functions;*

~~(b)(3)~~ ~~develop and maintain~~ *include in the plan* a description of functions ~~or~~ and services in the legislative branch and its agencies that would, ~~through benefit from the application or improvement of computer information technology;~~ *to provide better service to members of the legislature, legislative agencies, and the public;*

~~(c)(4)~~ ~~develop and maintain~~ *a ranking of needs, taking into consideration the relative effectiveness and probable cost of alternative systems prioritize information technology initiatives, taking into consideration expected effectiveness, probable cost, and alignment with the enterprise architecture principles; and*

~~(d)(5)~~ ~~develop and maintain~~ *recommended system standards for the legislative branch and standard or custom software and hardware solutions adopt technology standards within the enterprise architecture program that are appropriate to the business needs and technical environment of the legislative branch and its agencies; and*

~~(6)~~ *consider information technology support of security, disaster recovery, and continuity of government.*

~~(2)~~ *To the extent possible:*

~~(a)~~ *future applications should be explicitly identified in the plan;*

~~(b)~~ *current applications should allow a high degree of flexibility so that future applications are not limited; and*

~~(e) both current and future applications should be coordinated and compatible with the standards and goals of the executive branch as expressed in the state strategic information technology plan provided for in 2-17-521, as well as the legislative branch standards developed in accordance with the requirement in subsection (1)(d)."~~

**Section 6.** Section 5-11-404, MCA, is amended to read:

**"5-11-404. Technical support.** (1) The executive director of the legislative services division shall provide technical staff support to the legislative branch ~~computer system~~ *information technology* planning council. In performing this duty, the legislative services division shall assist the planning council by:

(a) *developing and maintaining an enterprise architecture program to include:*

(i) *enterprise architecture principles and technology standards that are aligned with business needs;*

(ii) *decisionmaking processes that guide the application of the principles; and*

(iii) *a repository of business and technical information to support sound decisions;*

~~(a)(b) developing or having developed analyses of existing and alternate systems to identify candidates for automation, modernization, or enhancement;~~

~~(b) providing technical solutions and advice related to the standards set by the planning council;~~

(c) *assisting in assessing benefits and costs of optional alternate solutions;*

(d) *apprising the planning council of developments and ~~directions~~ trends in the technology industry;*

(e) *maintaining a liaison with and informing the planning council of plans and directions within the executive branch;*

~~(f) assisting in the selection~~ *selecting* and purchasing of supplies and equipment *that support the enterprise architecture principles adopted by the planning council;*

(g) *providing information and advice regarding information technology support of security, disaster recovery, and continuity of government; and*

~~(g)(h)~~ *providing other assistance as may be requested.*

(2) The executive director shall encourage participation of appropriate personnel of the senate, the house of representatives, and other legislative entities in the provision of technical support."

**Section 7.** Section 5-11-405, MCA, is amended to read:

**"5-11-405. Legislative branch ~~computer system~~ information technology plan — adoption.** The legislative branch ~~computer system~~ *information technology* plan is a biennial plan that reflects the budget proposals for the next biennium that must be approved and adopted by the legislative council."

**Section 8.** Section 5-11-406, MCA, is amended to read:

**"5-11-406. Legislative branch systems — conformity to standards.** ~~Computer hardware and software~~ *Information technology* systems installed by the senate, the house of representatives, and legislative branch agencies must conform to standards established in by the legislative branch ~~computer system~~ *plan* for the enterprise architecture in effect at the time the purchasing decision is made."

**Section 9.** Section 5-11-407, MCA, is amended to read:

**“5-11-407. Legislative branch reserve account.** (1) There is a legislative branch reserve account in the state special revenue fund. Money may be deposited in the account through an allocation of money to the account or as provided in 17-7-304.

(2) (a) The money in the account is statutorily appropriated, as provided in 17-7-502, to the legislative services division to be used only for major legislative branch information technology projects, including the purchase of hardware, software, and consulting services for *and training related to* new initiatives and replacement and upgrading of existing systems.

(b) The money in the account may be expended only with the approval of the legislative council. The legislative branch ~~computer system~~ *information technology* planning council may make recommendations to the legislative council for the use of the money in the account.

(3) The money in the account must be invested pursuant to Title 17, chapter 6. The income and earnings on the account must be deposited in the account.”

**Section 10. Effective date.** [This act] is effective July 1, 2013.

Approved April 24, 2013

## CHAPTER NO. 285

[HB 605]

AN ACT PROVIDING A PROCESS FOR ANNEXATION OF PROPERTY INTO A RESORT AREA DISTRICT; REQUIRING A PROPOSAL FOR ANNEXATION AND A REVIEW FEE TO BE SUBMITTED TO THE DEPARTMENT OF COMMERCE FOR DESIGNATION AS A RESORT AREA; REQUIRING AN ELECTION IN THE AREA PROPOSED TO BE ANNEXED; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

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

**Section 1. Annexation of property into resort area district.** (1) Property may be annexed into a resort area district as provided in this section.

(2) The board may recommend that property contiguous to an existing resort area district be annexed into the resort area district.

(3) If the board recommends annexation, the board shall submit its recommendation to the board of county commissioners, along with a description or map of the existing district and a description or map of the area proposed to be annexed.

(4) (a) Upon receipt of the board's recommendation, the board of county commissioners shall submit the description or map of the existing district and the description or map of the area proposed to be annexed into the resort area district to the department of commerce, along with a review fee of \$250 and any other information required by the department as necessary to determine whether the existing district with the proposed annexation qualifies as a resort area under 7-6-1501.

(b) The department of commerce shall determine whether the existing district with the proposed annexation qualifies as a resort area under 7-6-1501 and shall notify the board of county commissioners of its determination. If the existing district with the proposed annexation does not qualify as a resort area, the board of county commissioners may take no further action on the proposed annexation for a period of at least 1 year. If the existing district with the

proposed annexation does qualify as a resort area, the board of county commissioners shall give notice of an election to be held in the area proposed to be annexed.

(5) The board of county commissioners shall give notice of the election to be held in the area proposed to be annexed. The election must be held in conjunction with a regular or primary election and must be conducted as provided in 7-6-1537.

(6) A person is not entitled to vote at an election on the proposed annexation unless the person possesses all of the qualifications required of electors under the general election laws of this state and is a resident of the area proposed to be annexed.

(7) If a majority of the votes cast on the question of annexation of the property into the resort area district are in favor of the annexation, the board of county commissioners shall enter into its minutes an order, by resolution, annexing the property into the district and shall cause to be created a map of the district that includes the annexed area. Immediately following the adoption of the resolution, the board of county commissioners shall file with the secretary of state and the county clerk and recorder a copy of the resolution and the map.

(8) The secretary of state shall issue a certificate of incorporation as provided in 7-6-1540.

(9) The resort area district board that governed the district before annexation shall continue to operate and the members shall continue to serve the members' terms. Upon occurrence of a vacancy or the expiration of a member's term, residents of the area that has been annexed are eligible for election or appointment to the board under the provisions of 7-6-1543 through 7-6-1546.

(10) If the area proposed to be annexed includes property in more than one county, the boards of county commissioners of each county must comply with the provisions of this section.

**Section 2. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 7, chapter 6, part 15, and the provisions of Title 7, chapter 6, part 15, apply to [section 1].

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

Approved April 24, 2013

## CHAPTER NO. 286

[SB 20]

AN ACT PROVIDING FOR REGISTRATION OF MULTILEVEL DISTRIBUTION COMPANIES; ESTABLISHING WHAT CONSTITUTES FRAUDULENT OR PROHIBITED PRACTICES FOR MULTILEVEL DISTRIBUTION COMPANIES; DEFINING "DIRECT SELLING ASSOCIATION"; REVISING THE DEFINITION OF "MULTILEVEL DISTRIBUTION COMPANY"; DEFINING "TRANSACTING BUSINESS"; CLARIFYING WHICH FUNDS MUST BE PLACED IN THE SECURITIES RESTITUTION ASSISTANCE FUND; AMENDING SECTIONS 30-10-301, 30-10-303, 30-10-324, AND 30-10-1004, MCA; REPEALING SECTION 30-10-326, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

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

**Section 1. Registration requirements for multilevel distribution companies.** (1) It is unlawful for a person to transact business in this state as a multilevel distribution company unless the person is:

- (a) registered under this section; or
- (b) a member of the direct selling association.

(2) A multilevel distribution company may apply for registration by filing an application in the form prescribed by the commissioner. An application must be submitted to the department by certified mail.

(3) The commissioner shall issue an order making a registration effective when the registration requirements are met. An effective registration of a multilevel distribution company may not be withdrawn or terminated without the express written consent of the commissioner.

(4) Registration of a multilevel distribution company:

- (a) is effective until December 31 following the registration; and
- (b) may be renewed pursuant to subsection (5).

(5) Registration of a multilevel distribution company may be renewed by filing, prior to the expiration of the registration, an application containing information that the commissioner may require to indicate any material change in the information contained in the original application or any material change in a renewal application for registration. The renewal application must be submitted to the department by certified mail.

(6) The commissioner may by order deny, suspend, or revoke registration of any multilevel distribution company if the commissioner finds that the order is in the public interest and that the applicant or registrant or person directly or indirectly controlling the applicant or registrant:

(a) has filed an application for registration under this section that, as of its effective date or as of any date after filing in the case of an order denying effectiveness, was incomplete in any material respect or contained any statement that was, in light of the circumstances under which it was made, false or misleading with respect to any material fact;

(b) has willfully violated or willfully failed to comply with any provision of this part;

(c) is permanently or temporarily enjoined by any court of competent jurisdiction from transacting business as a multilevel distribution company;

(d) is the subject of an order of the commissioner denying, suspending, or revoking registration as a multilevel distribution company;

(e) has engaged in dishonest or unethical business practices;

(f) is insolvent, either in the sense that the person's liabilities exceed the person's assets or in the sense that the person cannot meet obligations as they mature, but the commissioner may not enter an order against a multilevel distribution company without a finding of insolvency as to the multilevel distribution company; or

(g) has not complied with a condition imposed by the commissioner under this section.

**Section 2.** Section 30-10-301, MCA, is amended to read:

**"30-10-301. Fraudulent and other prohibited practices.** (1) It is unlawful for any person, in connection with the offer, sale, or purchase of any security, directly or indirectly, in, into, or from this state, to:



- (a) employ any device, scheme, or artifice to defraud;
  - (b) make any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading; or
  - (c) engage in any act, practice, or course of business that operates or would operate as a fraud or deceit upon any person.
- (2) (a) It is unlawful for any person who receives, directly or indirectly, any consideration from another person for advising the other person as to the value of securities or their purchase or sale, whether through the issuance of analysis or reports or otherwise:
- (i) to employ any device, scheme, or artifice to defraud the other person;
  - (ii) to engage in any act, practice, or course of business that operates or would operate as a fraud or deceit upon the other person; or
  - (iii) without disclosing to the client in writing before the completion of the transaction the capacity in which the person is acting and obtaining the consent of the client to the transaction:
    - (A) acting as principal for the person's own account, to knowingly sell any security to or purchase any security from a client; or
    - (B) acting as agent for a person other than the client, to knowingly effect the sale or purchase of any security for the account of the client.
- (b) The prohibitions of subsection (2)(a)(iii) do not apply to any transaction with a customer of a broker-dealer if the broker-dealer is not being compensated for rendering investment advice in relation to the transaction.
- (3) In the solicitation of advisory clients, it is unlawful for a person to:
- (a) make a false statement of a material fact; or
  - (b) omit a material fact necessary to make a statement not misleading in light of the circumstances under which it is made.
- (4) Except as permitted by rule or order of the commissioner, it is unlawful for any investment adviser who is registered or required to be registered to enter into, extend, or renew any investment advisory contract unless it provides in writing that:
- (a) the investment adviser may not be compensated on the basis of a share of capital gains upon or capital appreciation of the funds or any portion of the funds of the client;
  - (b) an assignment of the contract may not be made by the investment adviser without the consent of the other party to the contract; and
  - (c) the investment adviser, if a partnership, shall notify the other party to the contract of any change in the membership of the partnership within a reasonable time after the change.
- (5) Subsection (4)(a) does not prohibit an investment advisory contract that provides for compensation based upon the total value of a fund averaged over a definite period or as of definite dates or taken as of a definite date. "Assignment", as used in subsection (4)(b), includes any direct or indirect transfer or hypothecation of an investment advisory contract by the assignor or of a controlling block of the assignor's outstanding voting securities by a security holder of the assignor; but if the investment adviser is a partnership, an assignment of an investment advisory contract is not considered to result from the death or withdrawal of a minority of the members of the investment adviser having only a minority interest in the business of the investment adviser or from the admission to the investment adviser of one or more members who, after

admission, will be only a minority of the members and will have only a minority interest in the business.

(6) It is unlawful for an investment adviser to take or have custody of any securities or funds of any client if:

(a) the commissioner by rule prohibits custody; or

(b) in the absence of rule, the investment adviser fails to notify the commissioner that the investment adviser has or may have custody.

(7) *It is unlawful for a multilevel distribution company or a person who directly or indirectly controls a multilevel distribution company, in the course of transacting business in, into, or from this state, to:*

(a) *employ any device, scheme, or artifice to defraud;*

(b) *make a false statement of a material fact;*

(c) *omit a material fact necessary to make a statement not misleading in light of the circumstances under which it is made; or*

(d) *engage in any other act, practice, or course of business that operates or would operate as a fraud or deceit upon any person."*

**Section 3.** Section 30-10-303, MCA, is amended to read:

**"30-10-303. Unlawful representation concerning registration or exemption.** (1) The fact that an application for registration under 30-10-201(6) or [section 1], a notice filing under 30-10-211, or a registration statement under 30-10-203, 30-10-204, or 30-10-205 has been filed or the fact that a person or security is effectively registered or a complete notice filing has been made does not constitute a finding by the commissioner that any document filed under parts 1 through 3 of this chapter is true, complete, and not misleading.

(2) The fact that an application for registration or a notice filing has been filed or a person or security is effectively registered or a complete notice filing has been made as provided in subsection (1) or the fact that an exemption or exception is available for a *person*, security, or a transaction does not mean that the commissioner has passed in any way upon the merits of, qualifications of, or recommended or given approval to, any person, security, or transaction. It is unlawful to make or cause to be made to any prospective purchaser, customer, or client any representation inconsistent with this section."

**Section 4.** Section 30-10-324, MCA, is amended to read:

**"30-10-324. Definitions.** As used in [section 1], 30-10-301, 30-10-324, and 30-10-325 through 30-10-326, the following definitions apply:

(1) (a) "Compensation" means the receipt of money, a thing of value, or a financial benefit.

(b) Compensation does not include:

(i) payments to a participant based upon the sale of goods or services by the participant to third persons when the goods or services are purchased for actual use or consumption; or

(ii) payments to a participant based upon the sale of goods or services to the participant that are used or consumed by the participant.

(2) (a) "Consideration" means the payment of money, the purchase of goods or services, or the purchase of intangible property.

(b) Consideration does not include:

(i) the purchase of goods or services furnished at cost that are used in making sales and that are not for resale; or

(ii) a participant's time and effort expended in the pursuit of sales or in recruiting activities.

(3) *"Direct selling association" means the nonprofit entity incorporated in the state of Delaware and recognized by the department as the direct selling association.*

~~(3)(4)~~ (a) "Multilevel distribution company" means a person that:

~~(i)(a)~~ sells, distributes, or supplies goods or services through independent agents, contractors, or distributors at different levels of distribution;

~~(ii)(b)~~ may recruit other participants in the company; and

~~(iii)(c)~~ is eligible for commissions, cross-commissions, override commissions, bonuses, refunds, dividends, or other consideration that is or may be paid as a result of the sale of goods or services or the recruitment of or the performance or actions of other participants.

~~(b) The term does not include an insurance producer, real estate broker, or salesperson or an investment adviser, investment adviser representative, broker-dealer, or salesperson, as defined in 30-10-103, operating in compliance with this chapter.~~

~~(4)(5)~~ "Participant" means a person involved in a sales plan or operation.

~~(5)(6)~~ "Person" means an individual, corporation, partnership, limited liability company, or other business entity.

~~(6)(7)~~ (a) "Pyramid promotional scheme" means a sales plan or operation in which a participant gives consideration for the opportunity to receive compensation derived primarily from obtaining the participation of other persons in the sales plan or operation rather than from the sale of goods or services by the participant or the other persons induced to participate in the sales plan or operation by the participant.

(b) A pyramid promotional scheme includes a Ponzi scheme, in which a person makes payments to investors from money obtained from later investors, rather than from any profits or other income of an underlying or purported underlying business venture.

(c) A pyramid promotional scheme does not include a sales plan or operation that:

(i) subject to the provisions of subsection ~~(6)(e)(v)~~ (7)(c)(v), provides compensation to a participant based primarily upon the sale of goods or services by the participant, including goods or services used or consumed by the participant, and not primarily for obtaining the participation of other persons in the sales plan or operation and that provides compensation to the participant based upon the sale of goods or services by persons whose participation in the sales plan or operation has been obtained by the participant;

(ii) does not require a participant to purchase goods or services in an amount that unreasonably exceeds an amount that can be expected to be resold or consumed within a reasonable period of time;

(iii) is authorized to use a federally registered trademark or servicemark that identifies the company promoting the sales plan or operation, the goods or services sold, or the sales plan or operation;

(iv) (A) provides each person joining the sales plan or operation with a written agreement containing or a written statement describing the material terms of participating in the sales plan or operation;

(B) allows a person at least 15 days to cancel the person's participation in the sales plan or operation; and

(C) provides that if the person cancels participation within the time provided and returns any ~~required~~ items *given to the person to assist in marketing goods or services under the plan*, the person is entitled to a refund of any consideration given to participate in the sales plan or operation; and

(v) (A) upon the request of a participant deciding to terminate participation in the sales plan or operation, provides for the repurchase, at not less than 90% of the amount paid by the participant, of any currently marketable goods or services sold to the participant within 12 months of the request that have not been resold or consumed by the participant; and

(B) if disclosed to the participant at the time of purchase, provides that goods or services are not considered currently marketable if the goods have been consumed or the services rendered or if the goods or services are seasonal, discontinued, or special promotional items. Sales plan or operation promotional materials, sales aids, and sales kits are subject to the provisions of this subsection ~~(6)(e)(v)~~ (7)(c)(v) if they are a required purchase for the participant or if the participant has received or may receive a financial benefit from their purchase.

(8) *“Transacting business” means to directly or indirectly:*

(a) *offer, sell, distribute, or supply goods or services through independent agents, contractors, or distributors at different levels of distribution; or*

(b) *recruit or attempt to recruit participants in a multilevel distribution company.”*

**Section 5.** Section 30-10-1004, MCA, is amended to read:

**“30-10-1004. (Temporary) Creation of securities restitution assistance fund.** (1) There is an account in the state special revenue fund to the credit of the commissioner for use only for securities restitution assistance. This account may be referred to as the “securities restitution assistance fund” or “fund”. The money in the fund is statutorily appropriated, as provided in 17-7-502, to the commissioner for the purposes provided in subsection (4) of this section.

(2) (a) The fund consists of amounts received by the commissioner from persons who have ~~committed securities violations~~ *violated any provision of parts 1 through 3 of this chapter* and from persons who have voluntarily contributed to the fund.

(b) Amounts received by the commissioner for deposit in the fund do not include administrative penalties or fines imposed under this chapter and as referenced under the Montana Administrative Procedure Act, Title 2, chapter 4, part 6.

(c) The amounts received for the fund may not be placed in the general fund.

(3) Amounts received by the commissioner for deposit in the fund must be promptly turned over to the state treasurer for deposit in the fund created under subsection (1).

(4) The fund may be used by the commissioner only to pay awards of restitution assistance under this part. (Terminates June 30, 2017—sec. 16, Ch. 58, L. 2011.)”

**Section 6. Repealer.** The following section of the Montana Code Annotated is repealed:

30-10-326. Notice of activity — consent to service.

**Section 7. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 30, chapter 10, part 2, and the provisions of Title 30, chapter 10, part 2, apply to [section 1].

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

Approved April 24, 2013

## CHAPTER NO. 287

[SB 127]

AN ACT REVISING THE DEFINITION OF “MISCONDUCT” FOR UNEMPLOYMENT INSURANCE PURPOSES; AND AMENDING SECTION 39-51-201, MCA.

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

**Section 1.** Section 39-51-201, MCA, is amended to read:

**“39-51-201. General definitions.** As used in this chapter, unless the context clearly requires otherwise, the following definitions apply:

(1) “Annual payroll” means the total amount of wages paid by an employer, regardless of the time of payment, for employment during a calendar year.

(2) “Base period” means:

(a) the first 4 of the last 5 completed calendar quarters immediately preceding the first day of an individual’s benefit year;

(b) if the individual does not have sufficient wages to qualify for benefits under subsection (2)(a), the 4 most recently completed calendar quarters immediately preceding the first day of the individual’s benefit year;

(c) in the case of a combined-wage claim pursuant to the arrangement approved by the secretary of labor of the United States, the period applicable under the unemployment law of the paying state; or

(d) for an individual who fails to meet the qualifications of 39-51-2105 or a similar statute of another state because of a temporary total disability, as defined in 39-71-116, or a similar statute of another state or the United States, the first 4 quarters of the last 5 completed calendar quarters preceding the disability if a claim for unemployment benefits is filed within 24 months of the date on which the individual’s disability was incurred.

(3) “Benefit year” means the 52-consecutive-week period beginning with the first day of the calendar week in which an individual files a valid claim for benefits, except that the benefit year is 53 weeks if filing a new valid claim would result in overlapping any quarter of the base period of a previously filed new claim. A subsequent benefit year may not be established in Montana until the expiration of the current benefit year. However, in the case of a combined-wage claim pursuant to the arrangement approved by the secretary of labor of the United States, the benefit year is the period applicable under the unemployment law of the paying state.

(4) “Benefits” means the money payments payable to an individual, as provided in this chapter, with respect to the individual’s unemployment.

(5) “Board” means the board of labor appeals provided for in Title 2, chapter 15, part 17.

(6) “Calendar quarter” means the period of 3 consecutive calendar months ending on March 31, June 30, September 30, or December 31.

(7) "Contributions" means the money payments to the state unemployment insurance fund required by this chapter but does not include assessments under 39-51-404.

(8) "Department" means the department of labor and industry provided for in Title 2, chapter 15, part 17.

(9) (a) "Domestic or household service" means employment of persons other than members of the household for the purpose of tending to the aid and comfort of the employer or members of the employer's family, including but not limited to housecleaning and yard work.

(b) The term does not include employment beyond the scope of normal household or domestic duties, such as home health care or domiciliary care.

(10) "Employing unit" means any individual or organization, including the state government and any of its political subdivisions or instrumentalities or an Indian tribe or tribal unit, partnership, association, trust, estate, joint-stock company, insurance company, limited liability company or limited liability partnership that has filed with the secretary of state, or corporation, whether domestic or foreign, or the receiver, trustee in bankruptcy, trustee or the trustee's successor, or legal representative of a deceased person in whose employ one or more individuals perform or performed services within this state, except as provided under 39-51-204(1)(a) and (1)(p). All individuals performing services within this state for any employing unit that maintains two or more separate establishments within this state are considered to be employed by a single employing unit for all the purposes of this chapter. Each individual employed to perform or assist in performing the work of any agent or employee of an employing unit is considered to be employed by the employing unit for the purposes of this chapter, whether the individual was hired or paid directly by the employing unit or by the agent or employee, provided that the employing unit has actual or constructive knowledge of the work.

(11) "Employment office" means a free public employment office or branch of an office operated by this state or maintained as a part of a state-controlled system of public employment offices or other free public employment offices operated and maintained by the United States government or its instrumentalities as the department may approve.

(12) "Fund" means the unemployment insurance fund established by this chapter to which all contributions and payments in lieu of contributions must be paid and from which all benefits provided under this chapter must be paid.

(13) "Gross misconduct" means a criminal act, other than a violation of a motor vehicle traffic law, for which an individual has been convicted in a criminal court or has admitted or conduct that demonstrates a flagrant and wanton disregard of and for the rights, title, or interest of a fellow employee or the employer.

(14) "Hospital" means an institution that has been licensed, certified, or approved by the state as a hospital.

(15) "Independent contractor" means an individual working under an independent contractor exemption certificate provided for in 39-71-417.

(16) "Indian tribe" means an Indian tribe as defined in the Indian Self-Determination and Education Assistance Act, 25 U.S.C. 450b(e).

(17) (a) "Institution of higher education", for the purposes of this part, means an educational institution that:

(i) admits as regular students only individuals having a certificate of graduation from a high school or the recognized equivalent of a certificate;



(ii) is legally authorized in this state to provide a program of education beyond high school;

(iii) provides an educational program for which the institution awards a bachelor's or higher degree or provides a program that is acceptable for full credit toward a bachelor's or higher degree, a program of postgraduate or postdoctoral studies, or a program of training to prepare students for gainful employment in a recognized occupation; and

(iv) is a public or other nonprofit institution.

(b) All universities in this state are institutions of higher education for purposes of this part.

(18) "Licensed and practicing health care provider" means a health care provider who is primarily responsible for the treatment of a person seeking unemployment insurance benefits and who is:

(a) licensed to practice in this state as:

(i) a physician under Title 37, chapter 3;

(ii) a dentist under Title 37, chapter 4;

(iii) an advanced practice registered nurse under Title 37, chapter 8, and recognized as a nurse practitioner or certified nurse specialist by the board of nursing, established in 2-15-1734;

(iv) a physical therapist under Title 37, chapter 11;

(v) a chiropractor under Title 37, chapter 12;

(vi) a clinical psychologist under Title 37, chapter 17; or

(vii) a physician assistant under Title 37, chapter 20; or

(b) with respect to a person seeking unemployment insurance benefits who resides outside of this state, a health care provider licensed or certified as a member of one of the professions listed in subsection (18)(a) in the jurisdiction where the person seeking the benefit lives.

(19) (a) "Misconduct" includes but is not limited to the following conduct by an employee:

(i) willful or wanton disregard of the rights, title, and interests of a fellow employee or the employer, *including*:

(A) *insubordination showing a deliberate, willful, or purposeful refusal to follow the reasonable directions, processes, or instructions of the employer;*

(B) *repeated inexcusable tardiness following warnings by the employer;*

(C) *dishonesty related to employment, including but not limited to deliberate falsification of company records, theft, deliberate deception, or lying;*

(D) *false statements made as part of a job application process, including but not limited to deliberate falsification of the individual's criminal history, work record, or educational or licensure achievements;*

(E) *repeated and inexcusable absences, including absences for which the employee was able to give advance notice and failed to do so;*

(F) *deliberate acts that are illegal, provoke violence or violation of the law, or violate a collective bargaining agreement by which the employee is covered. However, an employee who engages in lawful union activity may not be disqualified because of misconduct under this subsection (19)(a)(i)(F).*

(G) *violations of a company rule if the rule is reasonable and if the claimant knew or should have known of the existence of the rule; or*

*(H) actions by the claimant who, while acting within the scope of employment, commits violations of law that significantly affect the claimant's job performance or that significantly harm the employer's ability to do business;*

(ii) deliberate violations or disregard of *established employer standards* or of standards of behavior that the employer has the right to expect of an employee;

(iii) carelessness or negligence that causes or is likely to cause serious bodily harm to the employer or a fellow employee; or

(iv) carelessness or negligence of a degree or that reoccurs to a degree to show an intentional or substantial disregard of the employer's interest.

(b) The term does not include:

(i) inefficiency, unsatisfactory conduct, or failure to perform well as the result of inability or incapacity;

(ii) inadvertent or ordinary negligence in isolated instances; or

(iii) good faith errors in judgment or discretion.

(20) "No-additional-cost service" has the meaning provided in section 132 of the Internal Revenue Code, 26 U.S.C. 132.

(21) "State" includes, in addition to the states of the United States of America, the District of Columbia, Puerto Rico, the Virgin Islands, and Canada.

(22) "Taxes" means contributions and assessments required under this chapter but does not include penalties or interest for past-due or unpaid contributions or assessments.

(23) "Tribal unit" means an Indian tribe and any tribal subdivision or subsidiary or any business enterprise that is wholly owned by that tribe.

(24) "Unemployment insurance administration fund" means the unemployment insurance administration fund established by this chapter from which administrative expenses under this chapter must be paid.

(25) (a) "Wages", unless specifically exempted under subsection (25)(b), means all remuneration payable for personal services, including the cash value of all remuneration paid in any medium other than cash. The reasonable cash value of remuneration payable in any medium other than cash must be estimated and determined pursuant to rules prescribed by the department. The term includes but is not limited to:

(i) commissions, bonuses, and remuneration paid for overtime work, holidays, vacations, and sickness periods;

(ii) severance or continuation pay, backpay, and any similar pay made for or in regard to previous service by the employee for the employer, other than retirement or pension benefits from a qualified plan; and

(iii) tips or other gratuities received by the employee, to the extent that the tips or gratuities are documented by the employee to the employer for tax purposes.

(b) The term does not include:

(i) the amount of any payment made by the employer for employees, if the payment was made for:

(A) retirement or pension pursuant to a qualified plan as defined under the provisions of the Internal Revenue Code;

(B) sickness or accident disability under a workers' compensation policy;

(C) medical or hospitalization expenses in connection with sickness or accident disability, including health insurance for the employee or the employee's immediate family; or

(D) death, including life insurance for the employee or the employee's immediate family;

(ii) employee expense reimbursements or allowances for meals, lodging, travel, subsistence, or other expenses, as set forth in department rules;

(iii) a no-additional-cost service;

(iv) wage subsidies received pursuant to the alternative trade adjustment assistance for older workers program, 19 U.S.C. 2318; or

(v) the amount paid as a salary, draw, or profit distribution to a sole proprietor, a working member of a partnership, or a member of a limited liability company that is treated as a partnership or sole proprietorship pursuant to 39-51-207 or to a partner in a limited partnership that has filed with the secretary of state when the salary, draw, or profit distribution is paid directly by the enterprise in which the payee has an ownership interest.

(26) "Week" means a period of 7 consecutive calendar days ending at midnight on Saturday.

(27) "Weekly benefit amount" means the amount of benefits that an individual would be entitled to receive for 1 week of total unemployment."

Approved April 24, 2013

## CHAPTER NO. 288

[SB 154]

AN ACT REQUIRING A NEW ANNUAL SUSTAINABLE YIELD DETERMINATION FOR TIMBER HARVEST ON FORESTED STATE LANDS; REMOVING THE REQUIREMENTS FOR THE ANNUAL TIMBER SALE TARGET; AMENDING SECTIONS 77-5-222 AND 77-5-223, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

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

**Section 1.** Section 77-5-222, MCA, is amended to read:

**"77-5-222. Determination of annual sustainable yield.** (1)(a) *The On July 1, 2013, the* department, under the direction of the board, shall commission a new study by a qualified independent third party to determine, using scientific principles, the annual sustainable yield on forested state lands. The department shall direct the qualified independent third party to determine the yield pursuant to, but not exceeding, all state and federal laws.

(b) *A new study may be commissioned by the department, under the direction of the board, at any time during the 10-year period provided for in subsection (2).*

(2) *A determination of annual sustainable yield under subsection (1) must be reviewed and redetermined by the department, under the direction of the board, at least once every 10 years.*

~~(2) Until the new study required by subsection (1) is completed, the department is directed to set the annual timber sale target at 50 million board feet a year."~~

**Section 2.** Section 77-5-223, MCA, is amended to read:

**"77-5-223. Annual sustainable yield as timber sale requirement — review.** (1) The annual sustainable yield constitutes the annual timber sale requirement for the state timber sale program administered by the department. This annual requirement may be reduced proportionately by the amount of

sustained income to the beneficiaries generated by site-specific alternate land uses approved by the board *based on a determination under 77-5-222*.

~~(2) After it is determined under 77-5-222, the annual sustainable yield must be reviewed and redetermined by the department, under the direction of the board at least once every 10 years."~~

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

Approved April 24, 2013

## CHAPTER NO. 289

[SB 179]

AN ACT REVISING FILING REQUIREMENTS FOR PASS-THROUGH ENTITIES; REQUIRING PARTNERSHIPS WITH MORE THAN 100 MEMBERS TO FILE RETURNS AND REPORTS ELECTRONICALLY; PROVIDING FOR PENALTY PAYMENTS FOR FAILURE TO FILE; GRANTING RULEMAKING AUTHORITY; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE.

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

**Section 1. Electronic partnership return required — waiver — rulemaking.** (1) Subject to subsection (4), each year, a partnership with more than 100 partners shall transmit to the department, in an electronic format approved by the department, all partnership returns, along with the corresponding U.S. department of treasury schedules K-1 and all other related forms and schedules that are required to be attached.

(2) If a partnership fails to file a partnership return electronically in the manner required in subsection (1), the partnership is considered to have failed to file the return and is subject to a penalty pursuant to 15-30-3302(5)(d).

(3) A partnership has more than 100 partners if, over the course of the partnership's tax year, the partnership had more than 100 partners, regardless of whether a partner was a partner for the entire year or whether the partnership had over 100 partners on any particular day in the year.

(4) The department may waive the electronic filing if the partnership demonstrates that software that satisfies the conditions of this section is not readily available or that a hardship will result if it is required to file electronically. A partnership requesting a waiver shall file a written request at least 30 days prior to the date the electronic filing is due.

(5) The department may adopt rules to administer and enforce the provisions of this section.

**Section 2. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 15, chapter 30, part 33, and the provisions of Title 15, chapter 30, part 33, apply to [section 1].

**Section 3. 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 4. Effective date.** [This act] is effective July 1, 2013.

**Section 5. Applicability.** [Section 1] applies to tax years beginning after [the effective date of this act].

Approved April 24, 2013

**CHAPTER NO. 290**

[SB 242]

AN ACT ESTABLISHING A MONTANA AWARD OF VALOROUS SERVICE TO HONOR MONTANA'S FALLEN HEROES WHO WERE MEMBERS OF THE UNITED STATES ARMED FORCES AND WERE KILLED OR CLASSIFIED AS MISSING IN ACTION WHILE SERVING IN COMBAT OR MILITARY OPERATIONS; SPECIFYING ELIGIBILITY CRITERIA AND THE PROCESS FOR AWARDING THE MEDAL; AUTHORIZING THE DEPARTMENT OF MILITARY AFFAIRS TO ACCEPT AND SPEND PRIVATE DONATIONS TO FUND THE AWARD; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

WHEREAS, whenever there are threats to our national security, the United States armed forces stand ready to protect our nation; and

WHEREAS, the United States armed forces also protect the lives and freedoms of individuals from other nations who cannot fight for themselves; and

WHEREAS, the United States armed forces are known for their skill, patriotism, compassion, and bravery in answering the call to serve in countries around the world; and

WHEREAS, the state of Montana has sent many of its own citizens to serve in the regular, national guard, and reserve forces of the United States Army, Air Force, Navy, Marine Corps, and Coast Guard to protect us all against foreign and domestic threats to our national security; and

WHEREAS, many who have been called to serve have been killed in action, courageously sacrificing their lives to protect the lives of others; and

WHEREAS, the people of the state of Montana are grateful to these fallen heroes and wish to support and stand with surviving family members to honor and forever remember these brave servicemen and servicewomen who have given their lives so that others might live.

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

**Section 1. Montana award of valorous service to honor Montana's fallen heroes — administration by department of military affairs.** (1) There is a Montana award of valorous service. The award is to honor members of the United States armed forces who were legal residents of the state of Montana or were stationed in or deployed from Montana and who were, on or after December 7, 1941, killed in the line of duty or were classified as missing in action while:

- (a) engaged in military operations against an enemy of the United States;
- (b) serving with a friendly foreign military force engaged in an armed conflict in which the United States is not a belligerent party; or
- (c) serving in a combat zone designated by presidential order.

(2) (a) The president of the senate shall request the drafting of and shall introduce during each regular legislative session a joint resolution naming each person to be a recipient of the Montana award of valorous service.

(b) If both houses of the legislature pass the joint resolution, the Montana award of valorous service must be presented by the governor, the president of the senate, and the speaker of the house of representatives to a surviving family member, as designated by the award recipient in the defense enrollment eligibility reporting system or by law, during a special joint floor session of the senate and the house of representatives. If the surviving family member of an

award recipient cannot be present to accept the award, the award may be mailed to the surviving family member.

(3) (a) The department of military affairs shall administer the provisions of this section, determine award recipients, including the appropriate surviving family member, and coordinate with the surviving family members and representatives who will be accepting the awards on behalf of the recipients.

(b) Surviving family members or service organizations shall notify the department of military affairs if the surviving family member believes a deceased relative is eligible or if a service organization is aware of possible award recipients.

(4) For purposes of this section, "United States armed forces" means the regular and reserve components of the United States Army, Navy, Air Force, Marine Corps, Coast Guard, and the Merchant Marine.

**Section 2. Authorization of other funding source.** The department of military affairs is authorized to accept and expend up to \$20,000 in funds from donations to purchase and mail medals to surviving family members.

**Section 3. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 1, chapter 1, part 5, and the provisions of Title 1, chapter 1, part 5, apply to [section 1].

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

Approved April 24, 2013

## CHAPTER NO. 291

[SB 345]

AN ACT REVISING LAWS RELATED TO LIABILITY FOR FOREST OR RANGE FIRES; ESTABLISHING A LIMITATION ON REAL AND PERSONAL PROPERTY DAMAGES FOR FOREST OR RANGE FIRES CAUSED BY NEGLIGENT OR UNINTENTIONAL ACTS OR OMISSIONS; AMENDING SECTION 50-63-103, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.

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

**Section 1. Liability for forest or range fires.** (1) In a civil action against any person or legal entity that is not a state government entity or a political subdivision of state government, for a forest or range fire caused by a negligent or unintentional act or omission that is not willful or wanton, the real and personal property damage is limited to:

(a) the reasonable costs for controlling or extinguishing the forest or range fire;

(b) economic damages; and

(c) either:

(i) the diminution of fair market value of the real and personal property resulting from the fire; or

(ii) the actual and tangible restoration costs associated with restoring the damaged real and personal property to its undamaged state to the extent that those actual and tangible restoration costs are reasonable and practical.

(2) As used in this section:

(a) "economic damages" means objectively verifiable monetary loss, including but not limited to out-of-pocket expenses, loss of earnings, loss of use of property, and loss of business or employment opportunities;



(b) “fair market value” means the amount a willing buyer would pay a willing seller in an arm’s-length transaction when both parties are fully informed about all of the advantages and disadvantages of the property and neither is acting under any compulsion to buy or sell, as determined by a certified appraiser who is qualified to appraise the property.

**Section 2.** Section 50-63-103, MCA, is amended to read:

**“50-63-103. Liability of offender for damages and costs.** *A Except as provided in [section 1], a person who sets or leaves a fire that spreads and damages or destroys property of any kind not belonging to the person is liable for all damages caused by the fire, and an owner of property damaged or destroyed by the fire may maintain a civil suit for the purpose of recovering damages. A person who sets or leaves a fire that threatens to spread and damage or destroy property is liable for all costs and expenses incurred, including but not limited to expenses incurred in investigation of the fire and administration of fire suppression, by the state of Montana, by any forestry association, or by any person extinguishing or preventing the spread of the fire.”*

**Section 3. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 50, chapter 63, part 1, and the provisions of Title 50, chapter 63, part 1, apply to [section 1].

**Section 4. Saving clause.** [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

**Section 5. Effective date.** [This act] is effective on passage and approval.

**Section 6. Applicability.** [This act] applies to all actions and proceedings initiated after [the effective date of this act].

Approved April 24, 2013

## CHAPTER NO. 292

[HB 521]

AN ACT REQUIRING PARENTAL CONSENT PRIOR TO AN ABORTION FOR A MINOR; PROVIDING FOR JUDICIAL WAIVER OF THE CONSENT REQUIREMENT; PROVIDING PENALTIES; REPEALING PRIOR STATUTES RELATED TO PARENTAL NOTIFICATION; PROVIDING THAT THE PROPOSED ACT BE SUBMITTED TO THE QUALIFIED ELECTORS OF MONTANA; AMENDING SECTIONS 41-1-405 AND 47-1-104, MCA; REPEALING SECTIONS 50-20-221, 50-20-222, 50-20-223, 50-20-224, 50-20-225, 50-20-228, 50-20-229, 50-20-232, AND 50-20-235, MCA; AND PROVIDING AN EFFECTIVE DATE.

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

**Section 1. Short title.** [Sections 1 through 11] may be cited as the “Parental Consent for Abortion Act of 2013”.

**Section 2. Legislative purpose and findings.** (1) The legislature finds that:

(a) immature minors often lack the ability to make fully informed choices that take into account both immediate and long-range consequences;

(b) the medical, emotional, and psychological consequences of abortion are sometimes serious and can be lasting, particularly when the patient is immature;

(c) the capacity to become pregnant and the capacity for mature judgment concerning the wisdom of an abortion are not necessarily related;

(d) parents ordinarily possess information essential to a physician in the exercise of the physician's best medical judgment concerning the minor;

(e) parents who are aware that their minor daughter has had an abortion may better ensure that the daughter receives adequate medical care after the abortion; and

(f) parental consultation is usually desirable and in the best interests of the minor.

(2) The purpose of [sections 1 through 11] is to further the important and compelling state interests of:

(a) protecting minors against their own immaturity;

(b) fostering family unity and preserving the family as a viable social unit;

(c) protecting the constitutional rights of parents to rear children who are members of their household; and

(d) reducing teenage pregnancy and unnecessary abortion.

**Section 3. Definitions.** As used in [sections 1 through 11], unless the context requires otherwise, the following definitions apply:

(1) "Coerce" means to restrain or dominate the choice of a minor by force, threat of force, or deprivation of food and shelter.

(2) "Consent" means a notarized written statement obtained on a form and executed in the manner prescribed by [section 5] that is signed by a parent or legal guardian of a minor and that declares that the minor intends to seek an abortion and that the parent or legal guardian of the minor consents to the abortion.

(3) "Emancipated minor" means a person under 18 years of age who is or has been married or who has been granted an order of limited emancipation by a court as provided in 41-3-438.

(4) "Medical emergency" means a condition that, on the basis of the good faith clinical judgment of a physician or physician assistant, so complicates the medical condition of a pregnant woman as to necessitate the immediate abortion of the woman's pregnancy to avert the woman's death or a condition for which a delay in treatment will create serious risk of substantial and irreversible impairment of a major bodily function.

(5) "Minor" means a pregnant female under 18 years of age who is not an emancipated minor.

(6) "Physical abuse" means any physical injury intentionally inflicted by a parent or legal guardian on a minor.

(7) "Physician" means a person licensed to practice medicine under Title 37, chapter 3.

(8) "Physician assistant" means a person licensed pursuant to Title 37, chapter 20, who provides medical services under the supervision of a physician.

(9) "Sexual abuse" has the meaning provided in 41-3-102.

**Section 4. Consent of parent or legal guardian required.** (1) Except as provided in [section 7], a physician or physician assistant may not perform an abortion on a minor unless the physician or physician assistant or the agent of the physician or physician assistant first obtains the notarized written consent of a parent or legal guardian of the minor.

(2) The consent of a parent or legal guardian of the minor is invalid unless it is obtained in the manner and on the form prescribed by [section 5].

**Section 5. Consent form — disclosure — requirements for validity.**

(1) The department shall create a consent form to be used by physicians, physician assistants, or their agents in obtaining the consent of a parent or legal guardian as required under [section 4] or in obtaining the waiver of the consent of a parent or legal guardian as provided for in [section 7].

(2) The form must disclose but is not limited to the following:

(a) any information that a physician or physician assistant is required by law to provide to the minor and the rights of the minor;

(b) the rights of the parent or legal guardian;

(c) the surgical or medical procedures that may be performed on the minor;

(d) the risks and hazards related to the procedures planned for the minor, including but not limited to the risks and hazards associated with:

(i) any surgical, medical, or diagnostic procedure, including the potential for infection, blood clots in veins and lungs, hemorrhage, and allergic reactions;

(ii) a surgical abortion, including hemorrhage, uterine perforation or other damage to the uterus, sterility, injury to the bowel or bladder, a potential hysterectomy caused by a complication or injury during the procedure, and the possibility of additional procedures being required because of failure to remove all products of conception;

(iii) a medical or nonsurgical abortion, including hemorrhage, sterility, the continuation of the pregnancy, and the possibility of additional procedures being required because of failure to remove all products of conception; and

(iv) the particular procedure that is planned for the minor, including cramping of the uterus, pelvic pain, infection of the female reproductive organs, cervical laceration, incompetent cervix, and the requirement of emergency treatment for any complications.

(3) The form must include:

(a) a minor consent statement that the minor must sign. The minor consent statement must include but is not limited to the following points, each of which must be initialed by the minor:

(i) the minor understands that the physician or physician assistant is going to perform an abortion on the minor and that the abortion will end the minor's pregnancy;

(ii) the minor is not being coerced into having an abortion, the minor has the choice not to have the abortion, and the minor may withdraw consent at any time prior to the abortion;

(iii) the minor consents to the procedure;

(iv) the minor understands the risks and hazards associated with the surgical or medical procedures planned for the minor;

(v) the minor has been provided the opportunity to ask questions about the pregnancy, alternative forms of treatment, the risk of nontreatment, the procedures to be used, and the risks and hazards involved; and

(vi) the minor has sufficient information to give informed consent.

(b) a parental consent statement that a parent or legal guardian must sign. The parental consent statement must include but is not limited to the following points, each of which must be initialed by a parent or legal guardian:

(i) the parent or legal guardian understands that the physician or physician assistant who signed the physician declaration statement provided for in subsection (3)(c) is going to perform an abortion on the minor that will end the minor's pregnancy;

(ii) the parent or legal guardian had the opportunity to read the consent form or had the opportunity to have the consent form read to the parent or legal guardian;

(iii) the parent or legal guardian had the opportunity to ask questions of the physician or physician assistant or the agent of the physician or physician assistant regarding the information contained in the consent form and the surgical and medical procedures to be performed on the minor;

(iv) the parent or legal guardian has been provided sufficient information to give informed consent.

(c) a physician declaration that the physician or physician assistant must sign, declaring that:

(i) the physician or physician assistant or the agent of the physician or physician assistant explained the procedure and contents of the consent form to the minor and a parent or legal guardian of the minor and answered any questions; and

(ii) to the best of the physician's or physician assistant's knowledge, the minor and a parent or legal guardian of the minor have been adequately informed and have consented to the abortion; and

(d) a signature page for a parent or legal guardian of the minor that must be notarized and that includes an acknowledgment by the parent or legal guardian affirming that the parent or legal guardian is the minor's parent or legal guardian.

**Section 6. Proof of identification and relationship to minor — retention of records.** (1) A parent or legal guardian of a minor who is consenting to the performance of an abortion on the minor shall provide the attending physician or physician assistant or the agent of the physician or physician assistant with government-issued proof of identity and written documentation that establishes that the parent or legal guardian is the lawful parent or legal guardian of the minor.

(2) A physician or physician assistant shall retain the completed consent form and the documentation provided pursuant to subsection (1) in the minor's medical file for 5 years after the minor reaches 18 years of age, but in no event less than 7 years.

(3) A physician or physician assistant receiving documentation under this section shall execute for inclusion in the minor's medical record an affidavit stating: "I, (insert name of physician or physician assistant), certify that according to my best information and belief, a reasonable person under similar circumstances would rely on the information presented by both the minor and the minor's parent or legal guardian as sufficient evidence of identity and relationship."

**Section 7. Exceptions.** Consent is not required under [section 4] if:

(1) the attending physician or physician assistant certifies in the minor's medical record that a medical emergency exists and there is insufficient time to provide consent;

(2) consent is waived, in a notarized writing, by the person entitled to give consent; or

(3) consent is waived under [section 9].

**Section 8. Coercion prohibited.** A parent, a legal guardian, or any other person may not coerce a minor to have an abortion. If a minor is denied financial support by the minor's parents, legal guardian, or custodian because of the minor's refusal to have an abortion, the minor must be considered an emancipated minor for the purposes of eligibility for public assistance benefits. The public assistance benefits may not be used to obtain an abortion.

**Section 9. Procedure for judicial waiver of consent.** (1) The requirements and procedures under this section are available to minors whether or not they are residents of this state.

(2) A minor may petition the youth court for a waiver of the requirement for consent and may participate in the proceedings on the minor's own behalf. The petition must include a statement that the minor is pregnant and is not emancipated. The court may appoint a guardian ad litem for the minor. A guardian ad litem is required to maintain the confidentiality of the proceedings. The youth court shall advise the minor of the right to assigned counsel and shall order the office of state public defender, provided for in 47-1-201, to assign counsel upon request.

(3) Proceedings under this section are confidential and must ensure the anonymity of the minor. All proceedings under this section must be sealed. The minor may file the petition using a pseudonym or using the minor's initials. All documents related to the petition and the proceedings on the petition are confidential and are not available to the public. The proceedings on the petition must be given preference over other pending matters to the extent necessary to ensure that the court reaches a prompt decision. The court shall issue written findings of fact and conclusions of law and rule within 48 hours of the time that the petition is filed unless the time is extended at the request of the minor. If the court fails to rule within 48 hours and the time is not extended, the petition is granted and the requirement for consent is waived.

(4) If the court finds that the minor is competent to decide whether to have an abortion, the court shall issue an order authorizing the minor to consent to the performance or inducement of an abortion without the consent of a parent or legal guardian.

(5) The court shall issue an order authorizing the minor to consent to an abortion without the consent of a parent or legal guardian if the court finds that:

(a) there is evidence of physical abuse, sexual abuse, or emotional abuse of the minor by one or both parents, a legal guardian, or a custodian; or

(b) the consent of a parent or legal guardian is not in the best interests of the minor.

(6) If the court does not make a finding specified in subsection (4) or (5), the court shall dismiss the petition.

(7) A court that conducts proceedings under this section shall issue written and specific findings of fact and conclusions of law supporting its decision and shall order that a confidential record of the evidence, findings, and conclusions be maintained.

(8) The supreme court may adopt rules providing an expedited confidential appeal by a minor if the youth court denies a petition. An order authorizing an abortion without the consent of a parent or legal guardian is not subject to appeal.

(9) Filing fees may not be required of a minor who petitions a court for a waiver of the requirement for consent or who appeals a denial of a petition.

**Section 10. Criminal and civil penalties.** (1) A person convicted of performing an abortion in violation of [section 4] shall be fined an amount not to exceed \$1,000 or be imprisoned in the county jail for a term not to exceed 1 year, or both. On a second or subsequent conviction, the person shall be fined an amount not less than \$500 or more than \$50,000 and be imprisoned in the state prison for a term of not less than 10 days or more than 5 years, or both.

(2) Failure to obtain the consent required under [section 4] is prima facie evidence in an appropriate civil action for a violation of a professional obligation. The evidence does not apply to issues other than failure to obtain the consent of a parent or legal guardian. A civil action may be based on a claim that the failure to obtain consent was the result of a violation of the appropriate legal standard of care. Failure to obtain consent is presumed to be actual malice pursuant to the provisions of 27-1-221. [Sections 1 through 11] do not limit the common-law rights of parents.

(3) A person who coerces a minor to have an abortion is guilty of a misdemeanor and upon conviction shall be fined an amount not to exceed \$1,000 or be imprisoned in the county jail for a term not to exceed 1 year, or both. On a second or subsequent conviction, the person shall be fined an amount not less than \$500 or more than \$50,000 and be imprisoned in the state prison for a term of not less than 10 days or more than 5 years, or both.

(4) A person not authorized to grant consent under [section 4] who signs a consent form provided for in [section 5] is guilty of a misdemeanor.

**Section 11. Construction.** Nothing in [sections 1 through 11] may be construed as creating or recognizing a right to abortion. It is not the intention of [sections 1 through 11] to make lawful an abortion that is currently unlawful.

**Section 12.** Section 41-1-405, MCA, is amended to read:

**“41-1-405. Emergencies and special situations.** (1) A health professional may render or attempt to render emergency service or first aid, medical, surgical, dental, or psychiatric treatment, without compensation, to any injured person or any person regardless of age who is in need of immediate health care when, in good faith, the professional believes that the giving of aid is the only alternative to probable death or serious physical or mental damage.

(2) A health professional may render nonemergency services to minors for conditions that will endanger the health or life of the minor if services would be delayed by obtaining consent from spouse, parent, parents, or legal guardian.

(3) Consent may not be required of a minor who does not possess the mental capacity or who has a physical disability that renders the minor incapable of giving consent and who has no known relatives or legal guardians, if a physician determines that the health service should be given.

(4) Self-consent of minors does not apply to sterilization or abortion, except as provided in ~~Title 50, chapter 20, part 2~~ [sections 1 through 11].”

**Section 13.** Section 47-1-104, MCA, is amended to read:

**“47-1-104. Statewide system — structure and scope of services — assignment of counsel at public expense.** (1) There is a statewide public defender system, which is required to deliver public defender services in all courts in this state. The system is supervised by the commission and administered by the office.

(2) The commission shall approve a strategic plan for service delivery and divide the state into not more than 11 public defender regions. The commission may establish a regional office to provide public defender services in each region, as provided in 47-1-215, establish a contracted services program to provide



services in the region, or utilize other service delivery methods as appropriate and consistent with the purposes described in 47-1-102.

(3) When a court orders the office or the office of appellate defender to assign counsel, the appropriate office shall immediately assign a public defender qualified to provide the required services. The commission shall establish protocols to ensure that the offices make appropriate assignments in a timely manner.

(4) A court may order an office to assign counsel under this chapter in the following cases:

(a) in cases in which a person is entitled to assistance of counsel at public expense because of financial inability to retain private counsel, subject to a determination of indigence pursuant to 47-1-111, as follows:

(i) for a person charged with a felony or charged with a misdemeanor for which there is a possibility of incarceration, as provided in 46-8-101;

(ii) for a party in a proceeding to determine parentage under the Uniform Parentage Act, as provided in 40-6-119;

(iii) for a parent, guardian, or other person with physical or legal custody of a child or youth in any removal, placement, or termination proceeding pursuant to 41-3-422 and as required under the federal Indian Child Welfare Act, as provided in 41-3-425;

(iv) for an applicant for sentence review pursuant to Title 46, chapter 18, part 9;

(v) for a petitioner in a proceeding for postconviction relief, as provided in 46-21-201;

(vi) for a petitioner in a habeas corpus proceeding pursuant to Title 46, chapter 22;

(vii) for a parent or guardian in a proceeding for the involuntary commitment of a developmentally disabled person to a residential facility, as provided in 53-20-112;

(viii) for a respondent in a proceeding for involuntary commitment for a mental disorder, as provided in 53-21-116;

(ix) for a respondent in a proceeding for the involuntary commitment of a person for alcoholism, as provided in 53-24-302; and

(x) for a witness in a criminal grand jury proceeding, as provided in 46-4-304.

(b) in cases in which a person is entitled by law to the assistance of counsel at public expense regardless of the person's financial ability to retain private counsel, as follows:

(i) as provided for in 41-3-425;

(ii) for a youth in a proceeding under the Montana Youth Court Act alleging a youth is delinquent or in need of intervention, as provided in 41-5-1413, and in a prosecution under the Extended Jurisdiction Prosecution Act, as provided in 41-5-1607;

(iii) for a juvenile entitled to assigned counsel in a proceeding under the Interstate Compact on Juveniles, as provided in 41-6-101;

(iv) for a minor who petitions for a waiver of parental ~~notification consent~~ requirements under the ~~Parental Notice of Abortion Act~~ *Parental Consent for Abortion Act of 2013*, as provided in ~~50-20-232~~ [section 9];

(v) for a respondent in a proceeding for the involuntary commitment of a developmentally disabled person to a residential facility, as provided in 53-20-112;

(vi) for a minor voluntarily committed to a mental health facility, as provided in 53-21-112;

(vii) for a person who is the subject of a petition for the appointment of a guardian or conservator in a proceeding under the provisions of the Uniform Probate Code in Title 72, chapter 5;

(viii) for a ward when the ward's guardian has filed a petition to require medical treatment for a mental disorder of the ward, as provided in 72-5-322; and

(c) for an eligible appellant in an appeal of a proceeding listed in this subsection (4).

(5) (a) Except as provided in subsection (5)(b), a public defender may not be assigned to act as a court-appointed special advocate or guardian ad litem in a proceeding under the Montana Youth Court Act, Title 41, chapter 5, or in an abuse and neglect proceeding under Title 41, chapter 3.

(b) A private attorney who is contracted with under the provisions of 47-1-216 to provide public defender services under this chapter may be appointed as a court-appointed special advocate or guardian ad litem in a proceeding described in subsection (5)(a) if the appointment is separate from the attorney's service for the statewide public defender system and does not result in a conflict of interest."

**Section 14. Repealer.** The following sections of the Montana Code Annotated are repealed:

- 50-20-221. Short title.
- 50-20-222. Legislative purpose and findings.
- 50-20-223. Definitions.
- 50-20-224. Notice of parent required.
- 50-20-225. Alternative notification.
- 50-20-228. Exceptions.
- 50-20-229. Coercion prohibited.
- 50-20-232. Procedure for judicial waiver of notice.
- 50-20-235. Criminal and civil penalties.

**Section 15. Codification instruction.** [Sections 1 through 11] are intended to be codified as an integral part of Title 50, chapter 20, and the provisions of Title 50, chapter 20, apply to [sections 1 through 11].

**Section 16. Coordination instruction.** If both House Bill No. 391 and [this act] are passed and approved, then [this act] is void.

**Section 17. Effective date.** If approved by the electorate, [this act] is effective January 1, 2015.

**Section 18. Submission to electorate.** [This act] shall be submitted to the qualified electors of Montana at the general election to be held in November 2014 by printing on the ballot the full title of [this act] and the following:

- YES on Legislative Referendum No. \_\_\_\_
- NO on Legislative Referendum No. \_\_\_\_

**CHAPTER NO. 293**

[HB 3]

AN ACT APPROPRIATING MONEY TO VARIOUS STATE AGENCIES FOR THE FISCAL YEAR ENDING JUNE 30, 2013; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

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

**Section 1. Time limits.** The appropriations contained in [section 2] are intended to provide necessary and ordinary expenditures for the fiscal year ending June 30, 2013. Except as provided in [section 2(2)], the unspent balance of any appropriation must revert to the appropriate fund.

**Section 2. Appropriations — authorization to expend money.** (1) The following money is appropriated, subject to the terms and conditions of [section 1]:

Agency and Program	Amount	Fund
Office of Public Instruction		
State Tuition Payments	\$172,698	General Fund
BASE Aid	\$39,899,927	General Fund
Block Grants	\$3,683,002	General Fund
Department of Justice		
Major Litigation	\$1,149,477	General Fund
Exempt Staff Payouts	\$43,037	General Fund
	\$60,611	State Special Revenue
Public Safety Officer Standards and Training	\$177,723	General Fund
Governor's Office		
Exempt Staff Payouts	\$276,061	General Fund
Department of Natural Resources and Conservation		
Fire Suppression	\$50,000,000	General Fund
Department of Administration		
Montana Lottery	\$2,000,000	Proprietary Fund
Risk Management and Tort Defense	\$13,400,000	General Fund
Office of Public Defender		
Public Defender	\$3,200,000	General Fund
Appellate Defender	\$200,000	General Fund
Department of Corrections		
Secure Facilities	\$6,597,000	General Fund
	\$750,000	State Special Revenue
Department of Military Affairs		
Disaster and Emergency Services	\$6,547,080	Federal Special Revenue

(2) By August 1, 2013, any supplemental funds appropriated to the department of natural resources and conservation for the purpose of fire

suppression that remain unencumbered after July 1, 2013, must be transferred by the state treasurer to the fire suppression account provided for in 76-13-150.

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

Approved April 25, 2013

## CHAPTER NO. 294

[HB 4]

AN ACT APPROPRIATING MONEY THAT WOULD USUALLY BE APPROPRIATED BY BUDGET AMENDMENT TO VARIOUS STATE AGENCIES FOR THE FISCAL YEAR ENDING JUNE 30, 2013; PROVIDING THAT CERTAIN APPROPRIATIONS CONTINUE INTO STATE AND FEDERAL FISCAL YEARS 2014 AND 2015; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

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

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

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

Agency and Program

Judiciary

District Court Operations

All remaining fiscal year 2013 federal budget amendment authority for the Office of Justice Programs veteran's treatment court, the Substance Abuse and Mental Health Services Administration veteran's treatment court, and the 9th Judicial District drug court implementation project is authorized to continue into federal fiscal year 2014.

All remaining fiscal year 2013 federal budget amendment authority for the Montana statewide drug court application is authorized to continue into state fiscal year 2015.

Governor's Office

Executive Office Program

All remaining fiscal year 2013 federal budget amendment authority for the small business credit initiative is authorized to continue into federal fiscal year 2015.

Secretary of State

Business and Government Services

All remaining fiscal year 2013 federal budget amendment authority for the help America vote grant, the election assistance for individuals with disabilities grant, the help America vote grant part II, and the electronic absentee system is authorized to continue into federal fiscal year 2015.

Office of Public Instruction

OPI Administration

All remaining fiscal year 2013 federal budget amendment authority for the striving readers project is authorized to continue into federal fiscal year 2014.

## Distribution to Public Schools

All remaining fiscal year 2013 federal budget amendment authority for the striving readers project is authorized to continue into federal fiscal year 2014.

## Department of Justice

## Legal Services Division

Victim compensation formula grant	FY 2013	\$73,238	Federal
-----------------------------------	---------	----------	---------

All remaining fiscal year 2013 federal budget amendment authority for the information network training enforcement response collaborative efforts develop effectiveness project is authorized to continue into state fiscal year 2015.

All remaining federal fiscal year 2013 budget amendment authority for the victim compensation formula grant is authorized to continue into federal fiscal year 2015.

## Office of Consumer Protection

All remaining fiscal year 2013 federal budget amendment authority for the prescription drug financial assistance program is authorized to continue into state fiscal year 2015.

All remaining fiscal year 2013 federal budget amendment authority for the mortgage settlement is authorized to continue into federal fiscal year 2015.

## Motor Vehicle Division

All remaining fiscal year 2013 federal budget amendment authority for the commercial driver's licenses information system and the contracted program support staff driving Montana's commercial driver's license modernization implementation is authorized to continue into state fiscal year 2014.

All remaining fiscal year 2013 federal budget amendment authority for the commercial driver's license help desk improvement grant is authorized to continue into state fiscal year 2015.

## Highway Patrol Division

All remaining fiscal year 2013 federal budget amendment authority for the 2012 high intensity drug trafficking areas grant is authorized to continue into state fiscal year 2014.

## Division of Criminal Investigations

Federal forfeiture	FY 2013	\$100,313	Federal
Tactical diversion squad task force	FY 2013	\$17,203	Federal
Organized crime drug enforcement task forces reservation runners	FY 2013	\$2,500	Federal
Organized crime drug enforcement task forces Little Big Horn	FY 2013	\$1,500	Federal
Organized crime drug enforcement task forces weed be gone	FY 2013	\$1,500	Federal
Organized crime drug enforcement task forces road warriors	FY 2013	\$4,500	Federal
State and local overtime initial allocation	FY 2013	\$15,000	Federal
Big Sky safe streets task force	FY 2013	\$17,203	Federal

## Forensic Science Division

All remaining fiscal year 2013 federal budget amendment authority for the 2012 DNA backlog reduction program is authorized to continue into state fiscal year 2014.

## Public Service Regulation

## Public Service Regulation Program

All remaining fiscal year 2013 federal budget amendment authority for the state electricity regulators assistance is authorized to continue into state fiscal year 2015.

## Montana Arts Council

## Promotion of the Arts Division

All remaining fiscal year 2013 federal budget amendment authority for the Montana artists in business grant is authorized to continue into state fiscal year 2014.

## Montana Library Commission

## Statewide Library Resources

## Library Services and Technology

Act state grants	FY 2013	\$809,397	Federal
------------------	---------	-----------	---------

All remaining fiscal year 2013 federal budget amendment authority for the geographic information system and Library Services and Technology Act state grants is authorized to continue into federal fiscal year 2014.

## Montana Historical Society

## Research Center

## State and national archival

partnership project	FY 2013	\$13,260	Federal
---------------------	---------	----------	---------

All remaining fiscal year 2013 budget amendment authority for the film "Montana. . . Land of the Big Sky" and the state and national archival partnership project is authorized to continue into state fiscal year 2014.

## Publications

All remaining fiscal year 2013 federal budget amendment authority for the book project "Children of the Hill: The Meaning and Making of Childhood in Butte" is authorized to continue into state fiscal year 2014.

## Education Program

All remaining fiscal year 2013 federal budget amendment authority for the national endowment for the humanities "The Richest Hills: Mining in the Far West, 1862-1920" project is authorized to continue into state fiscal year 2014.

## Historic Preservation Program

## Cultural resource annotated bibliography

system and the cultural resources information system database	FY 2013	\$5,000	Federal
---	---------	---------	---------

## State historic preservation office

file search fees	FY 2013	\$17,500	Proprietary
------------------	---------	----------	-------------

All remaining fiscal year 2013 federal budget amendment authority for the cultural resource annotated bibliography system and the cultural resources information system database is authorized to continue into state fiscal year 2014.

All remaining fiscal year 2013 federal budget amendment authority for the cultural resources annotated bibliography system and the cultural resources information system is authorized to continue into federal fiscal year 2014.



## Department of Fish, Wildlife, and Parks

## Fisheries Division

Biological research, fisheries monitoring,  
and pallid sturgeon propagation FY 2013 \$850 Federal

All remaining fiscal year 2013 federal budget amendment authority for the Hungry Horse dam mitigation and Sekokini Springs project, the mainstream amendments research, the Libby dam mitigation plan, the Middle and North Fork Flathead River weed management project, and the westslope cutthroat trout restoration and remediation work on the Lewis and Clark national forest is authorized to continue into state fiscal year 2014.

All remaining fiscal year 2013 federal budget amendment authority for conducting angler and boater surveys and inspections, the westslope cutthroat trout restoration program, cutthroat trout genetics work in the waters of Gallatin national forest, and biological research, fisheries monitoring, and pallid sturgeon propagation is authorized to continue into federal fiscal year 2014.

All remaining fiscal year 2013 federal budget amendment authority for the cutthroat population protection barrier construction project is authorized to continue into state fiscal year 2015.

All remaining fiscal year 2013 federal budget amendment authority for the swan aquatic invasive species prevention project, the candidate conservation agreement with assurances program for arctic grayling in the Big Hole Valley, genetics testing of westslope cutthroat and bull trout, the suppression of lake trout in Swan Lake, the restoration of genetically pure westslope cutthroat trout in Cherry Creek, native fish genetics in the Blackfoot Watershed, the implementation of the Montana state aquatic invasive species plan, the density of pallid sturgeon and food and web dynamics in the Missouri River, the aquatic invasive species prevention, the Red Rock Lakes grayling study, the painted rocks reservoir operations and maintenance, the Blackfoot River recreation management partnership, and the arctic grayling recovery project is authorized to continue into federal fiscal year 2015.

## Enforcement Division

State recreational boating safety  
grant program FY 2013 \$485,200 Federal

All remaining fiscal year 2013 federal budget amendment authority for the TIP-MONT program is authorized to continue into state fiscal year 2014.

## Wildlife Division

All remaining fiscal year 2013 federal budget amendment authority for statewide bird monitoring with an emphasis on priority and declining bird species, the pronghorn antelope study, and the elk productivity, survival, and recruitment study is authorized to continue into state fiscal year 2014.

All remaining fiscal year 2013 federal budget amendment authority for the grizzly bear management assistance in Northwestern Montana is authorized to continue into state fiscal year 2015.

All remaining fiscal year 2013 federal budget amendment authority for the grizzly bear management assistance in Montana, the bear conflict management in the Cabinet-Yaak region, the bear management specialist, the fiscal year 2012 legacy administration grant, the grizzly bear trend survey, and the elk surveys in the Bitterroot River basin is authorized to continue into federal fiscal year 2015.

## Parks Division

State recreational boating safety  
grant program                      FY 2013              \$37,000      Federal

All remaining fiscal year 2013 federal budget amendment authority for the land and water conservation fund is authorized to continue into state fiscal year 2015.

All remaining fiscal year 2013 federal budget amendment authority for the Smith River corridor management project is authorized to continue into federal fiscal year 2015.

## Capital Outlay

All remaining fiscal year 2013 federal budget amendment authority for the arctic grayling spawning habitat project, the Cherry Creek westslope cutthroat trout restoration project, and the operation and maintenance of the Canyon Ferry wildlife management area is authorized to continue into federal fiscal year 2015.

## Management and Finance Division

All remaining fiscal year 2013 federal budget amendment authority for the Blackfoot River easement project and the great plains wind energy program is authorized to continue into state fiscal year 2014.

All remaining fiscal year 2013 federal budget amendment authority for the wildlife survey and inventory program is authorized to continue into state fiscal year 2015.

## Fish and Wildlife Administration

Comprehensive wildlife  
conservation plan                      FY 2013              \$30,900      Federal

All remaining fiscal year 2013 federal budget amendment authority for the data integration and collaborative services for crucial areas assessments, the comprehensive wildlife conservation plan, and the species and habitat monitoring work along the Montana-Idaho border is authorized to continue into state fiscal year 2014.

All remaining fiscal year 2013 federal budget amendment authority for monitoring wildlife response to energy development is authorized to continue into federal fiscal year 2015.

## Department of Environmental Quality

## Central Management Program

All remaining fiscal year 2013 federal budget amendment authority for the fiscal year 2009 exchange network and the fiscal year 2012 exchange network is authorized to continue into federal fiscal year 2014.

## Planning, Prevention, and Assistance Division

All remaining fiscal year 2013 federal budget amendment authority for the 106 supplemental monitoring initiative is authorized to continue into state fiscal year 2014.

## Remediation Division

All remaining fiscal year 2013 federal budget amendment authority for the fiscal year 2010 abandoned mine lands reclamation grant is authorized to continue into state fiscal year 2015.

All remaining fiscal year 2013 federal budget amendment authority for the fiscal year 2011 abandoned mine lands reclamation grant and the fiscal year

2012 abandoned mine lands reclamation grant is authorized to continue into federal fiscal year 2015.

Permitting and Compliance Division

Zortman/Landusky water treatment and reclamation	FY 2013	\$246,681	Federal
--	---------	-----------	---------

All remaining fiscal year 2013 federal budget amendment authority for air quality monitoring and the Zortman/Landusky water treatment and reclamation projects is authorized to continue into federal fiscal year 2015.

Department of Transportation

Construction Program

Fiscal year 2013 emergency relief funds	FY 2013	\$29,706,769	Federal
---	---------	--------------	---------

Yellowstone international airport interchange development	FY 2013	\$8,976,224	Federal
---	---------	-------------	---------

All remaining fiscal year 2013 federal budget amendment authority for the Pipe Creek road pavement preservation and guardrail project is authorized to continue into federal fiscal year 2014.

All remaining fiscal year 2013 federal budget amendment authority for the Yellowstone international airport interchange development is authorized to continue into state fiscal year 2015.

All remaining fiscal year 2013 federal budget amendment authority for the fiscal year 2013 emergency relief funds is authorized to continue into federal fiscal year 2015.

All remaining fiscal year 2013 federal budget authority authorized in section 85, Chapter 489, Laws of 2009, for highway funding is authorized to continue into federal fiscal year 2015.

Maintenance Program

All remaining fiscal year 2013 federal budget amendment authority for the north/west passage corridor is authorized to continue into state fiscal year 2015.

All remaining fiscal year 2013 federal budget amendment authority for the emergency relief funds is authorized to continue into federal fiscal year 2015.

Rail, Transit, and Planning

All remaining fiscal year 2013 federal budget amendment authority for the Pipe Creek road pavement preservation and guardrail project is authorized to continue into federal fiscal year 2014.

All remaining fiscal year 2013 federal budget amendment authority for the state judicial outreach liaisons is authorized to continue into state fiscal year 2015.

All remaining fiscal year 2013 federal budget amendment authority for the great northern corridor multistate planning and development study, the 2011 federal transit administration discretionary grants, the emergency relief funds, and the 2012 federal transit administration discretionary grants is authorized to continue into federal fiscal year 2015.

All remaining fiscal year 2013 federal budget authority authorized in section 85, Chapter 489, Laws of 2009, for the transit formula funding is authorized to continue into federal fiscal year 2015.

## Department of Natural Resources and Conservation

## Conservation and Resource Development Division

All remaining fiscal year 2013 federal budget authority authorized in section 85, Chapter 489, Laws of 2009, for the Montana water pollution state revolving fund and the Montana drinking water state revolving fund is authorized to continue into state fiscal year 2014.

All remaining fiscal year 2013 federal budget amendment authority for the fiscal year 2010 safe drinking water state revolving fund, the fiscal year 2010 clean water state revolving fund, the fiscal year 2012 safe drinking water state revolving fund, the fiscal year 2012 clean water state revolving fund, the fiscal year 2011 safe drinking water state revolving fund, the fiscal year 2013 clean water state revolving fund, and the fiscal year 2013 safe drinking water capitalization grant is authorized to continue into federal fiscal year 2015.

## Water Resources Division

## Public notice for Crow water rights

preliminary decree	FY 2013	\$21,800	Federal
--------------------	---------	----------	---------

Community assistance program	FY 2013	\$16,000	Federal
------------------------------	---------	----------	---------

All remaining fiscal year 2013 federal budget amendment authority for the digital flood insurance map for Yellowstone County and the public notice for Crow water rights preliminary decree is authorized to continue into state fiscal year 2014.

All remaining fiscal year 2013 federal budget amendment authority for the Flint Creek ditch diversion replacement and fish screen project and the collection of topographic data along stream corridors is authorized to continue into federal fiscal year 2014.

All remaining fiscal year 2013 federal budget amendment authority for the flood plain mapping for Granite County, the flood plain mapping for Missoula County, the flood plain mapping for Gallatin County, and the flood plain mapping for Flathead County is authorized to continue into federal fiscal year 2015.

## Forestry and Trust Lands Division

All remaining fiscal year 2013 federal budget amendment authority for the fiscal year 2009 forest stewardship program, forest health management and urban and community forestry, state fire assistance and volunteer fire assistance and conservation education, and noxious weed control at gravel pits is authorized to continue into state fiscal year 2014.

All remaining fiscal year 2013 federal budget amendment authority for the fiscal year 2011 forest stewardship program, forest health management and urban and community forestry, state fire assistance and volunteer fire assistance and conservation education, the fiscal year 2011 hazardous fuels reduction on adjacent nonfederal lands, the fiscal year 2011 forest health protection for western bark beetle, the biomass utilization, the fiscal year 2009 hazardous fuel reduction work on adjacent nonfederal lands, the prescribed burning program on the Gallatin National Forest, and the ready reserve rural fire assistance is authorized to continue into federal fiscal year 2014.

All remaining fiscal year 2013 federal budget amendment authority for the forest health management western bark beetle/white pine blister rust and the fiscal year 2010 forest stewardship program, forest health management and urban and community forestry, and state fire assistance and volunteer fire assistance and conservation education is authorized to continue into state fiscal year 2015.

All remaining fiscal year 2013 federal budget amendment authority for the Helena interagency dispatch center, prescribed burns on federal lands, the Montana forest restoration committee collaborative, the hazardous fuel reduction on adjacent nonfederal lands, additional staffing for prescribed burning activities, the forest health protection for western bark beetle, whitebark pine cone collection, the fiscal year 2010 hazardous fuels reduction, the fiscal year 2012 forest stewardship program, forest health management and urban and community forestry, and state fire assistance and volunteer fire assistance and conservation education, the Montana cooperative fire management and Stafford Act response agreement, the conservation reserve program, the fiscal year 2012 cohesive strategy consolidated payments grant, and technical assistance on forest-based conservation and enhancement is authorized to continue into federal fiscal year 2015.

Department of Administration

Information Technology Services Division

All remaining fiscal year 2013 federal budget amendment authority for the community oriented policing services grant is authorized to continue into state fiscal year 2014.

All remaining fiscal year 2013 federal budget amendment authority for integration and enhancement of a statewide digital cadastral database and completing the project to map broadband availability is authorized to continue into state fiscal year 2015.

Department of Agriculture

Agricultural Development Division

All remaining fiscal year 2013 federal budget amendment authority for the fiscal year 2011 specialty crop block grant program and to develop efficiencies in food processing for rural farm-to-school programs through school food nutrition service cooperative agreements is authorized to continue into federal fiscal year 2014.

All remaining fiscal year 2013 federal budget amendment authority for the fiscal year 2012 specialty crop block grant program is authorized to continue into federal fiscal year 2015.

Department of Corrections

Youth services

All remaining fiscal year 2013 federal budget amendment authority for the rural school achievement program is authorized to continue into federal fiscal year 2014.

Administration and Financial Services

All remaining fiscal year 2013 federal budget amendment authority for the Prison Rape Elimination Act is authorized to continue into federal fiscal year 2014.

Adult Community Corrections

All remaining fiscal year 2013 federal budget amendment authority for smart probation in Montana is authorized to continue into federal fiscal year 2014.

Secure Custody Facilities

All remaining fiscal year 2013 federal budget amendment authority for "Family Matters: The Family Engagement Program" is authorized to continue into federal fiscal year 2014.

## Department of Commerce

## Business Resources Division

All remaining fiscal year 2013 federal budget amendment authority for the Small Business Jobs Act program is authorized to continue into state fiscal year 2014.

All remaining fiscal year 2013 federal budget amendment authority for the small business administration congressional earmark grant is authorized to continue into federal fiscal year 2014.

All remaining fiscal year 2013 federal budget amendment authority for the project to map broadband availability is authorized to continue into state fiscal year 2015.

## Community Development Division

All remaining fiscal year 2013 federal budget amendment authority for the neighborhood stabilization program part I and the neighborhood stabilization program part III is authorized to continue into state fiscal year 2014.

## Housing Division

## Section 811 project rental assistance

demonstration program	FY 2013	\$2,000,000	Federal
-----------------------	---------	-------------	---------

All remaining fiscal year 2013 federal budget amendment authority for the emergency homeowners' loan program is authorized to continue into state fiscal year 2014.

All remaining fiscal year 2013 federal budget amendment authority for the project rental assistance demonstration program is authorized to continue into federal fiscal year 2015.

## Department of Labor and Industry

## Workforce Services Division

## Developing current labor exchange system by enhancing matching and integrating labor exchange with educational information

FY 2013	\$338,726	Federal
---------	-----------	---------

All remaining fiscal year 2013 federal budget amendment authority for the on-the-job training and fiscal year 2012 reemployment eligibility assessment is authorized to continue into state fiscal year 2014.

All remaining fiscal year 2013 federal budget amendment authority for updating the Montana works system for services to veterans is authorized to continue into federal fiscal year 2014.

All remaining fiscal year 2013 federal budget amendment authority for developing current labor exchange system by enhancing matching and integrating labor exchange with educational information is authorized to continue into federal fiscal year 2015.

## Unemployment Insurance Division

## Fiscal year 2012 reemployment eligibility assessment

FY 2013	\$1,000	Federal
---------	---------	---------

## Fiscal year 2013 unemployment insurance state administration

FY 2013	\$371,543	Federal
---------	-----------	---------

## Fiscal year 2013 emergency unemployment compensation

FY 2013	\$236,297	Federal
---------	-----------	---------

## Emergency unemployment compensation

FY 2013	\$279,829	Federal
---------	-----------	---------



All remaining fiscal year 2013 federal budget amendment authority for the fiscal year 2011 unemployment insurance program, fiscal year 2012 reemployment eligibility assessment, and the fiscal year 2011 emergency unemployment compensation is authorized to continue into state fiscal year 2014.

All remaining fiscal year 2013 federal budget amendment authority for the fiscal year 2012 unemployment insurance program and the fiscal year 2012 emergency unemployment compensation is authorized to continue into state fiscal year 2015.

All remaining fiscal year 2013 federal budget amendment authority for the fiscal year 2013 emergency unemployment compensation is authorized to continue into federal fiscal year 2015.

#### Department of Military Affairs

##### Starbase Program

Starbase partial funding	FY 2013	\$150,000	Federal
--------------------------	---------	-----------	---------

##### Disaster and Emergency Services

Fiscal year 2012 hazard mitigation grants program	FY 2013	\$604,330	Federal
---	---------	-----------	---------

Hazardous materials transportation program	FY 2013	\$172,532	Federal
--	---------	-----------	---------

All remaining fiscal year 2013 federal budget amendment authority for the northern tier consortium border interoperability demonstration project is authorized to continue into state fiscal year 2014.

All remaining fiscal year 2013 federal budget amendment authority for the fiscal year 2011 predisaster mitigation competitive grant, the 2011 homeland security grant program, and the 2012 homeland security grant program is authorized to continue into federal fiscal year 2014.

All remaining fiscal year 2013 federal budget amendment authority for the fiscal year 2010 predisaster mitigation competitive grant, the fiscal year 2012 predisaster mitigation competitive grant, and the fiscal year 2011 hazard mitigation grants program is authorized to continue into state fiscal year 2015.

All remaining fiscal year 2013 federal budget amendment authority for the fiscal year 2012 hazard mitigation grants program is authorized to continue into federal fiscal year 2015.

#### Department of Public Health and Human Services

##### Human and Community Services

All remaining fiscal year 2013 federal budget amendment authority for the child care wellness program grants is authorized to continue into state fiscal year 2014.

All remaining fiscal year 2013 federal budget amendment authority for the food stamp performance bonus is authorized to continue into federal fiscal year 2015.

##### Child and Family Services

All remaining fiscal year 2013 federal budget amendment authority for the adoption incentive payments program is authorized to continue into federal fiscal year 2014.

##### Public Health and Safety Division

All remaining fiscal year 2013 federal budget amendment authority for the personal responsibility education program and the Affordable Care Act

maternal, infant, and early childhood home visiting program is authorized to continue into federal fiscal year 2014.

Developmental Services Division

All remaining fiscal year 2013 federal budget amendment authority for alternatives to Medicaid to psychiatric residential treatment facilities is authorized to continue into federal fiscal year 2014.

Health Resources Division

Adult medicaid quality grants	FY 2013	\$500,000	Federal
-------------------------------	---------	-----------	---------

All remaining fiscal year 2013 federal budget amendment authority for adult medicaid quality grants is authorized to continue into state fiscal year 2014.

Senior and Long Term Care Division

State health insurance assistance program	FY 2013	\$324,000	Federal
---	---------	-----------	---------

All remaining fiscal year 2013 federal budget amendment authority for the state health insurance assistance program is authorized to continue into state fiscal year 2014.

All remaining fiscal year 2013 federal budget amendment authority for the Montana statewide lifespan respite grant is authorized to continue into federal fiscal year 2014.

All remaining fiscal year 2013 federal budget amendment authority for the Montana community choice partnership is authorized to continue into federal fiscal year 2015.

Addictive and Mental Disorders Division

Flex rural veterans health access program	FY 2013	\$327,700	Federal
---	---------	-----------	---------

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

Approved April 25, 2013

## CHAPTER NO. 295

[HB 64]

AN ACT REQUIRING CERTAIN STATE DISTRICT AND LOCAL CANDIDATES AND CERTAIN POLITICAL COMMITTEES TO CONTINUE FILING REPORTS OF CONTRIBUTIONS AND EXPENDITURES UNTIL FILING A CLOSING REPORT; AND AMENDING SECTION 13-37-226, MCA.

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

**Section 1.** Section 13-37-226, MCA, is amended to read:

**“13-37-226. Time for filing reports.** (1) Candidates for a state office filled by a statewide vote of all the electors of Montana and political committees that are organized to support or oppose a particular statewide candidate shall file reports electronically as follows:

(a) quarterly, due on the fifth day following a calendar quarter, beginning with the calendar quarter in which funds are received or expended during the year or years prior to the election year that the candidate expects to be on the ballot;

(b) on the 10th day of March, April, July, August, and September;

(c) on the 15th and 5th days preceding the date on which an election is held;

(d) within 24 hours after receiving a contribution of \$200 or more if received between the 10th day before the election and the day of the election;

(e) not more than 20 days after the date of the election; and

(f) on the 10th day of March and September of each year following an election until the candidate or political committee files a closing report as specified in 13-37-228(3).

(2) Political committees organized to support or oppose a particular statewide ballot issue shall file reports:

(a) quarterly, due on the fifth day following a calendar quarter, beginning with the calendar quarter in which the text of the proposed ballot issue is submitted for review and approval pursuant to 13-27-202 during the year or years prior to the election year that an issue is or is expected to be on the ballot;

(b) on the 10th day of March and on the 10th day of each subsequent month through September in each year that an election is to be held;

(c) on the 15th and 5th days preceding the date on which an election is held;

(d) within 24 hours after receiving a contribution of \$500 or more if received between the 10th day before the election and the day of the election;

(e) within 20 days after the election; and

(f) on the 10th day of March and September of each year following an election until the political committee files a closing report as specified in 13-37-228(3).

(3) Candidates for a state district office, including but not limited to candidates for the legislature, the public service commission, or a district court judge, and political committees that are specifically organized to support or oppose a particular state district candidate or issue shall file reports:

(a) on the 12th day preceding the date on which an election is held;

(b) within 48 hours after receiving a contribution of \$100 or more if received between the 17th day before the election and the day of the election. The report under this subsection (3)(b) must be made by mail or by electronic communication to the commissioner pursuant to 13-37-225.

(c) not more than 20 days after the date of the election; and

(d) ~~whenever~~ *on the 10th day of March and September of each year following an election until the* candidate or political committee files a closing report as specified in 13-37-228(3).

(4) Candidates for any other public office and political committees that are specifically organized to support or oppose a particular local issue shall file the reports specified in subsection (3) only if the total amount of contributions received or the total amount of funds expended for all elections in a campaign, excluding the filing fee paid by the candidate, exceeds \$500, except as provided in 13-37-206.

(5) For the purposes of this subsection, a committee that is not specifically organized to support or oppose a particular candidate or ballot issue and that receives contributions and makes expenditures in conjunction with an election is an independent committee. For the purpose of reporting, a political party committee is an independent committee. An independent committee shall file:

(a) a report on the 12th day preceding the date of an election in which it participates by making an expenditure;

(b) a report within 24 hours of making an expenditure or incurring a debt or obligation of \$500 or more for election material described in 13-35-225(1) if made between the 17th day before the election and the day of the election;

(c) a report not more than 20 days after the date of the election in which it participates by making an expenditure; and

(d) a report on a date to be prescribed by the commissioner for a closing report at the close of each calendar year.

(6) The commissioner may promulgate rules regarding the extent to which organizations that are incidental political committees shall report their politically related activities in accordance with this chapter.

(7) Except as provided in subsections (1)(d), (2)(d), (3)(b), and (5)(b), all reports required by this section must be complete as of the fifth day before the date of filing as specified in 13-37-228(2) and this section.”

Approved April 25, 2013

## CHAPTER NO. 296

[HB 157]

AN ACT ALLOWING SPLIT WEIGHING OF COMMODITIES; REQUIRING THE DEPARTMENT OF LABOR AND INDUSTRY TO ADOPT RULES TO IMPLEMENT THE SPLIT WEIGHING OF COMMODITIES; AMENDING SECTIONS 30-12-306 AND 30-12-406, MCA; AND PROVIDING AN EFFECTIVE DATE.

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

**Section 1. Split weighing of commodities allowed — disclosure — rules.** (1) The net weight of a commodity, including raw logs, grain, and quarried rock, transported by any combination of truck, truck tractor, trailer, or semitrailer, as those terms are defined in 61-1-101, may be determined by split weighing the combination if:

(a) the vendor and the purchaser agree in writing to the split weighing; and

(b) either the vendor or the purchaser who is a party to the agreement is responsible for paying the cost of the shipment and any freight charges.

(2) The weigh ticket, weight slip, or other documentation certifying the net weight of the commodity and accompanying delivery of the commodity must clearly disclose that the net weight of the commodity as delivered was determined by split weighing.

(3) The written agreement between the vendor and the purchaser to allow for split weighing must accompany delivery of the commodity.

(4) The department shall adopt rules consistent with this section to provide for the implementation and administration of split weighing. The rules must require, at a minimum that:

(a) the name of the person operating a scale to split weigh and the date and location of the scale be reported to the department and be stated on the weigh ticket, weight slip, or other documentation; and

(b) the person operating the scale must certify that:

(i) each axle of the vehicle or combination of vehicles rests on a straight surface that is level with the deck of the vehicle scale or, if not level, the amount by which the deck of the scale is not level does not exceed 1/3 inch per foot of distance between the deck of the vehicle scale and the axle;

(ii) the brakes of the vehicle or combination of vehicles are not used while the vehicle is being weighed; and

(iii) the transmission of the vehicle or combination of vehicles is in neutral.

**Section 2.** Section 30-12-306, MCA, is amended to read:

**“30-12-306. Sale by net weight.** (1) ~~When~~ *If* a commodity is sold on the basis of weight, the net weight of the commodity ~~shall~~ *must* be employed and all contracts concerning commodities ~~shall~~ *must* be ~~so~~ construed *on the basis of net weight*.

(2) *The net weight of a commodity being transported by any combination of truck, truck tractor, trailer, or semitrailer, as those terms are defined in 61-1-101, may be determined by split weighing the combination pursuant to [section 1]. All disclosure, reporting, or listing of the net weight of a commodity determined by split weighing must state that the net weight was determined by split weighing.”*

**Section 3.** Section 30-12-406, MCA, is amended to read:

**“30-12-406. Bulk deliveries sold in terms of weight and delivered by vehicle.** (1) When a vehicle delivers to an individual purchaser a commodity in bulk and the commodity is sold in terms of weight units, the delivery must be accompanied by a duplicate delivery ticket with the following information clearly stated in ink or by means of other indelible marking equipment and in clarity equal to type or printing:

- (a) the name and address of the vendor;
- (b) the name and address of the purchaser; ~~and~~
- (c) the net weight of the delivery expressed in pounds; *and*

(d) *if the net weight was determined by split weighing pursuant to [section 1] or 30-12-306.*

(2) If the net weight is derived from determinations of gross and tare weights, the gross and tare weights must also be stated in terms of pounds. One of ~~these~~ *the delivery* tickets must be retained by the vendor, and the other must be delivered to the purchaser at the time of delivery of the commodity or must be surrendered on demand to the department. If the department desires to retain it as evidence, ~~it~~ *the department* shall issue a weight slip in place of the ticket for delivery to the purchaser. If the purchaser carries away the purchase, the vendor is only required to give to the purchaser at the time of sale a delivery ticket stating the number of pounds of commodity delivered to the purchaser.”

**Section 4. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 30, chapter 12, part 1, and the provisions of Title 30, chapter 12, part 1, apply to [section 1].

**Section 5. Effective date.** [This act] is effective July 1, 2013.

Approved April 25, 2013

## CHAPTER NO. 297

[SB 200]

AN ACT REVISING LAWS RELATED TO WOLF MANAGEMENT; GRANTING RULEMAKING AUTHORITY; AUTHORIZING THE ISSUANCE OF MULTIPLE LICENSES TO HUNT AND TRAP WOLVES; AUTHORIZING LANDOWNERS AND THEIR AGENTS TO KILL WOLVES ON PRIVATE PROPERTY WITHOUT A HUNTING LICENSE; REQUIRING REPORTS TO THE ENVIRONMENTAL QUALITY COUNCIL; REDUCING THE PRICE OF A NONRESIDENT WOLF LICENSE; PROVIDING AN EXCEPTION TO THE REQUIREMENT THAT HUNTERS WEAR ORANGE; AMENDING

SECTIONS 87-2-104, 87-2-523, 87-2-524, 87-6-401, AND 87-6-414, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

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

**Section 1. Gray wolf management — rulemaking — reporting.** (1)

Except as provided in subsection (2), the commission shall establish by rule hunting and trapping seasons for wolves. For game management purposes, the commission may authorize:

(a) the issuance of more than one Class E-1 or Class E-2 wolf hunting license to an applicant; and

(b) the trapping of more than one wolf by the holder of a trapping license.

(2) The commission shall adopt rules to allow a landowner or the landowner's agent to take a wolf on the landowner's property at any time without the purchase of a Class E-1 or Class E-2 wolf license when the wolf is a potential threat to human safety, livestock, or dogs. The rules must:

(a) be consistent with the Montana gray wolf conservation and management plan and the adaptive management principles of the commission and the department for the Montana gray wolf population;

(b) require a landowner or the landowner's agent who takes a wolf pursuant to this subsection (2) to promptly report the taking to the department and to preserve the carcass of the wolf;

(c) establish a quota each year for the total number of wolves that may be taken pursuant to this subsection (2); and

(d) allow the commission to issue a moratorium on the taking of wolves pursuant to this subsection (2) before a quota is reached if the commission determines that circumstances require a limitation of the total number of wolves taken.

(3) Public land permittees who have experienced livestock depredation must obtain a special kill permit authorized in 87-5-131(3)(b) to take a wolf on public land without the purchase of a Class E-1 or Class E-2 license.

(4) The department shall report annually to the environmental quality council regarding the implementation of 87-5-131, 87-5-132, and this section.

**Section 2.** Section 87-2-104, MCA, is amended to read:

**“87-2-104. Number of licenses, permits, or tags allowed — fees.** (1)

The department may prescribe rules and regulations for the issuance or sale of a replacement license, permit, or tag if the original license, permit, or tag is lost, stolen, or destroyed upon payment of a fee not to exceed \$5.

(2) When authorized by the commission for game management purposes, the department may:

(a) issue more than one Class A-3 resident deer A, Class A-4 resident deer B, Class B-7 nonresident deer A, Class B-8 nonresident deer B, *Class E-1 resident wolf*, *Class E-2 nonresident wolf*, or special antelope license to an applicant; and

(b) issue a special antlerless moose license, a special cow or calf bison license, or one or more special adult ewe mountain sheep licenses to an applicant.

(3) For all of the game management licenses issued under subsection (2), the commission shall determine the hunting districts or portions of hunting districts for which the licenses are to be issued, the number of licenses to be issued, and all terms and conditions for the use of the licenses.

(4) When authorized by the commission for game management purposes, the department may issue Class A-9 resident antlerless elk B tag licenses and Class B-12 nonresident antlerless elk B tag licenses entitling the holder to take



an antlerless elk. Unless otherwise reduced pursuant to subsection (5), the fee for a Class B-12 license is \$273. The commission shall determine the hunting districts or portions of hunting districts for which Class A-9 and Class B-12 licenses are to be issued, the number of licenses to be issued, and all terms and conditions for the use of the licenses.

(5) The fee for a resident or nonresident license of any class issued under subsection (2) or (4) may be reduced annually by the department.”

**Section 3.** Section 87-2-523, MCA, is amended to read:

**“87-2-523. Class E-1—resident wolf license.** (1) Except as otherwise provided in this chapter, a person who is a resident, as defined in 87-2-102, and who is 12 years of age or older or who will turn 12 years old before or during the season for which the license is issued, upon payment of a fee of \$19, may receive a Class E-1 license that entitles a holder who is 12 years of age or older to hunt a wolf and possess the carcass of the wolf as authorized by commission rules.

(2) *A person who purchases a license pursuant to this section after August 31 may not use the license until 24 hours after the license is issued.*

(2)(3) Fees collected pursuant to this section must be deposited and used in accordance with 87-1-623.”

**Section 4.** Section 87-2-524, MCA, is amended to read:

**“87-2-524. Class E-2—nonresident wolf license.** (1) Except as otherwise provided in this chapter, a person who is not a resident, as defined in 87-2-102, but who is 12 years of age or older or who will turn 12 years old before or during the season for which the license is issued, upon payment of a fee of ~~\$350~~ \$50, may receive a Class E-2 license that entitles a holder who is 12 years of age or older to hunt a wolf and possess the carcass of the wolf as authorized by commission rules.

(2) *A person who purchases a license pursuant to this section after August 31 may not use the license until 24 hours after the license is issued.*

(2)(3) Fees collected pursuant to this section must be deposited and used in accordance with 87-1-623.”

**Section 5.** Section 87-6-401, MCA, is amended to read:

**“87-6-401. Unlawful use of equipment while hunting.** (1) A person may not:

(a) hunt or attempt to hunt any game animal or game bird by the aid or with the use of any snare, except as allowed in 87-3-127 and 87-3-128, set gun, projected artificial light, trap, salt lick, or bait;

(b) use any recorded or electrically amplified bird or animal calls or sounds or recorded or electrically amplified imitations of bird or animal calls or sounds to assist in the hunting, taking, killing, or capturing of wildlife except predatory animals, *wolves*, and those birds not protected by state or federal law;

(c) while hunting, take into a field or forest or have in the person’s possession any device or mechanism devised to silence, muffle, or minimize the report of any firearm, whether the device or mechanism is operated from or attached to any firearm;

(d) while hunting, possess any electronic motion-tracking device or mechanism, as defined by commission rule, that is designed to track the motion of a game animal and relay information on the animal’s movement to the hunter. A radio-tracking collar attached to a dog that is used by a hunter engaged in lawful hunting activities is not considered a motion-tracking device or mechanism for purposes of this subsection (1)(d).

(e) while hunting, use archery equipment that has been prohibited by rule of the commission;

(f) use a shotgun to hunt deer or elk except with weapon type and loads as specified by the department;

(g) use a rifle to hunt or shoot upland game birds unless the use of rifles is permitted by the department. This does not prohibit the shooting of wild waterfowl from blinds over decoys with a shotgun only, not larger than a number 10 gauge, fired from the shoulder.

(h) use a rifle to hunt or shoot wild turkey during the spring wild turkey season.

(2) A person convicted of a violation of this section shall be fined not less than \$50 or more than \$1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

(3) A person convicted of hunting while using projected artificial light as described in subsection (1)(a) may be subject to the additional penalties provided in 87-6-901 and 87-6-902.

(4) A violation of this section may also result in an order to pay restitution pursuant to 87-6-905 through 87-6-907.”

**Section 6.** Section 87-6-414, MCA, is amended to read:

**“87-6-414. Failure to wear hunter orange while big game hunting.** (1) Except as provided in subsection (3), a person may not hunt any big game animals in this state or accompany any hunter as an outfitter or guide under any of the provisions of the laws of this state without wearing as exterior garments above the waist a total of not less than 400 square inches of hunter orange material visible at all times while hunting.

(2) As used in this section, “hunter orange” means a daylight fluorescent orange color.

(3) This section does not apply to a person hunting:

(a) with a bow and arrow during the special archery season; *or*

(b) *wolves outside the general deer and elk season as authorized by commission rules.*

(4) The department shall make rules to implement this section.

(5) A person convicted of a violation of this section shall be punished by a fine of not less than \$10 or more than \$20.”

**Section 7. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 87, chapter 1, and the provisions of Title 87, chapter 1, apply to [section 1].

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

**Section 9. Effective date.** [This act] is effective on passage and approval.

Approved April 25, 2013

**CHAPTER NO. 298**

[HB 401]

AN ACT REVISING CERTAIN HUNTING LICENSE APPLICATION FEES; ALLOWING PER SPECIES COLLECTION OF THE PREFERENCE SYSTEM APPLICATION FEE; AMENDING SECTIONS 87-2-113 AND 87-2-730, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE.

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

**Section 1.** Section 87-2-113, MCA, is amended to read:

**“87-2-113. Drawing and application Application fees.** (1) (a) When Except as provided in subsection (1)(b), when the department determines a drawing is necessary prior to issuance of hunting licenses for any game species during a hunting season, it shall collect a \$5 per species drawing application fee with each application submitted.

(b) The department shall collect the following per species special license application fees:

- (i) moose—resident, \$10; nonresident, \$50;
- (ii) mountain goat—resident, \$10; nonresident, \$50;
- (iii) mountain sheep—resident, \$10; nonresident, \$50;
- (iv) wild buffalo or bison—resident, \$10; nonresident, \$50.

(2) (a) If a resident participates in a preference system adopted by the commission, the department shall collect an additional application fee of \$2 for each application form per species to fund the administration of the preference system.

(b) If a nonresident participates in a preference system adopted by the commission, the department shall collect an additional application fee of \$20 for each application form per species to fund the administration of the preference system.

(3) Drawing Application fees collected pursuant to this section must be deposited in the state special revenue fund to the credit of the department as set forth in 87-1-601.

(4) The payment of a drawing an application fee confers no hunting rights or privileges.

(5) The commission may waive the provisions of subsection (1) when a drawing is required for a special season under 87-1-304.”

**Section 2.** Section 87-2-730, MCA, is amended to read:

**“87-2-730. Special wild buffalo license — regulation.** (1) The public hunting of wild buffalo or bison that have been designated as a species in need of disease control under 81-2-120 is permitted only when authorized by the department of livestock under the provisions set forth in 81-2-120.

(2) The department may issue special licenses to hunt wild buffalo or bison designated as a species in need of disease control when authorized by the department of livestock.

(3) The department shall adopt rules in cooperation with the department of livestock. The rules must provide for:

- (a) license drawing procedures;
- (b) drawing and application fees consistent with 87-2-113;

(c) notification of license recipients as to when and where they may hunt, but notification may not include information regarding the actual physical location

of a wild buffalo or bison other than the prescribed hunting district where the animal may be taken;

(d) fair chase hunting of wild buffalo or bison, including requirements that hunting be conducted on foot and away from public roads and that there be no designation of specific wild buffalo or bison to be hunted;

(e) means of taking and handling of carcasses in the field, which must include provisions for public safety because of the potential for the spread of infectious disease;

(f) the use of bows and arrows and other hunting arms;

(g) tagging requirements for carcasses, skulls, and hides;

(h) possession limits;

(i) requirements for transportation and exportation; and

(j) requirements and criteria for authorization by the state veterinarian and the department of livestock of any public hunting.”

**Section 3. Effective date.** [This act] is effective March 1, 2014.

Approved April 25, 2013

## CHAPTER NO. 299

[HB 533]

AN ACT EXPANDING THE SCOPE OF THE BULL TROUT AND CUTTHROAT TROUT SPECIES ENHANCEMENT PROGRAM TO INCLUDE NATIVE MONTANA FISH SPECIES; CLARIFYING A REFERENCE TO FUNDING FOR EMERGENCY INSTREAM FLOWS; AND AMENDING SECTIONS 87-1-283 AND 87-1-274, MCA.

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

**Section 1.** Section 87-1-283, MCA, is amended to read:

“**87-1-283. Bull trout and cutthroat trout Native Montana fish species enhancement program.** (1) In order to enhance ~~bull trout and cutthroat trout~~ populations of *native Montana fish species* through habitat restoration, reductions in species competition, and natural reproduction, the department shall, through its future fisheries improvement program, restore habitats and spawning areas and reduce species competition in rivers, lakes, and streams for Montana’s ~~bull trout and cutthroat trout~~ *native fish species*.

(2) In order to implement this section, the department may expend revenue from the ~~bull trout and cutthroat trout~~ *native Montana fish species* enhancement program for one additional full-time employee and one contractor to assist the review panel.

(3) The department shall also work with the department of transportation to implement ~~bull trout and cutthroat trout~~ enhancement of *native Montana fish species* by providing annual updates to the state transportation improvement program regarding possible additions to projects that will benefit the enhancement effort. State transportation improvement plan funds expended for ~~bull trout and cutthroat trout~~ *native Montana fish species* must be accounted for separately and reported annually.”

**Section 2.** Section 87-1-274, MCA, is amended to read:

“**87-1-274. Emergency instream flows — funding.** (1) The legislature recognizes the propriety of establishing voluntary leases or other authorized water augmentation measures for instream flows so that mechanisms will be in

place to maintain streamflows sufficient for fisheries and aquatic resources during emergency low-flow conditions.

(2) Funding for voluntary leases and other water augmentation measures authorized under subsection (1) may come from any uncommitted funds allocated to the state under the U.S. fish and wildlife service state wildlife grant program or other available federal funds, matched by the department with up to \$500,000 from the future fisheries improvement program provided for in 87-1-272, from the ~~bull trout and cutthroat trout~~ *native Montana fish species* enhancement program provided for in 87-1-283, from the river restoration program provided for in 87-1-257, from a combination of funds from these programs, or from any other department funds available for voluntary leases or other water augmentation measures.

(3) All leasing or other authorized water augmentation measures for instream flow must comply with all requirements provided in Title 85, chapter 2, parts 3 and 4.”

Approved April 25, 2013

## CHAPTER NO. 300

[HB 630]

AN ACT REQUIRING THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES, THE DEPARTMENT OF AGRICULTURE, AND THE DEPARTMENT OF LIVESTOCK TO CONDUCT A PROJECT EXAMINING AND RECOMMENDING UPDATES FOR MONTANA FOOD LAWS; REQUIRING THE DEPARTMENTS TO COORDINATE WITH STAKEHOLDERS AND REPORT TO THE ECONOMIC AFFAIRS INTERIM COMMITTEE; REQUIRING THE ECONOMIC AFFAIRS INTERIM COMMITTEE TO REVIEW A FINAL REPORT OF THE PROJECT AND RECOMMEND APPROPRIATE LEGISLATION; PROVIDING AN APPROPRIATION; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A TERMINATION DATE.

WHEREAS, current Montana law contains a complex food code with jurisdiction spread between multiple departments and levels of government; and

WHEREAS, there is a growing movement to support locally sourced and community-based food production, sometimes referred to as “cottage food”, which benefits local communities, small businesses, public health, and environmental sustainability; and

WHEREAS, numerous states have passed laws that allow small business entrepreneurs to use their home kitchens to prepare for sale foods that are not potentially hazardous, while Montana has not; and

WHEREAS, new federal rules and regulations under the Food Safety Modernization Act will require updates to Montana food safety laws.

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

**Section 1. Montana food policy modernization project — guidelines.** (1) The departments of public health and human services, agriculture, and livestock shall coordinate to conduct a project to assess Montana’s food laws and develop a report for the economic affairs interim committee, including any proposed legislation for the 2015 legislature. The project must assess:

(a) potential changes in Montana laws and administrative rules necessitated by the passage and implementation of the federal Food Safety Modernization Act pursuant to Title 21, chapter 27, of the United States Code;

(b) the extent to which home kitchens can be used to prepare foods for sale that are not potentially hazardous while maintaining food safety for the public;

(c) the relative availability of community-based commercial kitchens and their use; and

(d) inconsistencies and inefficiencies in Montana's food laws that could be improved and streamlined.

(2) In conducting the project the departments shall form a steering committee and coordinate with stakeholders, including but not limited to:

(a) producers;

(b) institutional buyers;

(c) the food safety advisory council created under 50-50-103;

(d) county health officials; and

(e) community groups interested in locally sourced foods.

(3) The departments must use at least 50% of the money appropriated for this project to contract with a convening organization to hold at least one facilitated public meeting or conference to assist in forming consensus recommendations in the final report.

(4) The department of agriculture shall ensure that a final report of the project's findings and recommendations is presented to the economic affairs interim committee no later than May 15, 2014.

**Section 2. Appropriation.** (1) There is appropriated from the state general fund to the department of agriculture \$18,000 for the biennium beginning July 1, 2013.

(2) The appropriation must be used to pay for the costs of the project described in [section 1].

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

**Section 4. Termination.** [This act] terminates June 30, 2014, or upon completion of the duties described in [section 1], whichever occurs first.

Approved April 25, 2013

## CHAPTER NO. 301

[SB 301]

AN ACT REVISING COUNTY NOXIOUS WEED CONTROL LAWS; CLARIFYING PROCEDURES; REVISING TIME PERIODS FOR COMPLIANCE; AMENDING SECTIONS 7-22-2117, 7-22-2144, 7-22-2146, AND 7-22-2148, MCA; REPEALING SECTIONS 7-22-2123 AND 7-22-2124, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

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

**Section 1. Noncompliance with weed control requirements — general notice.** (1) (a) If a complaint is made against a landowner or the board has reason to believe that noxious weeds are present on a landowner's property, the board shall notify the landowner by certified mail of the complaint and shall request permission for the board's agent to enter the property to conduct an inspection.



(b) If the landowner has an agent for service on file with the secretary of state, the notice must be given by certified mail to the registered agent.

(c) The landowner or the landowner's representative shall respond within 10 days of receipt of the notice.

(2) (a) If the board's agent and the landowner or landowner's representative agree to an inspection, the agent and the landowner or representative shall inspect the land at an agreed-upon time.

(b) The board or the board's agent may seek a court order to enter and inspect the land to determine if noxious weeds are present on the property if:

(i) within 10 days of sending the certified letter to the address on the tax records or to the agent for service, the board is unable to determine the owner of the property; or

(ii) the letter cannot be delivered because the landowner or the landowner's representative refuses to sign the receipt or does not reside on the property.

(3) If the board finds noxious weeds on the property during the inspection, the board shall:

(a) seek the landowner's or representative's voluntary compliance with the district weed management program in accordance with [section 2]; or

(b) if voluntary compliance is not obtained, notify the landowner or the landowner's representative by certified mail that noxious weeds were found on the property.

(4) The notice must contain the language specified in this section.

(5) If the board believes it is advisable, the board may post a dated order in a conspicuous place on the property, providing notice that noxious weeds have been found on the property and informing the landowner or landowner's representative of the options for complying with the weed management program pursuant to [section 2] and the actions that may be taken under [section 4] if the landowner fails to comply with the weed management program.

(6) All correspondence with a landowner or the landowner's representative concerning notifications of weed infestations, including requests made pursuant to subsection (1) to inspect property and notifications of noncompliance, must be made on the uniform notification material provided by the department and must:

(a) list the noxious weeds found on the property;

(b) provide the legal description of the property;

(c) provide the address of the property, if available;

(d) state the fact that the presence of the weeds violates state law and that the landowner has 10 days after receiving the notice to contact the board or its agent;

(e) provide the address and phone number for the board;

(f) notify the landowner of the landowner's:

(i) responsibility to submit a weed management proposal; and

(ii) right to request a hearing to contest the finding of noncompliance, including the timeframe for making the request; and

(g) specify the actions the board may take if the landowner fails to remove the weeds, including but not limited to the anticipated costs of destroying the weeds and the 25% penalty allowed under [section 4].

**Section 2. Procedures for compliance.** (1) A landowner is in compliance with this part if the landowner submits and the board accepts a written weed

management proposal to undertake specific control measures, and the landowner remains in compliance if the terms of the proposal are met. The proposal must require that the landowner or the landowner's representative notify the board as measures in the proposal are taken.

(2) In accepting or rejecting a weed management proposal, the board shall consider the economic impact on the landowner and neighboring landowners, practical biological and environmental limitations, and alternative control methods to be used.

**Section 3. Noncompliance — actions for landowners.** (1) If the board is unable to obtain the landowner's voluntary compliance with the weed management program within 10 days of the landowner's receipt of the notification, the landowner is considered to be in noncompliance and is subject to appropriate control measures pursuant to [section 4].

(2) (a) Within 10 days after receiving notice to comply with the weed management program, the landowner may request a hearing before the commissioners if the landowner disagrees with the weed control measures proposed by the board.

(b) If the landowner's objection to the board's action remains after the hearing, the landowner has 10 days to appeal the commissioners' decision to the district court with jurisdiction in the county in which the property is located.

(3) If the landowner has requested a hearing pursuant to subsection (2)(a) or has appealed a hearing decision pursuant to subsection (2)(b), the board may not take any action to control the noxious weeds until after the hearing and authorization is provided from the commissioners or the court.

**Section 4. Noncompliance — actions by board.** (1) The board may seek a court order to enter upon the infested parcels of the landowner's property if attempts to achieve voluntary compliance have been exhausted. The board may institute appropriate noxious weed control measures, including but not limited to:

(a) allowing the local weed district coordinator to implement the appropriate noxious weed control measures if the actions taken are valued at the current rate paid for commercial management operations in the district and are reflected in the bill sent to the landowner and the clerk and recorder; or

(b) contracting with a commercial applicator as defined in 80-8-102 if the issues of compliance are not resolved under an agreement proposed and accepted pursuant to [section 2] and:

(i) the landowner does not take corrective action within the 10-day period provided for in [section 3]; or

(ii) the board does not receive a formal objection or the board of county commissioners does not receive a request for a hearing.

(2) A commercial applicator hired under this section shall carry all insurance required by the board.

(3) If a court issues an order approving a board's actions, the court retains jurisdiction over the matter:

(a) until the actions specified in the weed management plan or court order are complete;

(b) for the length of time specified in the order; or

(c) for 3 years if the order does not specify a time limit.

(4) After instituting appropriate noxious weed control measures, the board shall submit a copy of the bill, including the penalty provided for in subsection

(4)(b), to the county clerk and recorder and, by certified mail, to the landowner that:

- (a) covers the costs of the weed control measures;
  - (b) contains a penalty of 25% of the total cost incurred;
  - (c) itemizes the hours of labor, cost of material, equipment time, legal fees, and court costs or includes an invoice from a commercial applicator if the board contracted for weed control pursuant to subsection (1); and
  - (d) specifies that payment is due 30 days from the date the bill is received.
- (5) If a landowner who received a notice to take corrective action requests an injunction or seeks to stay the corrective action in district court within 10 days of receipt of the notice, the board may not institute control measures until the matter is finally resolved, except in emergency situations.

(6) If the board declares an emergency and institutes appropriate measures to control the noxious weeds, the landowner who received the order is liable for costs as provided in subsection (4) only to the extent determined appropriate by the board, the board of county commissioners, or the court that finally resolves the matter.

**Section 5. Direction to department — notification of landowners.**

The department shall distribute informational material about the changes provided for in [this act] within 30 days of [the effective date of this act]. The department may select the manner in which the information may be distributed, including distribution by electronic means. A board may not take action under [sections 1 through 4] before the department has distributed the materials.

**Section 6.** Section 7-22-2117, MCA, is amended to read:

**“7-22-2117. Violations.** (1) Any person who ~~in any manner~~ interferes with the board or its authorized agent in carrying out the provisions of this part or who refuses to obey an order or notice of the board is liable for a civil penalty in the amount of the actual cost to the board or the estimated cost of removing the noxious weeds from the impacted property in addition to any penalty imposed under ~~7-22-2124~~ [section 4].

(2) All fines, bonds, and penalties collected under the provisions of this part must be paid to the county treasurer of each county and placed by the county treasurer into a fund to be known as the noxious weed fund.”

**Section 7.** Section 7-22-2144, MCA, is amended to read:

**“7-22-2144. Payment of cost of weed control program.** The total cost of weed control within the district must be paid from the noxious weed fund. The cost of controlling weeds growing along the right-of-way of a state or federal highway must, upon the presentation by the board of a verified account of the expenses incurred, be paid from the state highway fund in compliance with 7-14-2132 and any agreement between the board and the department of transportation. Costs attributed to other lands within the district must be assessed to and collected from the responsible person as set forth in ~~7-22-2124~~ [section 4].”

**Section 8.** Section 7-22-2146, MCA, is amended to read:

**“7-22-2146. Financial assistance to persons responsible for weed control.** (1) The commissioners, upon recommendation of the board, may establish a cost-share program for the control of noxious weeds. The board shall develop rules and procedures for the administration of the cost-share program.

These procedures may include the cost-share rate or amount and ~~for what the~~ purposes *for which* cost-share funds may be used.

(2) (a) Any person may voluntarily enter into a cost-share agreement for the management of noxious weeds on the person's property. The coordinator shall draft a cost-share agreement in cooperation with the person. The agreement must, in the board's judgment, provide for effective weed management.

(b) The agreement must specify:

(i) costs that must be paid from the noxious weed fund;

(ii) costs that must be paid by the person;

(iii) a location-specific weed management plan that must be followed by the person; and

(iv) reporting requirements of the person to the board.

(c) The cost-share agreement must be signed by the person and, upon approval of the board, by the presiding officer.

(3) The agreement must contain a statement disclaiming any liability of the board for any injuries or losses suffered by the person in managing noxious weeds under a cost-share agreement. If the board later finds that the person has failed to abide by the terms of the agreement, all cost-share payments and agreements must be canceled and the provisions of ~~7-22-2124~~ *[section 4]* apply to that person.

(4) (a) When under the terms of any voluntary agreement, whether entered into pursuant to ~~7-22-2123~~ *[section 2]* or otherwise, or under any cost-share agreement entered pursuant to this section a person incurs any obligation for materials or services provided by the board, the board shall submit a bill to the person, itemizing hours of labor, material, and equipment time. The bill must specify and order a payment due date not less than 30 days from the date the bill is sent.

(b) A copy of the bill must be submitted by the board to the county clerk and recorder. If the sum to be repaid by the person billed is not repaid on or before the date due, the county clerk and recorder shall certify the amount not repaid, with the description of the land to be charged, and shall enter the sum on the assessment list as a special tax on the land, to be collected in the manner provided in ~~7-22-2148~~.

**Section 9.** Section 7-22-2148, MCA, is amended to read:

**"7-22-2148. Payment of weed control expenses — tax liability — lien.**

(1) ~~(a)~~ The expenses incurred by the board for noxious weed control undertaken pursuant to ~~7-22-2124~~ *[section 4]* must be paid by the county out of the noxious weed fund.

~~(b)~~(2) If the sum to be repaid by the landowner billed under ~~7-22-2124~~ *[section 4]* is not repaid on or before the date due, the county clerk shall certify the amount due, with the description of the land to be charged, and shall enter the amount on the assessment list of the county as a special tax on the land. If the land is exempt from general taxation for any reason, the amount due and to be repaid may be recovered by direct claim against the landowner and collected in the same manner as personal taxes.

~~(e)~~(3) All amounts collected pursuant to subsection ~~(1)(b)~~ (2) must be deposited in the noxious weed fund.

~~(2)~~ If a civil penalty is imposed under ~~7-22-2123~~, the penalty is, until paid in full, a lien in the amount of the penalty on the infested parcel of the property that

lies within the district and belongs to the landowner on whom the penalty was imposed.”

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

7-22-2123. Procedure in case of noncompliance — notice.

7-22-2124. Destruction of weeds by board — court order — deposits.

**Section 11. Codification instruction.** [Sections 1 through 4] are intended to be codified as an integral part of Title 7, chapter 22, part 21, and the provisions of Title 7, chapter 22, part 21, apply to [sections 1 through 4].

**Section 12. Effective date.** [This act] is effective on passage and approval.

Approved April 25, 2013

## CHAPTER NO. 302

[SB 94]

AN ACT EXEMPTING THE EXCHANGE OF CERTAIN FOODS AND BEVERAGES FROM FOOD SAFETY REGULATIONS; AND AMENDING SECTION 50-50-102, MCA.

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

**Section 1.** Section 50-50-102, MCA, is amended to read:

**“50-50-102. Definitions.** Unless the context requires otherwise, in this chapter, the following definitions apply:

(1) “Baked goods” means breads, cakes, candies, cookies, pastries, and pies that are not potentially hazardous foods.

(2) “Consumer” means a person who is a member of the public, takes possession of food, is not operating an establishment, and does not offer the food for resale.

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

(4) (a) “Establishment” means a retail food manufacturing establishment, meat market, food service establishment, perishable food dealer, or water hauler.

(b) *The term does not include people who gather to exchange in nonmonetary transactions:*

(i) *high-acid canned goods, including but not limited to tomato sauce, fruits, pickles, or other vinegar-based foods;*

(ii) *home-brewed beer; or*

(iii) *dehydrated fruits and vegetables.*

(5) “Farmer’s market” means a farm premises, a roadside stand owned and operated by a farmer, or an organized market authorized by the appropriate municipal or county authority.

(6) “Food” means an edible substance, beverage, or ingredient used, intended for use, or for sale for human consumption.

(7) (a) “Food service establishment” means a fixed or mobile restaurant, coffee shop, cafeteria, short-order cafe, luncheonette, grille, tearoom, sandwich shop, soda fountain, food store serving food or beverage samples, food or drink vending machine, tavern, bar, cocktail lounge, nightclub, industrial feeding establishment, catering kitchen, commissary, private organization routinely

serving the public, or similar place where food or drink is prepared, served, or provided to the public at retail, with or without charge.

(b) The term does not include:

(i) operations, vendors, or vending machines that sell or serve only packaged, nonperishable foods in their unbroken, original containers;

(ii) a private organization serving food only to its members;

(iii) custom meat cutters or wild game processors who cut, process, grind, package, or freeze game meat for the owner of the carcass for consumption by the owner or the owner's family, pets, or nonpaying guests; or

(iv) an establishment, as defined in 50-51-102, that serves food only to its registered guests and day visitors.

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

(9) "Local health officer" means a county, city, city-county, or district health officer, appointed by the local board of health, or the health officer's authorized representative.

(10) "Meat market" means an operation and buildings or structures in connection with it used to process, store, or display meat or meat products for retail sale to the public or for human consumption.

(11) "Nonprofit organization" means any organization qualifying as a tax-exempt organization under 26 U.S.C. 501.

(12) "Perishable food dealer" means an operation that is in the business of purchasing and selling perishable food to the public at retail.

(13) "Person" means a person, partnership, corporation, association, cooperative group, the state or a political subdivision of the state, or other entity.

(14) (a) "Potentially hazardous food" means a food that is natural or synthetic and is in a form capable of supporting:

(i) the rapid and progressive growth of infectious or toxigenic microorganisms; or

(ii) the growth and toxin production of *Clostridium botulinum*.

(b) The term includes cut melons, garlic and oil mixtures, a food of animal origin that is raw or heat-treated, and a food of plant origin that is heat-treated or consists of raw seed sprouts.

(c) The term does not include:

(i) an air-cooled, hard-boiled egg with intact shell;

(ii) a food with a hydrogen ion concentration (pH) level of 4.6 or below when measured at 24 degrees C (75 degrees F);

(iii) a food with a water activity (aw) value of 0.85 or less;

(iv) a food in an unopened hermetically sealed container that is commercially processed to achieve and maintain commercial sterility under conditions of nonrefrigerated storage and distribution; or

(v) a food for which laboratory evidence is accepted by the department as demonstrating that rapid and progressive growth of infectious and toxigenic microorganisms or the slower growth of *Clostridium botulinum* cannot occur.

(15) (a) "Preserves" means processed fruit or berry jams, jellies, compotes, fruit butters, marmalades, chutneys, fruit aspics, fruit syrups, or similar products that have a hydrogen ion concentration (pH) of 4.6 or below when measured at 24 degrees C (75 degrees F) and that are aseptically processed, packaged, and sealed.



(b) The term does not include:

(i) tomatoes or food products containing tomatoes; or

(ii) any other food substrate or product preserved by any method other than that described in subsection (15)(a).

(16) “Raw and unprocessed farm products” means fruits, vegetables, and grains sold at a farmer’s market in their natural state that are not packaged and labeled and are not:

(a) cooked;

(b) canned;

(c) preserved, except for drying;

(d) combined with other food products; or

(e) peeled, diced, cut, blanched, or otherwise subjected to value-adding procedures.

(17) “Regulatory authority” means the department, the local board of health, the local health officer, or the local sanitarian.

(18) “Retail” means the provision of food directly to the consumer.

(19) (a) “Retail food manufacturing establishment” means an operation and the buildings or structures used to manufacture or prepare food for sale or human consumption at retail.

(b) The term does not include:

(i) milk producers’ facilities, milk pasteurization facilities, or milk product manufacturing plants;

(ii) slaughterhouses, meat packing plants, or meat depots; or

(iii) producers or harvesters of raw and unprocessed farm products.

(20) (a) “Water hauler” means a person engaged in the business of transporting water for human consumption and use and that is not regulated as a public water supply system as provided in Title 75, chapter 6.

(b) The term does not include a person engaged in the business of transporting water for human consumption that is used for individual family households and family farms and ranches.”

Approved April 25, 2013

## CHAPTER NO. 303

[SB 158]

AN ACT CREATING THE CERTIFICATES OF INSURANCE MODEL ACT; GRANTING RULEMAKING AUTHORITY TO THE STATE AUDITOR ACTING AS COMMISSIONER OF INSURANCE; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE.

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

**Section 1. Short title.** [Sections 1 through 7] may be cited as the “Certificates of Insurance Model Act”.

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

(1) “Certificate of insurance” means a document or instrument, regardless of how titled or described, that is prepared or issued by an insurer or insurance producer as evidence of property or casualty insurance coverage. The term does

not include a policy of insurance, insurance binder, policy endorsement, or automobile insurance identification or information card.

(2) "Insurance producer" means a person required to be licensed under the laws of this state to sell, solicit, or negotiate property or casualty insurance.

(3) "Insurer" means an organization that issues property or casualty insurance.

(4) "Person" means an individual, partnership, corporation, association, or other legal entity, including any government or governmental subdivision or agency.

**Section 3. Certificate forms.** (1) Except as provided in subsection (3), a person may not prepare, issue, request, or require the issuance of a certificate of insurance on property, operations, or risks located in this state unless the certificate of insurance form has been filed with the commissioner by or on behalf of an insurer.

(2) The commissioner shall prohibit the use of a certificate of insurance form if the form is unfair, misleading, or deceptive or violates public policy or law, including rules adopted by the commissioner.

(3) Insurers are not required to file the current standard certificate of insurance forms promulgated and filed with the commissioner by the Association for Cooperative Operations Research and Development, the American Association of Insurance Services, or the Insurance Services Office, Inc., or certificate of insurance forms whose specific content and wording are established by federal law or regulation or by any law or rule of this state.

(4) A certificate of insurance is not a policy of insurance and does not affirmatively or negatively amend, extend, or alter the coverage afforded by the policy to which the certificate of insurance makes reference. A certificate of insurance may not confer to any person new or additional rights beyond what the referenced policy of insurance expressly provides.

**Section 4. Limitations on use.** (1) A person may not:

(a) alter or modify a certificate of insurance form filed with the commissioner;

(b) prepare, issue, request, or require the issuance of a certificate of insurance that contains any false or misleading information concerning the policy of insurance to which the certificate of insurance makes reference; or

(c) prepare, issue, request, or require the issuance of a certificate of insurance that purports to affirmatively or negatively alter, amend, or extend the coverage provided by the policy of insurance to which the certificate of insurance makes reference.

(2) A certificate of insurance may not warrant that the policy of insurance referenced in the certificate complies with the insurance or indemnification requirements of a contract, and the inclusion of a contract number or description in the certificate of insurance may not be interpreted as warranting compliance with the insurance or indemnification requirements of a contract.

**Section 5. Notice requirements.** A person is entitled to notice of cancellation, nonrenewal, or other material change concerning a policy of insurance only if the person has notice rights under the terms of the policy of insurance or any endorsement to the policy. The terms and conditions of the notice are governed by the policy of insurance or endorsement and may not be altered by a certificate of insurance.

**Section 6. Scope — voidness.** (1) The provisions of [sections 1 through 7] apply to all certificates of insurance issued in connection with property, operations, or risks located in this state, regardless of where the policyholder, insurer, insurance producer, or person requesting or requiring the issuance of the certificate of insurance is located.

(2) A certificate of insurance or any other document or correspondence prepared, issued, requested, or required in violation of [sections 1 through 7] is void.

**Section 7. Enforcement and penalties — rulemaking.** (1) The commissioner may examine and investigate the activities of any person that the commissioner reasonably believes has been or is engaged in an act or practice prohibited by [sections 1 through 7].

(2) The commissioner may enforce the provisions of [sections 1 through 7] by issuing cease and desist orders and by imposing a fine not to exceed \$1,000 for each violation.

(3) The commissioner may adopt rules to implement the provisions of [sections 1 through 7].

**Section 8. Codification instruction.** [Sections 1 through 7] are intended to be codified as an integral part of Title 33, chapter 2, and the provisions of Title 33, chapter 2, apply to [sections 1 through 7].

**Section 9. Effective date.** [This act] is effective July 1, 2013.

**Section 10. Applicability.** [This act] applies to certificates of insurance that are prepared, issued, requested, or required on property, operations, or risks located in this state on or after October 1, 2013.

Approved April 25, 2013

## CHAPTER NO. 304

[SB 160]

AN ACT CREATING THE OFFENSE OF CRIMINAL CHILD ENDANGERMENT; PROVIDING THAT A PERSON COMMITS THE OFFENSE OF CRIMINAL CHILD ENDANGERMENT IF THE PERSON PURPOSELY, KNOWINGLY, OR NEGLIGENTLY CAUSES SUBSTANTIAL RISK OF DEATH OR SERIOUS BODILY INJURY TO A CHILD UNDER 14 YEARS OF AGE; PROVIDING PENALTIES; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.

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

**Section 1. Criminal child endangerment.** (1) A person commits the offense of criminal child endangerment if the person purposely, knowingly, or negligently causes substantial risk of death or serious bodily injury to a child under 14 years of age by:

(a) failing to seek reasonable medical care for a child suffering from an apparent acute life-threatening condition;

(b) placing a child in the physical custody of another who the person knows has previously purposely or knowingly caused bodily injury to a child;

(c) placing a child in the physical custody of another who the person knows has previously committed an offense against the child under 45-5-502 or 45-5-503;

(d) manufacturing or distributing dangerous drugs in a place where a child is present;

(e) operating a motor vehicle under the influence of alcohol or dangerous drugs in violation of 61-8-401, 61-8-406, 61-8-410, or 61-8-465 with a child in the vehicle; or

(f) failing to attempt to provide proper nutrition for a child, resulting in a medical diagnosis of nonorganic failure to thrive.

(2) A person may not be charged under subsection (1)(b) or (1)(c) if the person placed the child in the other person's custody pursuant to a court order.

(3) A person convicted of the offense of criminal child endangerment shall be fined an amount not to exceed \$50,000 or be imprisoned in the state prison for a term not to exceed 10 years, or both.

(4) For purposes of this section, "nonorganic failure to thrive" means inadequate physical growth that is a result of insufficient nutrition and is not secondary to a diagnosed medical condition.

**Section 2. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 45, chapter 5, part 6, and the provisions of Title 45, chapter 5, part 6, apply to [section 1].

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

**Section 4. Applicability.** [This act] applies to offenses committed on or after [the effective date of this act].

Approved April 25, 2013

## CHAPTER NO. 305

[SB 191]

AN ACT PROVIDING FOR A LEVY TO PAY TUITION AND TRANSPORTATION FOR OUT-OF-DISTRICT ATTENDANCE OF A RESIDENT PUPIL; ALLOWING USE OF THE LEVY TO PROVIDE A FREE APPROPRIATE EDUCATION TO CHILDREN WITH DISABILITIES WHO RESIDE IN THE DISTRICT; PROVIDING LIMITATIONS ON THE AMOUNT OF THE LEVY; AMENDING SECTION 20-5-324, MCA; AND PROVIDING AN EFFECTIVE DATE.

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

**Section 1.** Section 20-5-324, MCA, is amended to read:

**"20-5-324. Tuition report and payment provisions.** (1) Following the close of each school fiscal year, the trustees of a district shall report to the superintendent of public instruction:

(a) the name and district of residence of each child who attended a school of the district under a mandatory out-of-district attendance agreement approved under the provisions of 20-5-321(1)(d) or (1)(e) in the previous school year;

(b) the number of days of enrollment for each child reported under the provisions of subsection (1)(a);

(c) the annual tuition rate for each child's tuition payment, as determined under the provisions of 20-5-323, and the tuition cost for each child reported under the provisions of subsection (1)(a);

(d) the names, districts of attendance, and amount of tuition paid by the district for resident students attending public schools out of state in the previous school year; and

(e) the names, schools of attendance, and amount of tuition to be paid by the district for resident students attending day-treatment programs under approved individualized education programs at private, nonsectarian schools in the previous school year.

(2) Subject to the limitations of 20-5-323, the superintendent of public instruction shall:

(a) pay the district of attendance the amount of the tuition obligation reported under subsection (1)(c), prorated for the actual days of enrollment;

(b) determine the total per-ANB entitlement for which the district would have been eligible if the students reported in subsections (1)(d) and (1)(e) had been enrolled in the resident district in the prior year; and

(c) reimburse the district of residence for the state portion of the per-ANB entitlement for each student, not to exceed the district's actual payment of tuition or fees for service for the student in the previous year.

(3) In order to be eligible to receive payment under subsection (2), the trustees of the district of attendance shall submit the report required by subsection (1) within the school fiscal year following the year of attendance.

(4) Notwithstanding the requirements of subsection (5)(a), tuition payment provisions for out-of-district placement of students with disabilities must be determined pursuant to Title 20, chapter 7, part 4.

(5) (a) (i) When a child has approval to attend a school outside the child's district of residence at the resident district's expense under the provisions of 20-5-320 or 20-5-321(1)(a) or (1)(b) or when a child has approval to attend a day-treatment program under an approved individualized education program at a private, nonsectarian school located in or outside of the child's district of residence, the district of residence shall finance the tuition amount from the *levy authorized to support the district tuition fund* and any transportation amount from the *levy authorized to support the transportation fund*.

(ii) By December 31 of the school fiscal year following the year of attendance, the district of residence shall pay at least one-half of any tuition and transportation obligation established under subsection (5)(a)(i) out of the money realized to date from the district tuition or transportation fund *levy*. The remaining tuition and transportation obligation must be paid by June 15 of the school fiscal year following the year of attendance.

(iii) *In addition to use of a tuition levy to pay tuition for out-of-district attendance of a resident pupil, a school district may also include in its tuition levy an amount necessary to pay for the full costs of providing a free appropriate public education, as defined in 20-7-401, in the district to any child with a disability who lives in the district. The amount of the levy imposed for the costs associated with educating each child with a disability under this subsection is limited to the actual cost of service under the child's individualized education program minus:*

(A) *the student's state special education payment;*

(B) *the student's federal special education payment;*

(C) *the student's per-ANB amount;*

(D) *the prorated portion of the district's basic entitlement for each qualifying student; and*

(E) *the prorated portion of the district's general fund payments in 20-9-327 through 20-9-330 for each qualifying student.*

(b) When a child has approval to attend a school outside the child's district of residence because of a parent's or guardian's request under the provisions of 20-5-320 or 20-5-321(1)(c), the parent or guardian of the child shall finance the tuition and transportation amount.

(6) (a) Except as provided in subsections (6)(b) through (6)(d), the district shall credit tuition receipts to the district general fund and transportation receipts to the transportation fund.

(b) Any tuition receipts received under the provisions of 20-5-323(3) for the current school fiscal year that exceed the tuition receipts of the prior year may be deposited in the district miscellaneous programs fund and must be used for that year in the manner provided for in 20-9-507 to support the costs of the program for which the tuition was received.

(c) Any tuition receipts received for the current school fiscal year for a pupil who is a child with a disability that exceed the tuition amount received for a pupil without disabilities may be deposited in the district miscellaneous programs fund and must be used for that year in the manner provided for in 20-9-507 to support the costs of the program for which the tuition was received.

(d) Any other tuition receipts received for the current school fiscal year that exceed the tuition receipts of the prior year may be deposited in the district miscellaneous programs fund and may be used for that year in the manner provided for in that fund. For the ensuing school fiscal year, the receipts must be credited to the district general fund budget.

(7) The reimbursements paid under subsection (2)(c) must be deposited into the district tuition fund and must be used by the district to pay obligations for resident students attending public schools out of state or for resident students attending day-treatment programs under approved individualized education programs at private, nonsectarian schools at district expense.

(8) The provisions of this section do not apply to out-of-state placements made by a state agency pursuant to 20-7-422."

**Section 2. Effective date.** [This act] is effective July 1, 2013.

Approved April 25, 2013

## CHAPTER NO. 306

[HB 544]

AN ACT REVISING PERMISSIBLE AND MANDATORY PROVISIONS IN PREFERRED PROVIDER AGREEMENTS, INSURANCE POLICIES, AND SUBSCRIBER CONTRACTS; REMOVING REIMBURSEMENT LIMITATIONS IF A PROVIDER NETWORK IS DETERMINED TO BE ADEQUATE; AND AMENDING SECTION 33-22-1706, MCA.

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

**Section 1.** Section 33-22-1706, MCA, is amended to read:

**"33-22-1706. Permissible and mandatory provisions in provider agreements, insurance policies, and subscriber contracts.** (1) A provider agreement, insurance policy, or subscriber contract issued or delivered in this state may contain ~~certain other~~ components designed to control the cost and improve the quality of health care for insureds and subscribers, ~~including:~~ *as provided in this part.*



(2) *All terms or conditions of an insurance policy or subscriber contract, except those already approved by the commissioner, are subject to the prior approval of the commissioner.*

(3) *Provisions designed to control cost and improve the quality of health care under this section include but are not limited to those*

~~(a) a provision setting that set a payment difference for reimbursement of a nonpreferred provider as compared to a preferred provider and those designed to give policyholders or subscribers an incentive to choose a particular provider consistent with the other provisions of this part. If the~~

(4) (a) *A health benefit plan that contains a payment difference provision, and that the commissioner has determined to have an adequate provider network is not subject to subsection (4)(b).*

(b) *A health benefit plan that contains a payment difference provision and has not been determined to have an adequate provider network may not exceed a 25% the payment difference may not exceed 25% of in the reimbursement level at which for a preferred provider, and the would be reimbursed. The commissioner shall review differences between copayments, deductibles, and other cost-sharing arrangements under this subsection (4)(b).*

(c) *For the purposes of this subsection (4), a provider network is adequate if:*

(i) *the network includes at least 80% of the licensed individual physicians actively practicing in the state of Montana;*

(ii) *the network includes at least 80% of the licensed individual nonphysician health care providers actively practicing in the state of Montana; and*

(iii) *the network includes at least 90% of those facilities licensed and operating as hospitals in the state of Montana.*

~~(b) conditions, not inconsistent with other provisions of this part, designed to give policyholders or subscribers an incentive to choose a particular provider.~~

~~(2) All terms or conditions of an insurance policy or subscriber contract, except those already approved by the commissioner, are subject to the prior approval of the commissioner.~~

~~(3)(5) A health benefit plan or other plan offering prepaid dental services under this part must shall offer its insureds the right to obtain dental care from any licensed dental care provider of their choice; subject to the same terms and conditions imposed under subsection (1) this section."~~

Approved April 25, 2013

## CHAPTER NO. 307

[HB 391]

AN ACT REQUIRING PARENTAL CONSENT PRIOR TO AN ABORTION FOR A MINOR; PROVIDING FOR JUDICIAL WAIVER OF THE CONSENT REQUIREMENT; PROVIDING PENALTIES; REPEALING PRIOR STATUTES RELATED TO PARENTAL NOTIFICATION; AMENDING SECTIONS 41-1-405 AND 47-1-104, MCA; REPEALING SECTIONS 50-20-221, 50-20-222, 50-20-223, 50-20-224, 50-20-225, 50-20-228, 50-20-229, 50-20-232, AND 50-20-235, MCA; AND PROVIDING AN EFFECTIVE DATE.

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

**Section 1. Short title.** [Sections 1 through 11] may be cited as the "Parental Consent for Abortion Act of 2013".

**Section 2. Legislative purpose and findings.** (1) The legislature finds that:

(a) immature minors often lack the ability to make fully informed choices that take into account both immediate and long-range consequences;

(b) the medical, emotional, and psychological consequences of abortion are sometimes serious and can be lasting, particularly when the patient is immature;

(c) the capacity to become pregnant and the capacity for mature judgment concerning the wisdom of an abortion are not necessarily related;

(d) parents ordinarily possess information essential to a physician in the exercise of the physician's best medical judgment concerning the minor;

(e) parents who are aware that their minor daughter has had an abortion may better ensure that the daughter receives adequate medical care after the abortion; and

(f) parental consultation is usually desirable and in the best interests of the minor.

(2) The purpose of [sections 1 through 11] is to further the important and compelling state interests of:

(a) protecting minors against their own immaturity;

(b) fostering family unity and preserving the family as a viable social unit;

(c) protecting the constitutional rights of parents to rear children who are members of their household; and

(d) reducing teenage pregnancy and unnecessary abortion.

**Section 3. Definitions.** As used in [sections 1 through 11], unless the context requires otherwise, the following definitions apply:

(1) "Coerce" means to restrain or dominate the choice of a minor by force, threat of force, or deprivation of food and shelter.

(2) "Consent" means a notarized written statement obtained on a form and executed in the manner prescribed by [section 5] that is signed by a parent or legal guardian of a minor and that declares that the minor intends to seek an abortion and that the parent or legal guardian of the minor consents to the abortion.

(3) "Emancipated minor" means a person under 18 years of age who is or has been married or who has been granted an order of limited emancipation by a court as provided in 41-1-503.

(4) "Medical emergency" means a condition that, on the basis of the good faith clinical judgment of a physician or physician assistant, so complicates the medical condition of a pregnant woman as to necessitate the immediate abortion of the woman's pregnancy to avert the woman's death or a condition for which a delay in treatment will create serious risk of substantial and irreversible impairment of a major bodily function.

(5) "Minor" means a pregnant female under 18 years of age who is not an emancipated minor.

(6) "Physical abuse" means any physical injury intentionally inflicted by a parent or legal guardian on a minor.

(7) "Physician" means a person licensed to practice medicine under Title 37, chapter 3.

(8) "Physician assistant" means a person licensed pursuant to Title 37, chapter 20, who provides medical services under the supervision of a physician.

(9) "Sexual abuse" has the meaning provided in 41-3-102.

**Section 4. Consent of parent or legal guardian required.** (1) Except as provided in [section 7], no physician or physician assistant may perform an abortion on a minor unless the physician or physician assistant or the agent of the physician or physician assistant first obtains the notarized written consent of a parent or legal guardian of the minor.

(2) The consent of a parent or legal guardian of the minor is invalid unless it is obtained in the manner and on the form prescribed by [section 5].

**Section 5. Consent form — disclosure — requirements for validity.**

(1) The department of public health and human services shall create a consent form to be used by physicians, physician assistants, or their agents in obtaining the consent of a parent or legal guardian as required under [section 4] or in obtaining the waiver of the consent of a parent or legal guardian as provided for in [section 7].

(2) The form must disclose but is not limited to the following:

(a) any information that a physician or physician assistant is required by law to provide to the minor and the rights of the minor;

(b) the rights of the parent or legal guardian;

(c) the surgical or medical procedures that may be performed on the minor;

(d) the risks and hazards related to the procedures planned for the minor, including but not limited to the risks and hazards associated with:

(i) any surgical, medical, or diagnostic procedure, including the potential for infection, blood clots in veins and lungs, hemorrhage, and allergic reactions;

(ii) a surgical abortion, including hemorrhage, uterine perforation or other damage to the uterus, sterility, injury to the bowel or bladder, a potential hysterectomy caused by a complication or injury during the procedure, and the possibility of additional procedures being required because of failure to remove all products of conception;

(iii) a medical or nonsurgical abortion, including hemorrhage, sterility, the continuation of the pregnancy, and the possibility of additional procedures being required because of failure to remove all products of conception; and

(iv) the particular procedure that is planned for the minor, including cramping of the uterus, pelvic pain, infection of the female reproductive organs, cervical laceration, incompetent cervix, and the requirement of emergency treatment for any complications.

(3) The form must include:

(a) a minor consent statement that the minor must sign. The minor consent statement must include but is not limited to the following points, each of which must be initialed by the minor:

(i) the minor understands that the physician or physician assistant is going to perform an abortion on the minor and that the abortion will end the minor's pregnancy;

(ii) the minor is not being coerced into having an abortion, the minor has the choice not to have the abortion, and the minor may withdraw consent at any time prior to the abortion;

(iii) the minor consents to the procedure;

(iv) the minor understands the risks and hazards associated with the surgical or medical procedures planned for the minor;

(v) the minor has been provided the opportunity to ask questions about the pregnancy, alternative forms of treatment, the risk of nontreatment, the procedures to be used, and the risks and hazards involved; and

(vi) the minor has sufficient information to give informed consent.

(b) a parental consent statement that a parent or legal guardian must sign. The parental consent statement must include but is not limited to the following points, each of which must be initialed by a parent or legal guardian:

(i) the parent or legal guardian understands that the physician or physician assistant who signed the physician declaration statement provided for in subsection (3)(c) is going to perform an abortion on the minor that will end the minor's pregnancy;

(ii) the parent or legal guardian had the opportunity to read the consent form or had the opportunity to have the consent form read to the parent or legal guardian;

(iii) the parent or legal guardian had the opportunity to ask questions of the physician or physician assistant or the agent of the physician or physician assistant regarding the information contained in the consent form and the surgical and medical procedures to be performed on the minor;

(iv) the parent or legal guardian has been provided sufficient information to give informed consent.

(c) a physician declaration that the physician or physician assistant must sign, declaring that:

(i) the physician or physician assistant or the agent of the physician or physician assistant explained the procedure and contents of the consent form to the minor and a parent or legal guardian of the minor and answered any questions; and

(ii) to the best of the physician's or physician assistant's knowledge, the minor and a parent or legal guardian of the minor have been adequately informed and have consented to the abortion; and

(d) a signature page for a parent or legal guardian of the minor that must be notarized and that includes an acknowledgment by the parent or legal guardian affirming that the parent or legal guardian is the minor's parent or legal guardian.

**Section 6. Proof of identification and relationship to minor — retention of records.** (1) A parent or legal guardian of a minor who is consenting to the performance of an abortion on the minor must provide the attending physician or physician assistant or the agent of the physician or physician assistant with government-issued proof of identity and written documentation that establishes that the parent or legal guardian is the lawful parent or legal guardian of the minor.

(2) A physician or physician assistant shall retain the completed consent form and the documents provided pursuant to subsection (1) in the minor's medical file for 5 years after the minor reaches 18 years of age, but in no event less than 7 years.

(3) A physician or physician assistant receiving documentation under this section shall execute for inclusion in the minor's medical record an affidavit stating: "I, (insert name of physician or physician assistant), certify that according to my best information and belief, a reasonable person under similar circumstances would rely on the information presented by both the minor and the minor's parent or legal guardian as sufficient evidence of identity and relationship."

**Section 7. Exceptions.** Consent is not required under [section 4] if:

- (1) the attending physician or physician assistant certifies in the minor's medical record that a medical emergency exists and there is insufficient time to provide consent;
- (2) consent is waived, in a notarized writing, by the person entitled to give consent; or
- (3) consent is waived under [section 9].

**Section 8. Coercion prohibited.** A parent, a legal guardian, or any other person may not coerce a minor to have an abortion. If a minor is denied financial support by the minor's parents, legal guardian, or custodian because of the minor's refusal to have an abortion, the minor must be considered an emancipated minor for the purposes of eligibility for public assistance benefits. The public assistance benefits may not be used to obtain an abortion.

**Section 9. Procedure for judicial waiver of consent.** (1) The requirements and procedures under this section are available to minors whether or not they are residents of this state.

(2) A minor may petition the youth court for a waiver of the requirement for consent and may participate in the proceedings on the minor's own behalf. The petition must include a statement that the minor is pregnant and is not emancipated. The court may appoint a guardian ad litem for the minor. A guardian ad litem is required to maintain the confidentiality of the proceedings. The youth court shall advise the minor of the right to assigned counsel and shall order the office of state public defender, provided for in 47-1-201, to assign counsel upon request.

(3) Proceedings under this section are confidential and must ensure the anonymity of the minor. All proceedings under this section must be sealed. The minor may file the petition using a pseudonym or using the minor's initials. All documents related to the petition and the proceedings on the petition are confidential and are not available to the public. The proceedings on the petition must be given preference over other pending matters to the extent necessary to ensure that the court reaches a prompt decision. The court shall issue written findings of fact and conclusions of law and rule within 48 hours of the time that the petition is filed unless the time is extended at the request of the minor. If the court fails to rule within 48 hours and the time is not extended, the petition is granted and the requirement for consent is waived.

(4) If the court finds that the minor is competent to decide whether to have an abortion, the court shall issue an order authorizing the minor to consent to the performance or inducement of an abortion without the consent of a parent or legal guardian.

(5) The court shall issue an order authorizing the minor to consent to an abortion without the consent of a parent or legal guardian if the court finds that:

- (a) there is evidence of physical abuse, sexual abuse, or emotional abuse of the minor by one or both parents, a legal guardian, or a custodian; or
- (b) the consent of a parent or legal guardian is not in the best interests of the minor.

(6) If the court does not make a finding specified in subsection (4) or (5), the court shall dismiss the petition.

(7) A court that conducts proceedings under this section shall issue written and specific findings of fact and conclusions of law supporting its decision and shall order that a confidential record of the evidence, findings, and conclusions be maintained.

(8) The supreme court may adopt rules providing an expedited confidential appeal by a minor if the youth court denies a petition. An order authorizing an abortion without the consent of a parent or legal guardian is not subject to appeal.

(9) Filing fees may not be required of a minor who petitions a court for a waiver of the requirement for consent or who appeals a denial of a petition.

**Section 10. Criminal and civil penalties.** (1) A person convicted of performing an abortion in violation of [section 4] shall be fined an amount not to exceed \$1,000 or be imprisoned in the county jail for a term not to exceed 1 year, or both. On a second or subsequent conviction, the person shall be fined an amount not less than \$500 or more than \$50,000 and be imprisoned in the state prison for a term of not less than 10 days or more than 5 years, or both.

(2) Failure to obtain the consent required under [section 4] is prima facie evidence in an appropriate civil action for a violation of a professional obligation. The evidence does not apply to issues other than failure to obtain the consent of a parent or legal guardian. A civil action may be based on a claim that the failure to obtain consent was the result of a violation of the appropriate legal standard of care. Failure to obtain consent is presumed to be actual malice pursuant to the provisions of 27-1-221. [Sections 1 through 11] do not limit the common-law rights of parents.

(3) A person who coerces a minor to have an abortion is guilty of a misdemeanor and upon conviction shall be fined an amount not to exceed \$1,000 or be imprisoned in the county jail for a term not to exceed 1 year, or both. On a second or subsequent conviction, the person shall be fined an amount not less than \$500 or more than \$50,000 and be imprisoned in the state prison for a term of not less than 10 days or more than 5 years, or both.

(4) A person not authorized to grant consent under [section 4] who signs a consent form provided for in [section 5] is guilty of a misdemeanor.

**Section 11. Construction.** Nothing in [sections 1 through 11] may be construed as creating or recognizing a right to abortion. It is not the intention of [sections 1 through 11] to make lawful an abortion that is currently unlawful.

**Section 12.** Section 41-1-405, MCA, is amended to read:

**“41-1-405. Emergencies and special situations.** (1) A health professional may render or attempt to render emergency service or first aid, medical, surgical, dental, or psychiatric treatment, without compensation, to any injured person or any person regardless of age who is in need of immediate health care when, in good faith, the professional believes that the giving of aid is the only alternative to probable death or serious physical or mental damage.

(2) A health professional may render nonemergency services to minors for conditions that will endanger the health or life of the minor if services would be delayed by obtaining consent from spouse, parent, parents, or legal guardian.

(3) Consent may not be required of a minor who does not possess the mental capacity or who has a physical disability that renders the minor incapable of giving consent and who has no known relatives or legal guardians, if a physician determines that the health service should be given.

(4) Self-consent of minors does not apply to sterilization or abortion, except as provided in ~~Title 50, chapter 20, part 2~~ [sections 1 through 11].”

**Section 13.** Section 47-1-104, MCA, is amended to read:

**“47-1-104. Statewide system — structure and scope of services — assignment of counsel at public expense.** (1) There is a statewide public defender system, which is required to deliver public defender services in all



courts in this state. The system is supervised by the commission and administered by the office.

(2) The commission shall approve a strategic plan for service delivery and divide the state into not more than 11 public defender regions. The commission may establish a regional office to provide public defender services in each region, as provided in 47-1-215, establish a contracted services program to provide services in the region, or utilize other service delivery methods as appropriate and consistent with the purposes described in 47-1-102.

(3) When a court orders the office or the office of appellate defender to assign counsel, the appropriate office shall immediately assign a public defender qualified to provide the required services. The commission shall establish protocols to ensure that the offices make appropriate assignments in a timely manner.

(4) A court may order an office to assign counsel under this chapter in the following cases:

(a) in cases in which a person is entitled to assistance of counsel at public expense because of financial inability to retain private counsel, subject to a determination of indigence pursuant to 47-1-111, as follows:

(i) for a person charged with a felony or charged with a misdemeanor for which there is a possibility of incarceration, as provided in 46-8-101;

(ii) for a party in a proceeding to determine parentage under the Uniform Parentage Act, as provided in 40-6-119;

(iii) for a parent, guardian, or other person with physical or legal custody of a child or youth in any removal, placement, or termination proceeding pursuant to 41-3-422 and as required under the federal Indian Child Welfare Act, as provided in 41-3-425;

(iv) for an applicant for sentence review pursuant to Title 46, chapter 18, part 9;

(v) for a petitioner in a proceeding for postconviction relief, as provided in 46-21-201;

(vi) for a petitioner in a habeas corpus proceeding pursuant to Title 46, chapter 22;

(vii) for a parent or guardian in a proceeding for the involuntary commitment of a developmentally disabled person to a residential facility, as provided in 53-20-112;

(viii) for a respondent in a proceeding for involuntary commitment for a mental disorder, as provided in 53-21-116;

(ix) for a respondent in a proceeding for the involuntary commitment of a person for alcoholism, as provided in 53-24-302; and

(x) for a witness in a criminal grand jury proceeding, as provided in 46-4-304.

(b) in cases in which a person is entitled by law to the assistance of counsel at public expense regardless of the person's financial ability to retain private counsel, as follows:

(i) as provided for in 41-3-425;

(ii) for a youth in a proceeding under the Montana Youth Court Act alleging a youth is delinquent or in need of intervention, as provided in 41-5-1413, and in a prosecution under the Extended Jurisdiction Prosecution Act, as provided in 41-5-1607;

(iii) for a juvenile entitled to assigned counsel in a proceeding under the Interstate Compact on Juveniles, as provided in 41-6-101;

(iv) for a minor who petitions for a waiver of parental ~~notification consent~~ requirements under the ~~Parental Notice of Abortion Act~~ *Parental Consent for Abortion Act of 2013*, as provided in ~~50-20-232~~ [section 9];

(v) for a respondent in a proceeding for the involuntary commitment of a developmentally disabled person to a residential facility, as provided in 53-20-112;

(vi) for a minor voluntarily committed to a mental health facility, as provided in 53-21-112;

(vii) for a person who is the subject of a petition for the appointment of a guardian or conservator in a proceeding under the provisions of the Uniform Probate Code in Title 72, chapter 5;

(viii) for a ward when the ward's guardian has filed a petition to require medical treatment for a mental disorder of the ward, as provided in 72-5-322; and

(c) for an eligible appellant in an appeal of a proceeding listed in this subsection (4).

(5) (a) Except as provided in subsection (5)(b), a public defender may not be assigned to act as a court-appointed special advocate or guardian ad litem in a proceeding under the Montana Youth Court Act, Title 41, chapter 5, or in an abuse and neglect proceeding under Title 41, chapter 3.

(b) A private attorney who is contracted with under the provisions of 47-1-216 to provide public defender services under this chapter may be appointed as a court-appointed special advocate or guardian ad litem in a proceeding described in subsection (5)(a) if the appointment is separate from the attorney's service for the statewide public defender system and does not result in a conflict of interest."

**Section 14. Repealer.** The following sections of the Montana Code Annotated are repealed:

- 50-20-221. Short title.
- 50-20-222. Legislative purpose and findings.
- 50-20-223. Definitions.
- 50-20-224. Notice of parent required.
- 50-20-225. Alternative notification.
- 50-20-228. Exceptions.
- 50-20-229. Coercion prohibited.
- 50-20-232. Procedure for judicial waiver of notice.
- 50-20-235. Criminal and civil penalties.

**Section 15. Codification instruction.** [Sections 1 through 11] are intended to be codified as an integral part of Title 50, chapter 20, and the provisions of Title 50, chapter 20, apply to [sections 1 through 11].

**Section 16. Severability.** If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

**Section 17. Effective date.** [This act] is effective July 1, 2013.

Approved April 25, 2013

**CHAPTER NO. 308**

[HB 16]

AN ACT REVISING THE STATUTES RELATED TO INVOLUNTARY COMMITMENTS; REVISING WHEN THE RIGHT OF THE RESPONDENT TO BE PHYSICALLY PRESENT AT A HEARING MAY BE WAIVED; ALLOWING EMERGENCY DETENTION OF A PERSON IN CERTAIN CASES; AND AMENDING SECTIONS 53-21-102, 53-21-119, AND 53-21-129, MCA.

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

**Section 1.** Section 53-21-102, MCA, is amended to read:

**“53-21-102. Definitions.** As used in this chapter, the following definitions apply:

(1) “Abuse” means any willful, negligent, or reckless mental, physical, sexual, or verbal mistreatment or maltreatment or misappropriation of personal property of any person receiving treatment in a mental health facility that insults the psychosocial, physical, or sexual integrity of any person receiving treatment in a mental health facility.

(2) “Behavioral health inpatient facility” means a facility or a distinct part of a facility of 16 beds or less licensed by the department that is capable of providing secure, inpatient psychiatric services, including services to persons with mental illness and co-occurring chemical dependency.

(3) “Board” or “mental disabilities board of visitors” means the mental disabilities board of visitors created by 2-15-211.

(4) “Commitment” means an order by a court requiring an individual to receive treatment for a mental disorder.

(5) “Court” means any district court of the state of Montana.

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

(7) “Emergency situation” means:

(a) a situation in which any person is in imminent danger of death or bodily harm from the activity of a person who appears to be suffering from a mental disorder *and appears to require commitment; or*

*(b) a situation in which any person who appears to be suffering from a mental disorder and appears to require commitment is substantially unable to provide for the person’s own basic needs of food, clothing, shelter, health, or safety and appears to require commitment.*

(8) “Friend of respondent” means any person willing and able to assist a person suffering from a mental disorder and requiring commitment or a person alleged to be suffering from a mental disorder and requiring commitment in dealing with legal proceedings, including consultation with legal counsel and others.

(9) (a) “Mental disorder” means any organic, mental, or emotional impairment that has substantial adverse effects on an individual’s cognitive or volitional functions.

(b) The term does not include:

(i) addiction to drugs or alcohol;

(ii) drug or alcohol intoxication;

(iii) mental retardation; or

(iv) epilepsy.

(c) A mental disorder may co-occur with addiction or chemical dependency.

(10) "Mental health facility" or "facility" means the state hospital, the Montana mental health nursing care center, or a hospital, a behavioral health inpatient facility, a mental health center, a residential treatment facility, or a residential treatment center licensed or certified by the department that provides treatment to children or adults with a mental disorder. A correctional institution or facility or jail is not a mental health facility within the meaning of this part.

(11) "Mental health professional" means:

(a) a certified professional person;

(b) a physician licensed under Title 37, chapter 3;

(c) a professional counselor licensed under Title 37, chapter 23;

(d) a psychologist licensed under Title 37, chapter 17;

(e) a social worker licensed under Title 37, chapter 22; or

(f) an advanced practice registered nurse, as provided for in 37-8-202, with a clinical specialty in psychiatric mental health nursing.

(12) (a) "Neglect" means failure to provide for the biological and psychosocial needs of any person receiving treatment in a mental health facility, failure to report abuse, or failure to exercise supervisory responsibilities to protect patients from abuse and neglect.

(b) The term includes but is not limited to:

(i) deprivation of food, shelter, appropriate clothing, nursing care, or other services;

(ii) failure to follow a prescribed plan of care and treatment; or

(iii) failure to respond to a person in an emergency situation by indifference, carelessness, or intention.

(13) "Next of kin" includes but is not limited to the spouse, parents, adult children, and adult brothers and sisters of a person.

(14) "Patient" means a person committed by the court for treatment for any period of time or who is voluntarily admitted for treatment for any period of time.

(15) "Peace officer" means any sheriff, deputy sheriff, marshal, police officer, or other peace officer.

(16) "Professional person" means:

(a) a medical doctor;

(b) an advanced practice registered nurse, as provided for in 37-8-202, with a clinical specialty in psychiatric mental health nursing;

(c) a licensed psychologist; or

(d) a person who has been certified, as provided for in 53-21-106, by the department.

(17) "Reasonable medical certainty" means reasonable certainty as judged by the standards of a professional person.

(18) "Respondent" means a person alleged in a petition filed pursuant to this part to be suffering from a mental disorder and requiring commitment.

(19) "State hospital" means the Montana state hospital."

**Section 2.** Section 53-21-119, MCA, is amended to read:

**“53-21-119. Waiver of rights.** (1) A person may waive the person’s rights, or if the person is not capable of making an intentional and knowing decision, these rights may be waived by the person’s counsel and friend of respondent, *if a friend of respondent is appointed*, acting together if a record is made of the reasons for the waiver. The right to counsel may not be waived. The right to treatment provided for in this part may not be waived.

(2) The right of the respondent to be physically present at a hearing may also be waived by the respondent’s attorney and the friend of respondent with the concurrence of the professional person and the judge upon a finding supported by facts that:

(a) (i) the presence of the respondent at the hearing would be likely to seriously adversely affect the respondent’s mental condition; and

(b) (ii) an alternative location for the hearing in surroundings familiar to the respondent would not prevent the adverse effects on the respondent’s mental condition; or

(b) *the respondent has voluntarily expressed a desire to waive the respondent’s presence at the hearing.*

(3) (a) In the case of a minor, provided that a record is made of the reasons for the waiver, the minor’s rights may be waived by the mutual consent of the minor’s counsel and parents or guardian or guardian ad litem if there are no parents or guardian.

(b) If there is an apparent conflict of interest between a minor and the minor’s parents or guardian, the court shall appoint a guardian ad litem for the minor.”

**Section 3.** Section 53-21-129, MCA, is amended to read:

**“53-21-129. Emergency situation — petition — detention.** (1) When an emergency situation *as defined in 53-21-102* exists, a peace officer may take any person who appears to have a mental disorder and to present an imminent danger of death or bodily harm to the person or to others *or who appears to have a mental disorder and to be substantially unable to provide for the person’s own basic needs of food, clothing, shelter, health, or safety* into custody only for sufficient time to contact a professional person for emergency evaluation. If possible, a professional person should be called prior to taking the person into custody.

(2) If the professional person agrees that the person detained is a danger to the person or to others ~~because of a mental disorder~~ and that an emergency situation *as defined in 53-21-102* exists, then the person may be detained and treated until the next regular business day. At that time, the professional person shall release the detained person or file findings with the county attorney who, if the county attorney determines probable cause to exist, shall file the petition provided for in 53-21-121 through 53-21-126 in the county of the respondent’s residence. In either case, the professional person shall file a report with the court explaining the professional person’s actions.

(3) The county attorney of a county may make arrangements with a federal, state, regional, or private mental facility or with a mental health facility in a county for the detention of persons held pursuant to this section. If an arrangement has been made with a facility that does not, at the time of the emergency, have a bed available to detain the person at that facility, the person may be transported to the state hospital or to a behavioral health inpatient facility, subject to 53-21-193 and subsection (4) of this section, for detention and treatment as provided in this part. This determination must be made on an

individual basis in each case, and the professional person at the local facility shall certify to the county attorney that the facility does not have adequate room at that time.

(4) Before a person may be transferred to the state hospital or to a behavioral health inpatient facility under this section, the state hospital or the behavioral health inpatient facility must be notified prior to transfer and shall state whether a bed is available for the person. If the professional person determines that a behavioral health inpatient facility is the appropriate facility for the emergency detention and a bed is available, the county attorney shall direct the person to the appropriate facility to which the person must be transported for emergency detention.”

Approved April 26, 2013

## CHAPTER NO. 309

[HB 233]

AN ACT REVISING THE 24/7 SOBRIETY PROGRAM; EXPANDING THE 24/7 SOBRIETY PROGRAM TO INCLUDE OTHER CRIMES IN WHICH THE ABUSE OF ALCOHOL OR DANGEROUS DRUGS WAS A CONTRIBUTING FACTOR IN THE COMMISSION OF THE CRIME; EXPANDING USE OF THE 24/7 PROGRAM TO ADDITIONAL LOCAL LAW ENFORCEMENT AGENCIES; REQUIRING THE STATEWIDE PROGRAM TO MEET CERTAIN STANDARDS; AUTHORIZING ANY COURT TO UTILIZE THE PROGRAM; AMENDING SECTIONS 44-4-1201, 44-4-1202, 44-4-1203, 44-4-1204, 44-4-1205, 44-4-1206, 46-18-201, 61-8-422, AND 61-8-733, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

WHEREAS, a Rand Corporation study published in the American Journal of Public Health concluded that the 24/7 Sobriety Program’s frequent alcohol testing combined with swift, certain, and modest sanctions for violations can reduce problem drinking and improve public health outcomes and public safety; and

WHEREAS, the Rand Corporation analysis provides strong evidence that the 24/7 Sobriety Program, when applied to repeat DUI offenders and offenders of other crimes in which the abuse of alcohol or dangerous drugs is a factor such as domestic violence, is successful in reducing arrests for those crimes; and

WHEREAS, as a result of the success of the 24/7 Sobriety Program, the program is an authorized program for which impaired driving countermeasure incentive grant funding is available under federal law.

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

**Section 1.** Section 44-4-1201, MCA, is amended to read:

“**44-4-1201. Short title.** This part may be cited as the “Montana 24/7 Sobriety and Drug Monitoring Program Act”.”

**Section 2.** Section 44-4-1202, MCA, is amended to read:

“**44-4-1202. Purpose — definitions.** (1) The legislature declares that driving in Montana upon a way of this state open to the public is a privilege, not a right. A driver who wishes to enjoy the benefits of this privilege ~~must~~ *shall* accept the corresponding responsibilities.

(2) The legislature further declares that the purpose of this part is:



(a) to protect the public health and welfare by reducing the number of people on Montana's highways who drive under the influence of alcohol or dangerous drugs; ~~and~~

(b) *to protect the public health and welfare by reducing the number of repeat offenders for crimes in which the abuse of alcohol or dangerous drugs was a contributing factor in the commission of the crime; and*

~~(b)~~(c) to strengthen the pretrial and posttrial options available to prosecutors and judges in responding to repeat DUI offenders *or other repeat offenders who commit crimes in which the abuse of alcohol or dangerous drugs was a contributing factor in the commission of the crime.*

(3) As used in this part, the following definitions apply:

(a) "Core components" means those elements of a sobriety program that analysis demonstrates are most likely to account for positive program outcomes.

(b) "Dangerous drug" has the meaning provided in 50-32-101.

~~(a)~~(c) "Department" means the department of justice provided for in 2-15-2001.

(d) "Immediate sanction" means a sanction that is applied within minutes of a noncompliant test event.

(e) "Law enforcement agency" means the county sheriff's office or another law enforcement agency designated by the county sheriff's office that is charged with enforcing the sobriety program.

~~(b)~~(f) "Sobriety program" or "program" means the 24/7 sobriety and drug monitoring program established in 44-4-1203, which authorizes a court or an agency as defined in 2-15-102, as a condition of bond, sentence, probation, parole, or work permit to:-

(i) require an individual who has been charged with or convicted of a crime in which the abuse of alcohol or dangerous drugs was a contributing factor in the commission of the crime, including but not limited to a second or subsequent offense of driving under the influence of alcohol or dangerous drugs, to abstain from alcohol or dangerous drugs for a period of time; and

(ii) require the individual to be subject to testing to determine the presence of alcohol or dangerous drugs:

(A) twice a day at a central location where immediate sanctions may be applied;

(B) when testing twice a day is impractical, by continuous, remote sensing, or transdermal alcohol monitoring by means of an electronic monitoring device that allows timely sanctions to be applied; or

(C) with the concurrence of the department, by an alternate method that is consistent with 44-4-1203.

~~(e)~~(g) "Testing" means a procedure for determining the presence and level of alcohol or a dangerous drug, ~~as defined in 50-32-101~~, in an individual's *breath or body fluid, including blood, breath, or urine, saliva, or perspiration*, and includes any combination of the use of breath testing, drug patch testing, urinalysis testing, saliva testing, or continuous, remote sensing, or transdermal alcohol monitoring. *With the concurrence of the department and consistent with 44-4-1203, alternate body fluids may be approved for testing.*

(h) "Timely sanction" means a sanction that is applied as soon as practical following a noncompliant test event."

**Section 3.** Section 44-4-1203, MCA, is amended to read:

**“44-4-1203. Sobriety and drug monitoring program created.** (1) There is a statewide 24/7 sobriety and drug monitoring program within the department of justice to be administered by the attorney general.

(2) *The core components of the sobriety program must include use of a primary testing methodology for the presence of alcohol or dangerous drugs that best facilitates the ability to apply immediate sanctions for noncompliance at an affordable cost. In cases of hardship or when a sobriety program participant is subject to less-stringent testing requirements, testing methodologies with timely sanctions for noncompliance may be utilized.*

(3) *The sobriety program must be supported by evidence of effectiveness and satisfy at least two of the following categories:*

(a) *the program is included in the federal registry of evidence-based programs and practices;*

(b) *the program has been reported in a peer-reviewed journal as having positive effects on the primary targeted outcome; or*

(c) *the program has been documented as effective by informed experts and other sources.*

(2)(4) ~~If a county sheriff law enforcement agency~~ chooses to participate in the sobriety program, the department shall assist in the creation and administration of the program in the county in the manner provided in this part. The department shall also assist ~~counties in which a sobriety program exists~~ *entities participating in the program* in determining alternatives to incarceration.

(3)(5) (a) ~~If a county law enforcement agency~~ participates in the program, the ~~sheriff law enforcement agency~~ may designate an entity to provide the testing services or to take any other action required or authorized to be provided by the ~~sheriff law enforcement agency~~ pursuant to this part, except that the ~~sheriff's~~ *law enforcement agency's* designee may not determine whether to participate in the sobriety program.

(b) ~~The sheriff law enforcement agency~~ shall establish the testing locations and times for the county but must have at least one testing location and two daily testing times approximately 12 hours apart.

(6) *Any efforts by the department to alter or modify the core components of the statewide sobriety program must include a documented strategy for achieving and measuring the effectiveness of the proposed modifications. Before core components may be modified, a pilot program with defined objectives and timelines must be initiated in which measurements of the effectiveness and impact of any proposed modifications to the core components are monitored. The data collected from the pilot program must be assessed by the department, and a determination must be made as to whether the stated goals were achieved and whether the modifications should be formally implemented in the sobriety program.”*

**Section 4.** Section 44-4-1204, MCA, is amended to read:

**“44-4-1204. Rulemaking — testing fee.** The attorney general shall adopt rules to implement this part. The rules must:

(1) provide for the nature and manner of testing and the procedures and apparatus to be used for testing;

(2) establish reasonable participation and testing fees for the program, including the collection of fees to pay the cost of installation, monitoring, and deactivation of any testing device;

(3) provide for the establishment and use of local accounts for the deposit of fees collected pursuant to these rules; and

(4) require and provide for the approval of a sobriety program data management technology plan that must be used by the department and participating ~~counties~~ *law enforcement agencies* to manage testing, data access, fees and fee payments, and any required reports.”

**Section 5.** Section 44-4-1205, MCA, is amended to read:

**“44-4-1205. Authority of court to order participation in sobriety and drug monitoring program — probationary license — ~~condition of parole imposition of conditions.~~** (1) (a) *Any court or agency utilizing the sobriety program may stay any sanctions that it imposed against an offender while the offender is in compliance with the sobriety program.*

(1)(b) *If an individual convicted of the offense of aggravated driving under the influence in violation of 61-8-465, a second or subsequent offense of driving under the influence in violation of 61-8-401, or a second or subsequent offense of driving with excessive alcohol concentration in violation of 61-8-406 has been required to participate in the sobriety program, the court may, upon the individual’s successful completion of a court-approved chemical dependency treatment program and proof of insurance pursuant to 61-6-301, notify the department that as a participant in the sobriety program, the individual is eligible for a restricted probationary driver’s license pursuant to 61-2-302; notwithstanding the requirements of 61-5-208 that an individual must complete a certain portion of a suspension period before a probationary license may be issued, notwithstanding the requirements of 61-5-208 that an individual is required to complete a certain portion of a suspension period before a probationary license may be issued.*

(2)(c) *If the individual fails to comply with the requirements of the sobriety program, the court may notify the department of the individual’s noncompliance and direct the department to withdraw the individual’s probationary driver’s license and reinstate the remainder of the suspension period provided in 61-5-208.*

(3)(2) ~~The~~ *Upon an offender’s participation in the sobriety program and payment of the fees required by 44-4-1204:*

(a) *the court may condition any bond or pretrial release for an individual charged with a violation of 61-8-465, a second or subsequent violation of 61-8-401 or 61-8-406, or a second or subsequent violation of any other statute that imposes a jail penalty of 6 months or more if the abuse of alcohol or dangerous drugs was a contributing factor in the commission of the crime upon participation in the sobriety program and payment of the fees required by 44-4-1204;*

(4) ~~The~~ (b) *the court may condition the granting of a suspended execution of sentence or probation for an individual convicted of a violation of 61-8-465, a second or subsequent violation of 61-8-401 or 61-8-406, or —a second or subsequent violation of any other statute that imposes a jail penalty of 6 months or more if the abuse of alcohol or dangerous drugs was a contributing factor in the commission of the crime upon participation in the sobriety program and payment of the fees required by 44-4-1204;*

(5) ~~The~~ (c) *the board of pardons and parole, the department of corrections, or a parole officer may condition parole for a violation of 61-8-465, for a second or subsequent violation of 61-8-401 or 61-8-406, or a second or subsequent violation of any other statute that imposes a jail penalty of 6 months or more if the abuse of*

*alcohol or dangerous drugs was a contributing factor in the commission of the crime upon participation in the sobriety program and payment of the fees required by 44-4-1204.; or*

*(d) the department of corrections may establish conditions for conditional release for a violation of 61-8-465, a second or subsequent violation of 61-8-401 or 61-8-406, or a second or subsequent violation of any other statute that imposes a jail penalty of 6 months or more if the abuse of alcohol or dangerous drugs was a contributing factor in the commission of the crime.*

*(3) An entity referred to in subsections (2)(a) through (2)(d) may condition any bond or pretrial release, suspended execution of sentence, probation, parole, or conditional release as provided in those subsections for an individual charged with or convicted of a violation of any statute involving domestic abuse or the abuse or neglect of a minor if the abuse of alcohol or dangerous drugs was a contributing factor in the commission of the crime regardless of whether the charge or conviction was for a first, second, or subsequent violation of the statute.”*

**Section 6.** Section 44-4-1206, MCA, is amended to read:

**“44-4-1206. Collection, distribution, and use of testing fees.** The ~~sheriff law enforcement agency~~ of a county in which a sobriety program exists shall collect the testing fee required by the rules of the department and deposit the fees into the local sobriety program account established pursuant to department rules. The fee must be distributed according to those rules to the proper ~~county entity~~ for use by the ~~sheriff law enforcement agency~~ or the ~~sheriff's law enforcement agency's~~ designee pursuant to the terms determined by the ~~sheriff law enforcement agency~~ in accordance with the provisions of this part and the rules implementing this part.”

**Section 7.** Section 46-18-201, MCA, is amended to read:

**“46-18-201. Sentences that may be imposed.** (1) (a) Whenever a person has been found guilty of an offense upon a verdict of guilty or a plea of guilty or nolo contendere, a sentencing judge may defer imposition of sentence, except as otherwise specifically provided by statute, for a period:

(i) not exceeding 1 year for a misdemeanor or for a period not exceeding 3 years for a felony; or

(ii) not exceeding 2 years for a misdemeanor or for a period not exceeding 6 years for a felony if a financial obligation is imposed as a condition of sentence for either the misdemeanor or the felony, regardless of whether any other conditions are imposed.

(b) Except as provided in 46-18-222, imposition of sentence in a felony case may not be deferred in the case of an offender who has been convicted of a felony on a prior occasion, whether or not the sentence was imposed, imposition of the sentence was deferred, or execution of the sentence was suspended.

(2) Whenever a person has been found guilty of an offense upon a verdict of guilty or a plea of guilty or nolo contendere, a sentencing judge may suspend execution of sentence, except as otherwise specifically provided by statute, for a period up to the maximum sentence allowed or for a period of 6 months, whichever is greater, for each particular offense.

(3) (a) Whenever a person has been found guilty of an offense upon a verdict of guilty or a plea of guilty or nolo contendere, a sentencing judge may impose a sentence that may include:

(i) a fine as provided by law for the offense;

(ii) payment of costs, as provided in 46-18-232, or payment of costs of assigned counsel as provided in 46-8-113;

(iii) a term of incarceration, as provided in Title 45 for the offense, at a county detention center or at a state prison to be designated by the department of corrections;

(iv) commitment of:

(A) an offender not referred to in subsection (3)(a)(iv)(B) to the department of corrections, with a recommendation for placement in an appropriate correctional facility or program; however, all but the first 5 years of the commitment to the department of corrections must be suspended, except as provided in 45-5-503(4), 45-5-507(5), 45-5-601(3), 45-5-602(3), 45-5-603(2)(c), and 45-5-625(4); or

(B) a youth transferred to district court under 41-5-206 and found guilty in the district court of an offense enumerated in 41-5-206 to the department of corrections for a period determined by the court for placement in an appropriate correctional facility or program;

(v) with the approval of the facility or program, placement of the offender in a community corrections facility or program as provided in 53-30-321;

(vi) with the approval of the prerelease center or prerelease program and confirmation by the department of corrections that space is available, placement of the offender in a prerelease center or prerelease program for a period not to exceed 1 year;

(vii) chemical treatment of sexual offenders, as provided in 45-5-512, if applicable, that is paid for by and for a period of time determined by the department of corrections, but not exceeding the period of state supervision of the person; or

(viii) any combination of subsections (2) and (3)(a)(i) through (3)(a)(vii).

(b) A court may permit a part or all of a fine to be satisfied by a donation of food to a food bank program.

(4) When deferring imposition of sentence or suspending all or a portion of execution of sentence, the sentencing judge may impose upon the offender any reasonable restrictions or conditions during the period of the deferred imposition or suspension of sentence. Reasonable restrictions or conditions imposed under subsection (1)(a) or (2) may include but are not limited to:

(a) limited release during employment hours as provided in 46-18-701;

(b) incarceration in a detention center not exceeding 180 days;

(c) conditions for probation;

(d) payment of the costs of confinement;

(e) payment of a fine as provided in 46-18-231;

(f) payment of costs as provided in 46-18-232 and 46-18-233;

(g) payment of costs of assigned counsel as provided in 46-8-113;

(h) with the approval of the facility or program, an order that the offender be placed in a community corrections facility or program as provided in 53-30-321;

(i) with the approval of the prerelease center or prerelease program and confirmation by the department of corrections that space is available, an order that the offender be placed in a prerelease center or prerelease program for a period not to exceed 1 year;

(j) community service;

(k) home arrest as provided in Title 46, chapter 18, part 10;

(l) payment of expenses for use of a judge pro tempore or special master as provided in 3-5-116;

(m) with the approval of the department of corrections and with a signed statement from an offender that the offender's participation in the boot camp incarceration program is voluntary, an order that the offender complete the boot camp incarceration program established pursuant to 53-30-403;

(n) participation in a day reporting program provided for in 53-1-203;

(o) participation in the sobriety program provided for in Title 44, chapter 4, part 12, for a violation of 61-8-465, a second or subsequent violation of 61-8-401 or 61-8-406, or a second or subsequent violation of any other statute that imposes a jail penalty of 6 months or more if the abuse of alcohol or dangerous drugs was a contributing factor in the commission of the crime or for a violation of any statute involving domestic abuse or the abuse or neglect of a minor if the abuse of alcohol or dangerous drugs was a contributing factor in the commission of the crime regardless of whether the charge or conviction was for a first, second, or subsequent violation of the statute;

(p) any other reasonable restrictions or conditions considered necessary for rehabilitation or for the protection of the victim or society; or

(q) any combination of the restrictions or conditions listed in subsections (4)(a) through (4)(p).

(5) In addition to any other penalties imposed, if a person has been found guilty of an offense upon a verdict of guilty or a plea of guilty or nolo contendere and the sentencing judge finds that a victim, as defined in 46-18-243, has sustained a pecuniary loss, the sentencing judge shall, as part of the sentence, require payment of full restitution to the victim, as provided in 46-18-241 through 46-18-249, whether or not any part of the sentence is deferred or suspended.

(6) In addition to any of the penalties, restrictions, or conditions imposed pursuant to subsections (1) through (5), the sentencing judge may include the suspension of the license or driving privilege of the person to be imposed upon the failure to comply with any penalty, restriction, or condition of the sentence. A suspension of the license or driving privilege of the person must be accomplished as provided in 61-5-214 through 61-5-217.

(7) In imposing a sentence on an offender convicted of a sexual or violent offense, as defined in 46-23-502, the sentencing judge may not waive the registration requirement provided in Title 46, chapter 23, part 5.

(8) If a felony sentence includes probation, the department of corrections shall supervise the offender unless the court specifies otherwise.

(9) *As used in this section, "dangerous drug" has the meaning provided in 50-32-101.*

**Section 8.** Section 61-8-442, MCA, is amended to read:

**"61-8-442. Driving under influence of alcohol or drugs — driving with excessive alcohol concentration — ignition interlock device — 24/7 sobriety program — forfeiture of vehicle.** (1) In addition to the punishments provided in 61-8-714 and 61-8-722, regardless of disposition and if a probationary license is recommended by the court, the court may, for a person convicted of a first offense under 61-8-401 or 61-8-406;:

(a) restrict the person to driving only a motor vehicle equipped with a functioning ignition interlock device during the probationary period and require the person to pay the reasonable cost of leasing, installing, and maintaining the device; or



*(b) require the person to participate in a court-approved alcohol or drug detection testing program and pay the fees associated with the testing program.*

(2) If a person is convicted of a second or subsequent violation of 61-8-401 or 61-8-406, in addition to the punishments provided in 61-8-714 and 61-8-722, regardless of disposition, the court shall:

(a) if recommending that a probationary license be issued to the person, restrict the person to driving only a motor vehicle equipped with a functioning ignition interlock device during the probationary period and require the person to pay the reasonable cost of leasing, installing, and maintaining the device; or

*(b) require the person to participate in the 24/7 sobriety program provided for in 44-4-1203 and pay the fees associated with the program or require the person to participate in a court-approved alcohol or drug detection testing program and pay the fees associated with the testing program; or*

~~(b)~~(c) order that each motor vehicle owned by the person at the time of the offense be seized and subjected to the forfeiture procedure provided under 61-8-421.

(3) Any restriction or requirement imposed under this section must be included in a report of the conviction made by the court to the department in accordance with 61-11-101 and placed upon the person's driving record maintained by the department in accordance with 61-11-102.

(4) The duration of a restriction imposed under this section must be monitored by the department."

**Section 9.** Section 61-8-733, MCA, is amended to read:

**"61-8-733. Driving under influence of alcohol or drugs — driving with excessive alcohol concentration — ignition interlock device — 24/7 sobriety program — forfeiture of vehicle.** (1) On the second or subsequent conviction of a violation of 61-8-401 or 61-8-406 or a second or subsequent conviction under 61-5-212 when the reason for the suspension or revocation was that the person was convicted of a violation of 61-8-401 or 61-8-406 or a similar offense under the laws of any other state or the suspension was under 61-8-402 or 61-8-409 or a similar law of any other state for refusal to take a test for alcohol or drugs requested by a peace officer who believed that the person might be driving under the influence, the court, in addition to the punishments provided in 61-5-212, 61-8-714, and 61-8-722 and any other penalty imposed by law, shall:

(a) if recommending that a probationary license be issued to the person, restrict the person to driving only a motor vehicle equipped with a functioning ignition interlock device during the probationary period and require the person to pay the reasonable cost of leasing, installing, and maintaining the device;

*(b) require the person to participate in the 24/7 sobriety program provided for in 44-4-1203 and pay the fees associated with the program or require the person to participate in a court-approved alcohol or drug detection testing program and pay the fees associated with the testing program; or*

~~(b)~~(c) order that each motor vehicle owned by the person at the time of the offense be seized and subjected to the procedure provided under 61-8-421.

(2) A vehicle used by a person as a common carrier in the transaction of business as a common carrier is not subject to forfeiture unless it appears that the owner or other person in charge of the vehicle consented to or was privy to the violation. A vehicle may not be forfeited under this section for any act or omission established by the owner to have been committed or omitted by a person other than the owner while the vehicle was unlawfully in the possession

of a person other than the owner in violation of the criminal laws of this state or the United States.

(3) Forfeiture of a vehicle encumbered by a security interest is subject to the secured person's interest if the person did not know and could not have reasonably known of the unlawful possession, use, or other act on which the forfeiture is sought."

**Section 10. Effective date.** [This act] is effective on passage and approval.

Approved April 26, 2013

## CHAPTER NO. 310

[HB 259]

AN ACT REQUIRING PROFESSIONAL AND OCCUPATIONAL LICENSING BOARDS AND PROGRAMS TO APPLY RELEVANT EDUCATION, TRAINING, OR SERVICE BY MEMBERS OF THE ARMED FORCES OR RESERVES OF THE UNITED STATES OR THE NATIONAL GUARD OF ANY STATE TO QUALIFICATIONS FOR CERTIFICATION OR LICENSURE; REQUIRING A PROGRESS REPORT; EXTENDING RULEMAKING AUTHORITY; PROVIDING AN APPROPRIATION; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

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

**Section 1. Military training or experience to satisfy licensing or certification requirements — rulemaking.** (1) Each licensing board or the department on behalf of a program shall by July 1, 2014, adopt rules that provide that certification or licensure requirements established by that board or program may be met by relevant military training, service, or education completed by an individual as a member of the armed forces or reserves of the United States, the national guard of any state, or the military reserves.

(2) (a) An applicant for certification or licensure shall provide to the board or, if applying for licensure by a program, to the department satisfactory evidence, as specified in rule, of receiving military training, service, or education that is equivalent to relevant certification or licensure requirements.

(b) The department and each licensing board shall, upon presentation of satisfactory evidence by an applicant for certification or licensure, accept education, training, or service completed by an individual as a member of the armed forces or reserves of the United States, the national guard of a state, or the military reserves toward the qualifications to receive the license or certification.

(3) The department shall report to the interim committee responsible for monitoring licensing boards by January 1, 2014, on the progress and actions taken under this section by each licensing board or program.

**Section 2. Appropriation — reversion.** (1) There is appropriated \$9,500 for fiscal year 2014 from the general fund to the department of labor and industry for the rulemaking purposes described in [section 1].

(2) Any of the appropriation remaining unexpended and unencumbered by July 1, 2014, for the purposes of rulemaking under [section 1] must revert to the general fund, and the provisions of 17-7-304(4)(a) do not apply.

**Section 3. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 37, chapter 1, part 1, and the provisions of Title 37, chapter 1, part 1, apply to [section 1].

**Section 4. Effective date.** [This act] is effective on passage and approval.  
Approved April 26, 2013

## CHAPTER NO. 311

[HB 310]

AN ACT PROHIBITING CLAIMS AND DAMAGES BASED ON THE BIRTH OF A CHILD.

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

**Section 1. Claims and damages based on birth of child prohibited.**

(1) A cause of action or award of damages is prohibited if the cause of action or award of damages is based on the claim that, but for the conduct of a health care provider, a parent would not have permitted the parent's child to have been born.

(2) For the purposes of this section, the term "health care provider" means a health care facility as defined in 50-5-101 or a physician, physician assistant, registered nurse, advanced practice registered nurse, or direct-entry midwife licensed under Title 37.

(3) This section does not apply to instances of gross negligence or willful or wanton acts or omissions.

**Section 2. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 27, chapter 1, part 7, and the provisions of Title 27, chapter 1, part 7, apply to [section 1].

**Section 3. Saving clause.** [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

Approved April 25, 2013

## CHAPTER NO. 312

[HB 355]

AN ACT REVISING LAWS REGARDING ALCOHOL- AND DRUG-RELATED DRIVING OFFENSES; RAISING THE 5-YEAR LOOKBACK PROVISION FOR CERTAIN ALCOHOL- AND DRUG-RELATED DRIVING OFFENSES; PROVIDING THAT ALL PRIOR CONVICTIONS ARE COUNTED FOR DETERMINING THE NUMBER OF CONVICTIONS IN THE CASE OF A THIRD OR SUBSEQUENT DUI; AMENDING SECTIONS 61-8-465 AND 61-8-734, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND APPLICABILITY DATES.

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

**Section 1.** Section 61-8-465, MCA, is amended to read:

**"61-8-465. Aggravated DUI.** (1) A person commits the offense of aggravated driving under the influence if the person is in violation of 61-8-401 or 61-8-406 and at the time of the offense:

(a) the person's blood alcohol concentration is 0.16 or more;

(b) the person is under the order of a court or the department to equip any motor vehicle the person operates with an approved ignition interlock device;

(c) the person's driver's license or privilege to drive is suspended, canceled, or revoked as a result of a prior violation of 61-8-401, 61-8-402, or 61-8-406;

(d) the person refuses to provide a breath or blood sample as required in 61-8-402 and the person's driver's license or privilege to drive was suspended, canceled, or revoked under 61-8-402 within 10 years of the commission of the present offense; or

(e) the person has one prior conviction or pending charge for a violation of 45-5-106, 45-5-205, 61-8-401, 61-8-406, or this section within ~~3~~ 10 years of the commission of the present offense, or two or more prior convictions or pending charges, or any combination thereof, for violations of 45-5-106, 45-5-205, 61-8-401, 61-8-406, ~~or this section within 7 years of the commission of the present offense.~~

(2) A person convicted of the offense of aggravated driving under the influence shall be punished by:

(a) a fine of \$1,000; and

(b) a term of imprisonment of not more than 1 year, part of which may be suspended, except for the mandatory minimum sentences set forth in 61-8-714.

(3) During the suspended sentence imposed by the court under subsection (2)(b):

(a) the person is subject to all conditions of the suspended sentence imposed by the court, including mandatory participation in drug or DUI courts if available;

(b) the person is subject to all conditions of the 24/7 sobriety program if available and if imposed by the court; and

(c) if the person violates any condition of the suspended sentence or any treatment requirement, the court may impose the remainder of any imprisonment term that was imposed and suspended.

(4) Absolute liability, as provided for in 45-2-104, is imposed for a violation of this section."

**Section 2.** Section 61-8-734, MCA, is amended to read:

**"61-8-734. Driving under influence of alcohol or drugs — driving with excessive alcohol concentration — conviction defined — place of imprisonment — home arrest — exceptions — deferral of sentence not allowed.** (1) (a) For the purpose of determining the number of convictions for prior offenses referred to in 61-8-465, 61-8-714, 61-8-722, or 61-8-731, "conviction" means a final conviction, as defined in 45-2-101, in this state, conviction for a violation of a similar statute or regulation in another state or on a federally recognized Indian reservation, or a forfeiture of bail or collateral deposited to secure the defendant's appearance in court in this state, in another state, or on a federally recognized Indian reservation, which forfeiture has not been vacated.

(b) An offender is considered to have been previously convicted for the purposes of sentencing if less than ~~5~~ 10 years have elapsed between the commission of the present offense and a previous conviction, unless the offense is the offender's ~~fourth~~ third or subsequent offense, in which case all previous convictions must be used for sentencing purposes.

(c) A previous conviction under 61-8-714 or 61-8-722 for violation of 61-8-401 or 61-8-406 may be counted for purposes of determining the number of a subsequent conviction for violation of either 61-8-401 or 61-8-406.

(2) Except as provided in 61-8-731, the court may order that a term of imprisonment imposed under 61-8-714, 61-8-722, or 61-8-731 be served in another facility made available by the county and approved by the sentencing court. The defendant, if financially able, shall bear the expense of the imprisonment in the facility. The court may impose restrictions on the defendant's ability to leave the premises of the facility and require that the defendant follow the rules of that facility. The facility may be, but is not required to be, a community-based prerelease center as provided for in 53-1-203. The prerelease center may accept or reject a defendant referred by the sentencing court.

(3) Subject to the limitations set forth in 61-8-714 and 61-8-722 concerning minimum periods of imprisonment, the court may order that a term of imprisonment imposed under either section be served by imprisonment under home arrest, as provided in Title 46, chapter 18, part 10.

(4) A court may not defer imposition of sentence under 61-8-714, 61-8-722, or 61-8-731.

(5) The provisions of 61-2-107, 61-5-205(2), and 61-5-208(2), relating to suspension of driver's licenses and later reinstatement of driving privileges, apply to any conviction under 61-8-714 or 61-8-722 for a violation of 61-8-401 or 61-8-406."

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

**Section 4. Applicability — retroactive applicability.** (1) [This act] applies to offenses committed on or after [the effective date of this act].

(2) For the purpose of determining the number of convictions for prior offenses referred to in 61-8-465, 61-8-714, 61-8-722, or 61-8-731, [this act] applies retroactively, within the meaning of 1-2-109, to convictions that occurred before [the effective date of this act].

Approved April 26, 2013

## CHAPTER NO. 313

[HB 415]

AN ACT CREATING THE GUARANTEED ASSET PROTECTION WAIVER ACT; AMENDING SECTION 33-1-102, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.

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

**Section 1. Title — scope.** (1) [Sections 1 through 7] may be cited as the "Guaranteed Asset Protection Waiver Act".

(2) The purpose of [sections 1 through 7] is to provide a framework within which guaranteed asset protection waivers are defined and may be offered within this state.

(3) [Sections 1 through 7] do not apply to:

(a) an insurance policy offered by an insurer under the insurance laws of this state; or

(b) a debt cancellation or debt suspension contract being offered in compliance with 32-1-429, 32-3-609, 12 CFR, part 37 or part 721, or other federal law.

(4) Guaranteed asset protection waivers governed by [sections 1 through 7] are not insurance and are exempt from the insurance laws of this state. Persons

that comply with [sections 1 through 7] in marketing, selling, or offering to sell guaranteed asset protection waivers to borrowers are exempt from this state's insurance licensing requirements.

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

(1) "Administrator" means a person, other than an insurer or creditor, that performs administrative or operational functions pursuant to guaranteed asset protection waiver programs.

(2) "Borrower" means a debtor, retail buyer, or lessee under a finance agreement.

(3) "Creditor" means:

(a) the lender in a loan or credit transaction;

(b) the lessor in a lease transaction;

(c) a retail dealer of motor vehicles that provides credit to buyers as part of a retail sale, provided that the dealer complies with the provisions of [sections 1 through 7];

(d) the seller in commercial retail installment transactions; or

(e) the assignees of any of the persons set out in subsections (3)(a) through (3)(d) to whom the credit obligation is payable.

(4) "Finance agreement" means a loan, lease, or retail installment sales contract for the purchase or lease of a motor vehicle.

(5) "Free look period" means the period of time from the effective date of the guaranteed asset protection waiver until the date the borrower may cancel the contract without penalty, fees, or costs to the borrower. The period of time may not be less than 30 days.

(6) "Guaranteed asset protection waiver" or "GAP waiver" means a contractual agreement that is part of or a separate addendum to the finance agreement in which a creditor agrees for a separate charge to cancel or waive all or part of amounts due on a borrower's finance agreement in the event of a total physical damage loss or unrecovered theft of a motor vehicle.

(7) "Insurer" means an insurance company licensed, registered, or otherwise authorized to do business under the insurance laws of this state.

(8) "Motor vehicle" means a self-propelled or towed vehicle designed for personal or commercial use, including but not limited to an automobile, truck, motorcycle, recreational vehicle, all-terrain vehicle, snowmobile, camper, boat, and personal watercraft and a trailer used to transport a motorcycle, boat, camper, or personal watercraft.

(9) "Person" includes an individual, company, association, organization, partnership, business trust, corporation, and every form of legal entity.

**Section 3. Requirements for offering guaranteed asset protection waivers.** (1) GAP waivers may be offered, sold, or provided to borrowers in this state in compliance with [sections 1 through 7].

(2) GAP waivers may, at the option of the creditor, be sold for a single payment or may be offered with a monthly or periodic payment option.

(3) Any cost to the borrower for a guaranteed asset protection waiver entered into in compliance with the Truth in Lending Act, 15 U.S.C. 1601, et. seq., must be separately stated and is not considered a finance charge or interest.



(4) A retail dealer of motor vehicles shall insure its GAP waiver obligations under a contractual liability or other insurance policy issued by an insurer. A creditor, other than a retail dealer of motor vehicles, may insure its GAP waiver obligations under a contractual liability policy or similar policy issued by an insurer. The insurance policy may be directly obtained by a creditor or a retail dealer of motor vehicles or may be procured by an administrator to cover a creditor's or retail dealer's obligations. However, retail dealers of motor vehicles that are lessors of motor vehicles are not required to insure obligations related to GAP waivers on leased vehicles.

(5) The GAP waiver remains a part of the finance agreement upon the assignment, sale, or transfer of the finance agreement by the creditor.

(6) The extension of credit, the term of credit, or the term of the related motor vehicle sale or lease may not be conditioned upon the purchase of a GAP waiver.

(7) A creditor that offers a GAP waiver shall report the sale of and forward funds received on all GAP waivers to the designated party, if any, as prescribed in any applicable administrative services agreement, contractual liability policy, other insurance policy, or other specified program document.

(8) Funds received or held by a creditor or administrator and belonging to an insurer, creditor, or administrator pursuant to the terms of a written agreement must be held by the creditor or administrator in a fiduciary capacity.

**Section 4. Contractual liability or other insurance policies.** (1) Contractual liability or other insurance policies insuring GAP waivers must state the obligation of the insurer to reimburse or pay to the creditor any sums the creditor is legally obligated to waive under the GAP waivers issued by the creditor and purchased or held by the borrower.

(2) Coverage under a contractual liability or other insurance policy insuring a GAP waiver must also cover any subsequent assignee upon the assignment, sale, or transfer of the finance agreement.

(3) Coverage under a contractual liability or other insurance policy insuring a GAP waiver must remain in effect unless canceled or terminated in compliance with applicable insurance laws of this state.

(4) The cancellation or termination of a contractual liability or other insurance policy may not reduce the insurer's responsibility for GAP waivers issued by the creditor prior to the date of cancellation or termination and for which premiums have been received by the insurer.

**Section 5. Disclosures.** Guaranteed asset protection waivers must disclose, as applicable, in writing and in clear, understandable language, the following:

(1) the name and address of the initial creditor and the borrower at the time of sale and the identity of any administrator if different from the creditor;

(2) the purchase price and the terms of the GAP waiver, including without limitation the requirements for protection, conditions, or exclusions associated with the GAP waiver;

(3) that the borrower may cancel the GAP waiver within a free look period as specified in the waiver and is entitled to a full refund of the purchase price so long as benefits have not been provided;

(4) the procedure the borrower must follow, if any, to obtain GAP waiver benefits under the terms and conditions of the waiver, including a telephone number and address where the borrower may apply for waiver benefits;

(5) whether the GAP waiver may be canceled after the free look period and the conditions under which it may be canceled, including the procedures for requesting any refund due;

(6) that in order to receive any refund due in the event of a borrower's cancellation of the GAP waiver agreement or early termination of the finance agreement, the borrower, in accordance with terms of the waiver, shall provide a written request to cancel to the creditor, administrator, or other party as specified in the GAP waiver. If a borrower is canceling the GAP waiver due to early termination of the finance agreement, the borrower shall provide a written request to the creditor, administrator, or other party within 90 days of the occurrence of the event terminating the finance agreement.

(7) the methodology for calculating any refund of the unearned purchase price of the GAP waiver due in the event of cancellation of the GAP waiver or early termination of the finance agreement; and

(8) that the extension of credit, the terms of the credit, or the terms of the related motor vehicle sale or lease may not be conditioned upon the purchase of the GAP waiver.

**Section 6. Cancellation.** (1) Guaranteed asset protection waiver agreements may be cancelable or noncancelable after the free look period. GAP waivers must provide that if a borrower cancels a GAP waiver within the free look period, so long as no benefits have been provided, the borrower is entitled to a full refund of the purchase price.

(2) If the borrower cancels the GAP waiver or terminates the finance agreement early but after the agreement has been in effect beyond the free look period, the borrower is entitled to a refund of any unearned portion of the purchase price of the GAP waiver unless the GAP waiver provides otherwise. In order to receive a refund, the borrower, in accordance with any applicable terms of the waiver, shall provide a written request to the creditor, administrator, or other party. If the borrower is canceling the GAP waiver due to the early termination of the finance agreement, the borrower shall provide a written request within 90 days of the event terminating the finance agreement.

(3) If the cancellation of a GAP waiver occurs as a result of a default under the finance agreement, the repossession of the motor vehicle associated with the finance agreement, or other termination of the finance agreement, any refund due may be paid directly to the creditor or administrator and applied as set forth in subsection (4).

(4) A cancellation or termination refund under subsection (1), (2), or (3) may be applied by the creditor as a reduction of the amount owed under the finance agreement unless the borrower can show that the finance agreement has been paid in full.

**Section 7. Commercial transactions exempted.** [Sections 3(3) and 5] do not apply to a guaranteed asset protection waiver offered in connection with a lease or retail installment sale associated with a commercial transaction.

**Section 8.** Section 33-1-102, MCA, is amended to read:

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

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

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

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

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

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

(4) This code does not apply to health maintenance organizations to the extent that the existence and operations of those organizations are governed by chapter 31.

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

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

(7) This code does not apply to the state employee group insurance program established in Title 2, chapter 18, part 8, or the Montana university system group benefits plans established in Title 20, chapter 25, part 13.

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

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

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

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

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

(11) (a) Subject to 33-18-201 and 33-18-242, this code does not apply to insurance for ambulance services sold by a county, city, or town or to insurance

sold by a third party if the county, city, or town is liable for the financial risk under the contract with the third party as provided in 7-34-103.

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

(12) This code does not apply to the self-insured student health plan established in Title 20, chapter 25, part 14.

(13) This code does not apply to private air ambulance services that are in compliance with 50-6-320 and that solicit membership subscriptions, accept membership applications, charge membership fees, and provide air ambulance services to subscription members and designated members of their households.

(14) *This code does not apply to guaranteed asset protection waivers that are governed by [sections 1 through 7].*

**Section 9. Codification instruction.** [Sections 1 through 7] are intended to be codified as an integral part of Title 30, chapter 14, part 1, and the provisions of Title 30, chapter 14, part 1, apply to [sections 1 through 7].

**Section 10. Effective date.** [This act] is effective on passage and approval.

**Section 11. Applicability.** [This act] applies to guaranteed asset protection waivers issued on or after October 1, 2013.

Approved April 26, 2013

## CHAPTER NO. 314

[HB 442]

AN ACT INCREASING THE DOLLAR AMOUNT OF PROPERTY DAMAGE THAT MUST BE SUSTAINED IN AN ACCIDENT BEFORE A MOTOR VEHICLE OPERATOR IS REQUIRED TO IMMEDIATELY REPORT THE ACCIDENT; AND AMENDING SECTION 61-7-108, MCA.

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

**Section 1.** Section 61-7-108, MCA, is amended to read:

**“61-7-108. Immediate notice of accidents.** The driver of a vehicle who knows or reasonably should have known that the driver has been involved in an accident resulting in injury to or death of any person, striking the body of a deceased person, or property damage to an apparent extent of ~~\$500~~ *\$1,000* or more shall immediately by the quickest means of communication give notice of the accident to the local police department if the accident occurs within a municipality, otherwise to the office of the county sheriff or the nearest office of the highway patrol.”

Approved April 26, 2013

## CHAPTER NO. 315

[HB 498]

AN ACT REVISING THE EXPIRATION DATE OF STATE IDENTIFICATION CARDS; AMENDING SECTION 61-12-504, MCA; AND PROVIDING AN EFFECTIVE DATE.

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

**Section 1.** Section 61-12-504, MCA, is amended to read:

**“61-12-504. Fees for identification cards — expiration of cards.** (1) ~~Fees not in excess of \$8 for~~ *Upon application for an identification cards card* issued pursuant to this part, a fee of \$16 must be collected and deposited in the general fund, *except that the fee for a card issued under subsection (3)(b) is \$8.*

(2) A person with a disability, as defined in 39-30-103, may obtain a free identification card. An individual discharged from any correctional facility must be furnished a free identification card upon release, discharge, or parole.

(3) (a) ~~An identification card expires on the anniversary of the date of birth of the holder 4 years after the date of issue.~~ *Except as provided in subsections (3)(b) and (3)(c), an identification card expires on the anniversary of the cardholder’s date of birth 8 years after the date of issue.*

(b) *An identification card issued to a person who is under 21 years of age expires on the anniversary of the cardholder’s date of birth 4 years after the card’s issue date.*

~~(b)(c)~~ (c) An identification card issued to a person whose presence in the United States is temporarily authorized under federal laws expires, as determined by the department, no later than the expiration date of the official document issued to the person by the United States citizenship and immigration services of the department of homeland security that authorizes the person’s presence in the United States.”

**Section 2. Effective date.** [This act] is effective July 1, 2013.

Approved April 26, 2013

## CHAPTER NO. 316

[HB 575]

AN ACT GENERALLY REVISING 9-1-1 LAWS; REVISING DEFINITIONS; REQUIRING THAT FEES COLLECTED FOR WIRELESS ENHANCED 9-1-1 SERVICES BE REALLOCATED TO WIRELESS 9-1-1 JURISDICTIONS AND WIRELESS PROVIDERS UNDER CERTAIN CIRCUMSTANCES; ESTABLISHING A REALLOCATION PROCESS; AMENDING SECTIONS 10-4-101 AND 10-4-313, MCA; AND PROVIDING AN EFFECTIVE DATE.

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

**Section 1.** Section 10-4-101, MCA, is amended to read:

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

(1) “Allowable costs” ~~means~~ *means* the actual costs associated with upgrading, purchasing, programming, installing, testing, operating, and maintaining data, hardware, and software necessary to comply with federal communications commission ~~orders~~ *orders for the delivery of 9-1-1 calls and data as set forth in 47 CFR 20.18.*

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

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

(4) “Basic 9-1-1 system” includes equipment for connecting and outswitching 9-1-1 calls within a telephone central office, trunking facilities from the central office to a public safety answering point, and equipment, as

appropriate, that is used for transferring the call to another point, when appropriate, and that is capable of providing basic 9-1-1 service.

(5) "Commercial mobile radio service" means:

(a) a mobile service that is:

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

(ii) an interconnected service; and

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

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

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

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

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

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

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

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

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

(13) "Exchange access services" means:

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

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

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

~~(15)~~(14) A "9-1-1 jurisdiction" means a group of public or private safety agencies who operate within or are affected by one or more common central office boundaries and who have agreed in writing to jointly plan a 9-1-1 emergency telephone system.



(15) "*Per capita basis*" means a calculation made according to the most recent decennial census or population estimate compiled by the United States bureau of the census.

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

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

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

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

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

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

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

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

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

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

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

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

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

**Section 2.** Section 10-4-313, MCA, is amended to read:

**"10-4-313. Distribution of wireless enhanced 9-1-1 account by department.** (1) *Except as provided in subsection (2),* the department shall make quarterly distribution of the portion of the wireless enhanced 9-1-1 account for allowable costs described in 10-4-301(1)(c)(ii) incurred by each wireless provider in each 9-1-1 jurisdiction as follows:

(a) For each fiscal year through the fiscal year ending June 30, 2015:

(i) 84% of the balance of the account must be allocated to the wireless providers providing wireless enhanced 9-1-1 in each county on a per capita basis. The wireless provider in each county must be allocated a minimum of 1% of the balance of the counties' share of the account.

(ii) the balance of the account must be allocated evenly to the wireless providers providing wireless enhanced 9-1-1 in counties with 1% or less of the total population of the state; and

(iii) prior to distribution, the amounts allocated under subsections (1)(a)(i) and (1)(a)(ii) must be adjusted to ensure that a wireless provider does not receive less than the amount allocated to wireless providers providing wireless enhanced 9-1-1 in counties with 1% or less of the total population of the state.

(b) For fiscal years beginning after June 30, 2015, 100% of the balance of the account must be allocated to the wireless providers providing wireless enhanced 9-1-1 in each county on a per capita basis. Each county must be allocated a minimum of 1% of the balance of the counties' share of the account.

(c) If the department is unable to fully reimburse a wireless provider under subsection (1)(a) in any quarter, the department shall in the subsequent quarter pay from the allocation under subsection (1)(a) to wireless providers any unpaid balances from the previous quarter. If the amount available is insufficient to pay all previous unpaid balances, the department shall repeat the process of paying unpaid balances that remain unpaid for as many quarters as necessary until all unpaid balances are fully paid. The department shall review all invoices for appropriateness of costs claimed by the wireless provider. If the wireless provider contests the review, payment may not be made until the amount owed to the wireless provider is determined.

(d) A wireless provider shall submit an invoice for cost recovery according to the allowable costs.

(e) The department shall determine the percentage of overall subscribers, based on billing addresses, within the 9-1-1 jurisdiction for each wireless provider seeking cost recovery by dividing the wireless provider's subscribers by the total number of subscribers in that 9-1-1 jurisdiction. The percentage must be applied to the total wireless provider funds for that 9-1-1 jurisdiction, and each wireless provider shall receive distribution based on the provider's percentage. To receive cost recovery, wireless providers shall submit subscriber counts to the department on a quarterly basis. The subscriber count must be provided for each 9-1-1 jurisdiction in which the wireless provider receives cost recovery within 30 calendar days following the end of each quarter. The department shall recalculate distribution percentages on a quarterly basis.

(f) If the department determines that a wireless provider has submitted costs that exceed allowable costs or are not submitted in the manner prescribed in 10-4-115, the department may, after giving notice to the wireless provider, suspend or withhold payment from the wireless enhanced 9-1-1 account.

(2) (a) *Except as provided in subsection (3) and after the distribution for the final quarter of each fiscal year is made pursuant to subsection (1), the department, within 45 days of the end of the final quarter of each fiscal year, shall:*

(i) *determine an amount equal to 50% of the total balance included in the account under 10-4-301(1)(c)(ii); and*

(ii) except as provided in subsection (2)(b), distribute the amount determined in accordance with subsection (2)(a)(i) to wireless providers to reimburse the unpaid balances carried over by wireless providers pursuant to subsection (1)(c).

(b) If the amount determined pursuant to subsection (2)(a)(i) is insufficient to reimburse all wireless providers in full in accordance with subsection (2)(a)(ii), the department shall proportionately, based on outstanding balances, distribute the money to each wireless provider that has an unpaid balance carried over pursuant to subsection (1)(c).

(3) Funds may not be reallocated in accordance with subsection (2) if the county contains less than 1% of the state population.

(4) Any reallocated funds not distributed in accordance with subsection (2) must be returned to the account established under 10-4-301(1)(c).

(2)(5) The department shall make quarterly distribution of the portion of the wireless enhanced 9-1-1 account described in 10-4-301(1)(c)(i) to each 9-1-1 jurisdiction as follows:

(a) for each fiscal year through the fiscal year ending June 30, 2015:

(i) 84% of the balance of the account must be allocated to cities and counties on a per capita basis. However, each county must be allocated a minimum of 1% of the balance of the counties' share of the account.

(ii) the balance of the account must be allocated evenly to the counties with 1% or less than 1% of the total population of the state; and

(iii) prior to distribution, the amounts allocated under subsections ~~(2)(a)(i)~~ and ~~(2)(a)(ii)~~ (5)(a)(i) and (5)(a)(ii) must be adjusted to ensure that a county does not receive less than the amount allocated to counties with 1% or less of the total population of the state; and

(b) for fiscal years beginning after June 30, 2015, 100% of the balance of the account must be allocated to cities and counties on a per capita basis. However, each county must be allocated a minimum of 1% of the balance of the counties' share of the account."

**Section 3. Saving clause.** [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

**Section 4. 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 5. Effective date.** [This act] is effective July 1, 2013.

Approved April 26, 2013

## CHAPTER NO. 317

[SB 108]

AN ACT REVISING LAWS RELATED TO THE TAX CREDIT FOR CONTRIBUTIONS TO A QUALIFIED ENDOWMENT; EXTENDING THE TERMINATION DATE OF THE TAX CREDIT; SPECIFYING THE MINIMUM ANNUITY RATE FOR DEFERRED CHARITABLE GIFT ANNUITIES; CLARIFYING THE REQUIRED TIMING OF PAYMENTS FOR DEFERRED CHARITABLE GIFT ANNUITIES; APPLYING THE PROVISIONS OF THE UNIFORM PRUDENT MANAGEMENT OF INSTITUTIONAL FUNDS ACT TO THE DEFINITION OF "PERMANENT, IRREVOCABLE FUND";

AMENDING SECTION 15-30-2327, MCA; AMENDING SECTION 9, CHAPTER 537, LAWS OF 1997, SECTION 5, CHAPTER 226, LAWS OF 2001, SECTION 7, CHAPTER 4, LAWS OF 2005, AND SECTIONS 2, 3, 4, AND 7, CHAPTER 208, LAWS OF 2007; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE, AN APPLICABILITY DATE, AND A TERMINATION DATE.

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

**Section 1.** Section 15-30-2327, MCA, is amended to read:

**“15-30-2327. (Temporary) Qualified endowments credit — definitions — rules.** (1) For the purposes of 15-30-2328 and this section, the following definitions apply:

(a) (i) “Permanent, irrevocable fund” means a fund comprising cash, securities, mutual funds, or other investment assets established for a specific charitable, religious, educational, or eleemosynary purpose and *managed*, invested, ~~for the production or growth of income, or both, that may either be added to principal or expended~~ *and appropriated pursuant to the Uniform Prudent Management of Institutional Funds Act provided for in Title 72, chapter 30.*

(ii) The term does not include a fund held by or for a tax-exempt organization to accomplish a charitable, religious, educational, or eleemosynary purpose from which contributions are expended directly for constructing, renovating, or purchasing operational assets, such as buildings or equipment.

(b) Subject to subsection ~~(2)~~ (3), “planned gift” means an irrevocable contribution to a permanent endowment held by or for a tax-exempt organization when the contribution uses any of the following techniques that are authorized under the Internal Revenue Code:

- (i) charitable remainder unitrusts, as defined by 26 U.S.C. 664;
- (ii) charitable remainder annuity trusts, as defined by 26 U.S.C. 664;
- (iii) pooled income fund trusts, as defined by 26 U.S.C. 642(c)(5);
- (iv) charitable lead unitrusts qualifying under 26 U.S.C. 170(f)(2)(B);
- (v) charitable lead annuity trusts qualifying under 26 U.S.C. 170(f)(2)(B);
- (vi) charitable gift annuities undertaken pursuant to 26 U.S.C. 1011(b);
- (vii) deferred charitable gift annuities undertaken pursuant to 26 U.S.C. 1011(b);
- (viii) charitable life estate agreements qualifying under 26 U.S.C. 170(f)(3)(B);
- (ix) paid-up life insurance policies meeting the requirements of 26 U.S.C. 170.

(c) “Qualified endowment” means a permanent, irrevocable fund that is held by a Montana incorporated or established organization that:

- (i) is a tax-exempt organization under 26 U.S.C. 501(c)(3); or
- (ii) is a bank or trust company, as defined in Title 32, chapter 1, part 1, that is holding the fund on behalf of a tax-exempt organization.

(2) (a) *Terms in a document creating a donor restriction, such as those provided for in subsection (2)(b), intending to qualify a gift for the tax credit referenced in 15-30-2328, 15-30-2329, 15-31-161, 15-31-162, and this section, require that the gift satisfy the current definition of permanent, irrevocable fund and not any previous definition unless other language in the document demonstrates a different intent.*

(b) *The restrictions referenced in subsection (2)(a) include but are not limited to a requirement that the contribution be held in a “qualified endowment” or “permanent, irrevocable fund” or that the “present value of the fund at the time of the planned gift or outright contribution” not be expendable.*

(c) *Subsections (2)(a) and (2)(b) apply to funds and terms existing on or established on [the effective date of this act]. As applied to permanent, irrevocable funds existing on [the effective date of this act], this subsection (2) governs only decisions made or actions taken on or after that date.*

(2)(3) (a) A contribution using a technique described in subsection (1)(b)(i) or (1)(b)(ii) is not a planned gift unless the trust agreement provides that the trust may not terminate and the beneficiaries’ interest in the trust may not be assigned or contributed to the qualified endowment sooner than the earlier of:

- (i) the date of death of the beneficiaries; or
- (ii) 5 years from the date of the contribution.

(b) A contribution using the technique described in subsection (1)(b)(vii) is not a planned gift unless the *first partial or full-year* payment of the annuity is required to begin within the life expectancy of the annuitant or of the joint life expectancies of the annuitants, if more than one annuitant, as determined using the actuarial tables adopted by rule by the department in effect on the date of the contribution.

(c) A contribution using a technique described in subsection (1)(b)(vi) or (1)(b)(vii) is not a planned gift unless the annuity agreement provides that the interest of the annuitant or annuitants in the gift annuity may not be assigned to the qualified endowment sooner than the earlier of:

- (i) the date of death of the annuitant or annuitants; or
- (ii) 5 years after the date of the contribution.

(d) A contribution using a technique described in subsection (1)(b)(vi) or (1)(b)(vii) is not a planned gift unless the annuity is a qualified charitable gift annuity as defined in 33-20-701.

(e) *A contribution using a technique described in subsection (1)(b)(vii) is not a planned gift unless the annuity rate to be paid is at least 5%.*

(3)(4) The department shall adopt rules to prepare life expectancy tables that are derived from the actuarial tables contained in the most recent Publication 1457 by the internal revenue service. (Terminates December 31, 2013 2019—secs. 2, 3, 7, Ch. 208, L. 2007.)”

**Section 2.** Section 9, Chapter 537, Laws of 1997, is amended to read:

“**Section 9. Termination.** [This act] terminates December 31, ~~2001~~ 2019.”

**Section 3.** Section 5, Chapter 226, Laws of 2001, is amended to read:

“**Section 5.** Section 9, Chapter 537, Laws of 1997, is amended to read:

“**Section 9. Termination.** [This act] terminates December 31, ~~2001~~ 2007 2019.””

**Section 4.** Section 7, Chapter 4, Laws of 2005, is amended to read:

“**Section 7. Termination.** [This act] terminates December 31, ~~2007~~ 2019.”

**Section 5.** Section 2, Chapter 208, Laws of 2007, is amended to read:

“**Section 2.** Section 9, Chapter 537, Laws of 1997, is amended to read:

“**Section 9. Termination.** [This act] terminates December 31, ~~2001~~ 2013 2019.””

**Section 6.** Section 3, Chapter 208, Laws of 2007, is amended to read:

“**Section 3.** Section 5, Chapter 226, Laws of 2001, is amended to read:

“**Section 5.** Section 9, Chapter 537, Laws of 1997, is amended to read:

“**Section 9. Termination.** [This act] terminates December 31, ~~2004 2007~~  
~~2013 2019.~~”

**Section 7.** Section 4, Chapter 208, Laws of 2007, is amended to read:

“**Section 4.** Section 7, Chapter 4, Laws of 2005, is amended to read:

“**Section 7. Termination.** [This act] terminates December 31, ~~2007 2013~~  
~~2019.~~”

**Section 8.** Section 7, Chapter 208, Laws of 2007, is amended to read:

“**Section 7. Termination.** (1) [Section 1] terminates December 31, ~~2013~~  
~~2019.~~

(2) Sections 1 through 4, Chapter 226, Laws of 2001, terminate December 31,  
~~2013 2019.~~

(3) Section 7, Chapter 482, Laws of 2003, terminates December 31, ~~2013~~  
~~2019.~~”

**Section 9. Effective date.** [This act] is effective on passage and approval.

**Section 10. Applicability.** [This act] applies to charitable contributions made on or after [the effective date of this act].

**Section 11. Termination.** [Section 1] terminates December 31, 2019.

Approved April 26, 2013

## CHAPTER NO. 318

[SB 139]

AN ACT REQUIRING THAT A SMALL BUSINESS IMPACT ANALYSIS BE CONDUCTED PRIOR TO THE ADOPTION OF AN ADMINISTRATIVE RULE; DEFINING “SMALL BUSINESS”; AMENDING SECTION 2-4-102, MCA; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE.

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

**Section 1. Small business impact analysis — assistance.** (1) Prior to the adoption of a proposed rule, the agency that has proposed the rule shall determine if the rule will significantly and directly impact small businesses. If the agency determines that the proposed rule will impact small businesses, the determination must be published in the register when the proposed rule is published. If the agency determines that the proposed rule may have a significant and direct impact on small businesses and if subsection (4) does not apply, the agency shall prepare a small business impact analysis that, at a minimum, must:

(a) identify by class or group the small businesses probably affected by the proposed rule;

(b) include a statement of the probable significant and direct effects of the proposed rule on the small businesses identified in subsection (1)(a); and

(c) include a description of any alternative methods that may be reasonably implemented to minimize or eliminate any potential adverse effects of adopting the proposed rule, while still achieving the purpose of the proposed rule.

(2) The agency shall provide documentation for the estimates, statements, and descriptions required under subsection (1).



(3) The office of economic development, established in 2-15-218, shall advise and assist agencies in complying with this section.

(4) An agency is not required to prepare a separate small business impact analysis under this section if the agency pursuant to 2-4-405 is preparing or has prepared an economic impact statement regarding adoption, amendment, or repeal of a rule.

(5) The final adoption, amendment, or repeal of a rule is not subject to challenge in any court as a result of the inaccuracy or inadequacy of a small business impact analysis required under this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(10) "Register" means the Montana Administrative Register.

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

(b) The term does not include:

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

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

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

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

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

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

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

(13) "*Small business*" means a business entity, including its affiliates, that is independently owned and operated and that employs fewer than 50 full-time employees.

~~(13)~~(14) "Substantive rules" are either:

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

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

**Section 3. Saving clause.** [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

**Section 4. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 2, chapter 4, part 1, and the provisions of Title 2, chapter 4, part 1, apply to [section 1].

**Section 5. Effective date.** [This act] is effective July 1, 2013.

**Section 6. Termination.** [This act] terminates July 1, 2015.

Approved April 26, 2013

## CHAPTER NO. 319

[SB 178]

AN ACT ALLOWING THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS TO RETAIN A PERCENTAGE OF THE CLASS B-10 LICENSE FEE IF AN APPLICANT CHOOSES TO PURCHASE ONLY A PORTION OF THE LICENSE; AMENDING SECTION 87-2-511, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE.

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

**Section 1.** Section 87-2-511, MCA, is amended to read:

**“87-2-511. Sale and use of Class B-10, Class B-11, and Class B-13 licenses.** (1) The department shall offer the Class B-10 and Class B-11 licenses for sale on March 15, with 2,000 of the authorized Class B-11 licenses reserved for applicants indicating their intent to hunt with a resident sponsor on land owned by that sponsor, as provided in subsections (2) and (3).

(2) Each application for a resident-sponsored license under subsection (1) must contain a written affirmation by the applicant that the applicant intends to hunt with a resident sponsor and must indicate the name of the resident sponsor with whom the applicant intends to hunt. In addition, the application must be accompanied by a certificate that is signed by a resident sponsor and that affirms that the resident sponsor will:

(a) direct the applicant’s hunting and advise the applicant of game and trespass laws of the state;

(b) submit to the department, in a manner prescribed by the department, complete records of who hunted with the resident sponsor, where they hunted, and what game was taken; and

(c) accept no monetary consideration for enabling the nonresident applicant to obtain a license or for providing any services or assistance to the nonresident applicant, except as provided in Title 37, chapter 47, and this title.

(3) The certificate signed by the resident sponsor pursuant to subsection (2) must also affirm that the sponsor is a landowner and that the applicant under the certificate will hunt only on land owned by the sponsor. If there is a sufficient number of licenses set forth in subsection (1), the department shall issue a license to one applicant sponsored by each resident landowner who owns 640 or more contiguous acres. If enough licenses remain for a second applicant for each resident landowner sponsor, the department shall issue a license to the second applicant sponsored by each resident landowner. The department shall conduct a drawing for any remaining resident-sponsored licenses. If there is not a sufficient number of licenses set forth in subsection (1) to allow each resident landowner who owns 640 contiguous acres to sponsor one applicant, the department shall conduct a drawing for the resident-sponsored licenses. However, a resident sponsor of a Class B-11 license may submit no more than 15 certificates of sponsorship in any license year.

(4) A nonresident who hunts under the authority of a resident landowner-sponsored license shall conduct all deer hunting on the deeded lands of the sponsoring landowner.

(5) All Class B-10 and Class B-11 licenses that are not reserved under subsection (1) must be issued by a drawing among all applicants for the respective unreserved licenses.

(6) (a) An applicant who applies for a Class B-10 license and an applicable special elk permit but who is not successful in a drawing for the special elk permit may choose to retain only the Class B-7 portion of the Class B-10 license. The department shall sell the Class B-7 portion as a Class B-11 license for the fee set in 87-2-510. The provisions of this subsection (6)(a) do not affect the limits established in 87-2-510(2). The remaining elk tag portion of the Class B-10 license must be sold by the department as an elk-only combination license for a fee that is \$150 less than that set for a Class B-10 license in 87-2-505.

(b) The department may ~~charge a \$25 processing~~ *retain 10% of the Class B-10 license* fee if an applicant chooses to buy only a portion of the Class B-10 license pursuant to subsection (6)(a) after the Class B-10 license has been issued to the applicant.

(c) The revenue collected pursuant to this subsection (6) must be deposited in the state special revenue account to the credit of the department and may not be allocated pursuant to other statutory requirements generally applicable to Class B-10 or Class B-11 licenses.

(7) The department shall offer the Class B-13 nonresident youth big game combination license for sale on March 1. An applicant shall provide the name and automated licensing system number of the adult immediate family member who will accompany the youth. The adult sponsor must possess either a valid Class B-10 or Class B-11 license or a valid resident deer or elk tag at the time of application.”

**Section 2. Effective date.** [This act] is effective March 1, 2014.

Approved April 26, 2013

## CHAPTER NO. 320

[SB 183]

AN ACT REQUIRING THE DEPARTMENT OF LABOR AND INDUSTRY AND EACH LICENSING BOARD ATTACHED TO THE DEPARTMENT TO ACCEPT EVIDENCE OF MILITARY TRAINING AND EXPERIENCE TO SATISFY LICENSING OR CERTIFICATION REQUIREMENTS; REQUIRING THE DEPARTMENT AND EACH LICENSING BOARD TO ADOPT RULES; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

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

**Section 1. Military training or experience to satisfy licensing or certification requirements — rulemaking.** (1) Each licensing board or the department on behalf of a program shall by July 1, 2014, adopt rules that provide that certification or licensure requirements established by that board or program may be met by relevant military training, service, or education completed by an individual as a member of the armed forces or reserves of the United States, the national guard of a state, or the military reserves.

(2) (a) An applicant for certification or licensure shall provide to the board or, if applying for licensure by a program, to the department satisfactory evidence, as specified in rule, of receiving military training, service, or education that is equivalent to relevant certification or licensure requirements.

(b) The department and each licensing board shall, upon presentation of satisfactory evidence by an applicant for certification or licensure, accept education, training, or service completed by an individual as a member of the armed forces or reserves of the United States, the national guard of a state, or the military reserves toward the qualifications to receive the license or certification.

(3) The department shall report to the interim committee responsible for monitoring licensing boards by January 1, 2014, on the progress and actions taken under this section by each licensing board or program.

**Section 2. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 37, chapter 1, part 1, and the provisions of Title 37, chapter 1, part 1, apply to [section 1].

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

Approved April 26, 2013

## CHAPTER NO. 321

[SB 203]

AN ACT ADOPTING THE INTERSTATE COMPACT ON EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN; REQUIRING A REPORT; PROVIDING A FUNDING SOURCE; AND PROVIDING A TERMINATION DATE.

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

**Section 1. Enactment — provisions.** The Interstate Compact on Educational Opportunity for Military Children is enacted into law and entered into with all other jurisdictions joining in the compact in the form substantially as follows:

### ARTICLE I PURPOSE

(1) It is the purpose of this compact to remove barriers to educational success imposed on children of military families because of frequent moves and deployment of their parents by:

(a) facilitating the timely enrollment of children of military families and ensuring that they are not placed at a disadvantage due to difficulty in the transfer of education records from the previous school districts or variations in entrance or age requirements;

(b) facilitating the student placement process through which children of military families are not disadvantaged by variations in attendance requirements, scheduling, sequencing, grading, course content, or assessment;

(c) facilitating the qualification and eligibility for enrollment, educational programs, and participation in extracurricular academic, athletic, and social activities;

(d) facilitating the on-time graduation of children of military families;

(e) providing for the promulgation and enforcement of administrative rules implementing the provisions of this compact;

(f) providing for the uniform collection and sharing of information between and among member states, schools, and military families under this compact;

(g) promoting coordination between this compact and other compacts affecting military children; and

(h) promoting flexibility and cooperation between the educational system, parents, and the student in order to achieve educational success for the student.

(2) The purpose of the legislation and the Interstate Compact is not to supersede the sovereignty of any member state but instead to facilitate the collective exercise of each state's sovereignty to allow a uniform solution without federal intervention. No provision of the Interstate Compact may be construed as a waiver of any state's sovereignty.

## ARTICLE II DEFINITIONS

As used in this compact, unless the context clearly requires a different construction, the following definitions apply:

(1) "Active duty" means full-time duty status in the active uniformed service of the United States, including members of the national guard and reserve on active duty orders pursuant to 10 U.S.C. 12301(d) and 12304.

(2) "Children of military families" means school-aged children enrolled in kindergarten through 12th grade, in the household of an active duty member.

(3) "Compact commissioner" means the voting representative of each member state appointed pursuant to Article VIII of this compact.

(4) "Deployment" means the period 1 month prior to the service member's departure from the service member's home station on military orders though 6 months after return to the service member's home station.

(5) "Education records" means those official records, files, and data directly related to a student and maintained by the school or local education agency, including but not limited to records encompassing all the material kept in the student's cumulative folder, such as general identifying data, records of attendance and of academic work completed, records of achievement and results of evaluative tests, health data, disciplinary status, test protocols, and individualized education programs.

(6) "Extracurricular activities" means voluntary activities sponsored by the school or local education agency or an organization sanctioned by the local education agency. Extracurricular activities include but are not limited to preparation for and involvement in public performances, contests, athletic competitions, demonstrations, displays, and club activities.

(7) "Interstate Commission on Educational Opportunity for Military Children" or "Interstate Commission" means the commission that is created under Article IX of this compact.

(8) "Local education agency" means a public authority legally constituted by the state as an administrative agency to provide control of and direction for kindergarten through 12th grade public educational institutions.

(9) "Member state" means a state that has enacted this compact.

(10) "Military installation" means a base, camp, post, station, yard, center, homeport facility for any ship, or other facility under the jurisdiction of the department of defense, including any leased facility, that is located within any state.

(11) "Nonmember state" means a state that has not enacted this compact.

(12) "Receiving state" means the state to which a child of a military family is sent, brought, or caused to be sent or brought.

(13) "Rule" means a written statement by the Interstate Commission promulgated pursuant to Article XII of this compact that is of general applicability, that implements, interprets, or prescribes a policy or provision of



the compact, or that is an organizational, procedural, or practice requirement of the Interstate Commission and has the force and effect of statutory law in a member state. The term includes the amendment, repeal, or suspension of an existing rule.

(14) "Sending state" means the state from which a child of a military family is sent, brought, or caused to be sent or brought.

(15) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Northern Marianas Islands, and any other U.S. territory.

(16) "Student" means the child of a military family for whom the local education agency receives public funding and who is formally enrolled in kindergarten through 12th grade.

(17) "Transition" means:

(a) the formal and physical process of transferring from school to school; or

(b) the period of time during which a student moves from one school in the sending state to another school in the receiving state.

(18) "Uniformed service" means the army, navy, air force, marine corps, or coast guard.

(19) "Veteran" means a person who served in the uniformed services and who was discharged or released from service under conditions other than dishonorable.

### ARTICLE III APPLICABILITY

(1) Except as otherwise provided in subsection (3), this compact applies to the children of:

(a) active duty members of the uniformed services as defined in this compact, including members of the national guard and reserve on active duty orders pursuant to 10 U.S.C. 12301(d) and 12304;

(b) members or veterans of the uniformed services who are severely injured and medically discharged or retired for a period of 1 year after medical discharge or retirement; and

(c) members of the uniformed services who die on active duty or as a result of injuries sustained on active duty for a period of 1 year after death.

(2) The provisions of this compact apply only to local education agencies as defined in this compact.

(3) The provisions of this compact do not apply to the children of:

(a) inactive members of the national guard and military reserves;

(b) members of the uniformed services now retired, except as provided in subsection (1);

(c) veterans of the uniformed services, except as provided in subsection (1); and

(d) other U.S. department of defense personnel and other federal agency civilian and contract employees not defined as active duty members of the uniformed services.

### ARTICLE IV EDUCATIONAL RECORDS AND ENROLLMENT

(1) In the event that official education records cannot be released to the parents for the purpose of transfer, the custodian of the records in the sending state shall prepare and furnish to the parent a complete set of unofficial

educational records from a local education facility, as defined by federal law, containing uniform information as determined by the Interstate Commission. Upon receipt of the unofficial education records by a school in the receiving state, the school shall enroll and appropriately place the student based on the information provided in the unofficial records, pending validation by the official records, as quickly as possible.

(2) Simultaneous with the enrollment and conditional placement of the student, the school in the receiving state shall request the student's official education record from the school in the sending state. Upon receipt of this request, the school in the sending state shall process and furnish the official education records to the school in the receiving state within 10 days or within a time that is reasonably determined under the rules promulgated by the Interstate Commission.

(3) Receiving states shall give 30 days from the date of enrollment or a time as is reasonably determined under the rules promulgated by the Interstate Commission for students to obtain any immunizations required by the receiving state. For a series of immunizations, initial vaccinations must be obtained within 30 days or within a time that is reasonably determined under the rules promulgated by the Interstate Commission.

(4) Students must be allowed to continue their enrollment at grade level in the receiving state commensurate with their grade level, including kindergarten, from a local education agency in the sending state at the time of transition regardless of age. A student that has satisfactorily completed the prerequisite grade level in the local education agency in the sending state must be eligible for enrollment in the next highest grade level in the receiving state regardless of age. A student transferring after the start of the school year in the receiving state shall enter the school in the receiving state on the student's validated level from a school in the sending state.

#### ARTICLE V

##### PLACEMENT AND ATTENDANCE

(1) When the student transfers before or during the school year, the receiving state school shall initially honor placement of the student in educational courses based on the student's enrollment in the sending state school, educational assessments conducted at the school in the sending state, or both, if the courses are offered and space is available. Course placement includes but is not limited to honors, international baccalaureate, advanced placement, and vocational, technical, and career pathways courses. Continuing the student's academic program from the previous school and promoting placement in academically and career challenging courses should be paramount when considering placement. This does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement and continued enrollment of the student in the courses.

(2) The receiving state school shall initially honor placement of the student in educational programs based on space availability and current educational assessments conducted at the school in the sending state or participation or placement in like programs in the sending state. Such programs include but are not limited to gifted and talented programs. This does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement of the student. This section does not require a local education agency to create programs or offer services that were not in place prior to the enrollment of the student unless the programs or services are required by federal or state law.

(3) (a) In compliance with the federal requirements of the Individuals with Disabilities Education Act, 20 U.S.C. 1400, et seq., the receiving state shall initially provide comparable services to a student with disabilities based on the student's current individualized education program.

(b) In compliance with the requirements of section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794, and with Title II of the Americans with Disabilities Act of 1990, 42 U.S.C. 12131 through 12165, the receiving state shall make reasonable accommodations and modifications to address the needs of incoming students with disabilities, subject to an existing 504 or Title II plan, to provide the student with equal access to education. This does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement of the student.

(4) Local education agency administrative officials have flexibility in waiving course or program prerequisites or other preconditions for placement in courses or programs offered under the jurisdiction of the local education agency.

(5) A student whose parent or legal guardian is an active duty member of the uniformed services, as defined by the compact, and has been called to duty for, is on leave from, or has immediately returned from deployment to a combat zone or combat support posting must be granted additional excused absences at the discretion of the local education agency superintendent to visit with the student's parent or legal guardian relative to the leave or deployment of the parent or guardian.

#### ARTICLE VI ELIGIBILITY

(1) A special power of attorney, relative to the guardianship of a child of a military family and executed under applicable law, is sufficient for the purposes of enrollment and all other actions requiring parental participation and consent.

(2) A local education agency is prohibited from charging local tuition to a transitioning military child placed in the care of a noncustodial parent or other person standing in loco parentis who lives in a jurisdiction other than that of the custodial parent.

(3) A transitioning military child, placed in the care of a noncustodial parent or other person standing in loco parentis who lives in a jurisdiction other than that of the custodial parent may continue to attend the school in which the child was enrolled while residing with the custodial parent.

(4) State and local education agencies shall facilitate the opportunity for transitioning military children's inclusion in extracurricular activities, regardless of application deadlines, to the extent they are otherwise qualified.

#### ARTICLE VII GRADUATION

In order to facilitate the on-time graduation of children of military families, states and local education agencies shall incorporate the following procedures:

(1) Local education agency administrative officials shall waive specific courses required for graduation if similar course work has been satisfactorily completed in another local education agency or shall provide reasonable justification for denial. If a waiver is not granted to a student who would qualify to graduate from the sending state, the local education agency shall provide an alternative means of acquiring required coursework so that graduation may occur on time.

(2) (a) In lieu of testing requirements for graduation in the receiving state, states shall accept:

(i) exit or end-of-course exams required for graduation from the sending state;

(ii) national norm-referenced achievement tests; or

(iii) alternative testing.

(b) In the event that the above alternatives cannot be accommodated by the receiving state for a student transferring to the school during the student's senior year, the provisions of subsection (3) of this article apply.

(3) If a military student transferring at the beginning of or during the student's senior year is ineligible to graduate from the receiving local education agency after all alternatives have been considered, the sending and receiving local education agencies shall ensure the receipt of a diploma from the sending local education agency if the student meets the graduation requirements of the sending local education agency. In the event that one of the states in question is not a member of this compact, the member state shall use best efforts to facilitate the on-time graduation of the student in accordance with subsections (1) and (2) of this article.

#### ARTICLE VIII STATE COORDINATION

(1) Each member state shall, through the creation of a state council or use of an existing body or board, provide for the coordination among its agencies of government, local education agencies, and military installations concerning the state's participation in and compliance with this compact and Interstate Commission activities. While each member state may determine the membership of its own state council, its membership must, at a minimum, include the state superintendent of public instruction, a superintendent of a school district with a high concentration of military children, a representative from a military installation, one representative each from the legislative and executive branches of government, and other offices and stakeholder groups that the state council considers appropriate.

(2) The state council of each member state shall appoint or designate a military family education liaison to assist military families and the state in facilitating the implementation of this compact.

(3) The compact commissioner responsible for the administration and management of the state's participation in the compact must be appointed by the governor or as otherwise determined by each member state.

(4) The compact commissioner and the military family education liaison designated herein are ex-officio members of the state council unless either is already a full voting member of the state council.

#### ARTICLE IX INTERSTATE COMMISSION ON EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN

The member states hereby create the Interstate Commission on Educational Opportunity for Military Children. The activities of the Interstate Commission are the formation of public policy and are a discretionary state function.

(1) The Interstate Commission is a body corporate and joint agency of the member states and has all the responsibilities, powers, and duties set forth herein and additional powers that may be conferred upon it by a subsequent concurrent action of the respective legislatures of the member states in accordance with the terms of this compact.

(2) (a) The Interstate Commission consists of one voting representative from each member state who is that state's compact commissioner.

(b) Each member state represented at a meeting of the Interstate Commission is entitled to one vote.

(c) A majority of the total member states constitute a quorum for the transaction of business unless a larger quorum is required by the bylaws of the Interstate Commission.

(d) A representative may not delegate a vote to another member state. In the event that the compact commissioner is unable to attend a meeting of the Interstate Commission, the governor or state council may delegate voting authority to another person from the state for a specified meeting.

(e) The bylaws may provide for meetings of the Interstate Commission to be conducted by telecommunication or electronic communication.

(3) The Interstate Commission consists of ex-officio, nonvoting representatives who are members of interested organizations. The ex-officio members, as defined in the bylaws, may include but may not be limited to members of the representative organizations of military family advocates, local education agency officials, parent and teacher groups, the U.S. department of defense, the education commission of the states, the Interstate Agreement on the Qualification of Educational Personnel, and other interstate compacts affecting the education of children of military members.

(4) The Interstate Commission shall meet at least once each calendar year. The chairperson may call additional meetings and, upon the request of a simple majority of the member states, shall call additional meetings.

(5) The Interstate Commission shall establish an executive committee, whose members must include the officers of the Interstate Commission and any other members of the Interstate Commission as determined by the bylaws. Members of the executive committee shall serve 1-year terms. Members of the executive committee are entitled to one vote each. The executive committee has the power to act on behalf of the Interstate Commission, with the exception of rulemaking, during periods when the Interstate Commission is not in session. The executive committee shall oversee the day-to-day activities of the administration of the compact, including enforcement and compliance with the provisions of the compact and its bylaws and rules and other duties considered necessary. The U.S. department of defense shall serve as an ex-officio, nonvoting member of the executive committee.

(6) The Interstate Commission shall establish bylaws and rules that provide for conditions and procedures under which the Interstate Commission shall make its information and official records available to the public for inspection or copying. The Interstate Commission may exempt from disclosure information or official records to the extent they would adversely affect personal privacy rights or proprietary interests.

(7) Public notice must be given by the Interstate Commission of all meetings, and all meetings must be open to the public except as set forth in the rules or as otherwise provided in the compact. The Interstate Commission and its committees may close a meeting or portion thereof if it determines by a two-thirds vote that an open meeting would be likely to:

(a) relate solely to the Interstate Commission's internal personnel;

(b) disclose matters specifically exempted from disclosure by federal and state statute;

(c) disclose trade secrets or commercial or financial information that is privileged or confidential;

(d) involve accusing a person of a crime or formally censuring a person;

(e) disclose information of a personal nature when disclosure would constitute a clearly unwarranted invasion of personal privacy;

(f) disclose investigative records compiled for law enforcement purposes; or

(g) specifically relate to the Interstate Commission's participation in a civil action or other legal proceeding.

(8) For a meeting or portion of a meeting closed pursuant to this provision, the Interstate Commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exemptible provision. The Interstate Commission shall keep minutes, which shall fully and clearly describe all matters discussed in a meeting, and shall provide a full and accurate summary of actions taken and the reasons therefore, including a description of the views expressed and the record of a roll call vote. All documents considered in connection with an action must be identified in the minutes. All minutes and documents of a closed meeting must remain under seal, subject to release by a majority vote of the Interstate Commission.

(9) The Interstate Commission shall collect standardized data concerning the educational transition of the children of military families under this compact as directed through its rules, which shall specify the data to be collected, the means of collection, and data exchange and reporting requirements. The methods of data collection, exchange, and reporting must, in so far as is reasonably possible, conform to current technology, and the Interstate Commission shall coordinate its information functions with the appropriate custodian of records as identified in the bylaws and rules.

(10) The Interstate Commission shall create a process that permits military officials, education officials, and parents to inform the Interstate Commission if and when there are alleged violations of the compact or its rules or when issues subject to the jurisdiction of the compact or its rules are not addressed by the state or local education agency. This section may not be construed to create a private right of action against the Interstate Commission, any member state, or any local education agency.

## ARTICLE X

### POWERS AND DUTIES OF THE INTERSTATE COMMISSION

The Interstate Commission may:

(1) provide for dispute resolution among member states;

(2) adopt rules that have the force and effect of law and are binding in the compact states to the extent and in the manner provided in this compact and take all necessary actions to effect the goals, purposes, and obligations as enumerated in this compact;

(3) issue, upon request of a member state, advisory opinions concerning the meaning or interpretation of the interstate compact and its bylaws, rules, and actions;

(4) monitor compliance with the compact provisions, the rules adopted by the commission, and the bylaws;

(5) establish and maintain offices, which must be located within one or more of the member states;

(6) purchase and maintain insurance and bonds;

(7) borrow, accept, hire, or contract for services of personnel;



(8) establish and appoint committees, including but not limited to an executive committee as required by subsection (5) of Article IX of this compact, which has the power to act on behalf of the Interstate Commission in carrying out its powers and duties under this compact;

(9) elect or appoint officers, attorneys, employees, agents, or consultants, fix their compensation, define their duties, and determine their qualifications, and establish the Interstate Commission's personnel policies and programs relating to conflicts of interest, rates of compensation, and qualifications of personnel;

(10) accept any and all donations and grants of money, equipment, supplies, materials, and services and receive, utilize, and dispose of it;

(11) lease, purchase, accept contributions or donations of, or otherwise own, hold, improve, or use any property, whether real, personal, or mixed;

(12) sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, whether real, personal, or mixed;

(13) establish a budget and make expenditures;

(14) adopt a seal and bylaws governing the management and operation of the Interstate Commission;

(15) report annually to the legislatures, governors, judiciary, and state councils of the member states concerning the activities of the Interstate Commission during the preceding year. The reports must also include any recommendations that may have been adopted by the Interstate Commission.

(16) coordinate education, training, and public awareness regarding the compact and its implementation and operation for officials and parents involved in such activity;

(17) establish uniform standards for the reporting, collecting, and exchanging of data;

(18) maintain corporate books and records in accordance with the bylaws;

(19) perform functions that may be necessary or appropriate to achieve the purposes of this compact;

(20) provide for the uniform collection and sharing of information between and among member states, schools, and military families under this compact.

#### ARTICLE XI

#### ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

(1) The Interstate Commission shall, by a majority of the members present and voting, within 12 months after the first Interstate Commission meeting, adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of the compact, including but not limited to:

(a) establishing the fiscal year of the Interstate Commission;

(b) establishing an executive committee and other committees as may be necessary;

(c) providing for the establishment of committees and for governing any general or specific delegation of authority or function of the Interstate Commission;

(d) providing reasonable procedures for calling and conducting meetings of the Interstate Commission and ensuring reasonable notice of each meeting;

(e) establishing the titles and responsibilities of the officers and staff of the Interstate Commission;

(f) providing a mechanism for concluding the operations of the Interstate Commission and the return of surplus funds that may exist upon the

termination of the compact after the payment and reserving of all of its debts and obligations;

(g) providing startup rules for initial administration of the compact.

(2) The Interstate Commission shall, by a majority of the members, elect annually from among its members a chairperson, a vice chairperson, and a treasurer, each of whom has authority and duties as specified in the bylaws. The chairperson or, in the chairperson's absence or disability, the vice chairperson, shall preside at all meetings of the Interstate Commission. The officers shall serve without compensation or remuneration from the Interstate Commission. However, subject to the availability of budgeted funds, the officers must be reimbursed for ordinary and necessary costs and expenses incurred by them in the performance of their responsibilities as officers of the Interstate Commission.

(3) The executive committee has authority and duties as set forth in the bylaws, including but not limited to:

(a) managing the affairs of the Interstate Commission in a manner consistent with the bylaws and purposes of the Interstate Commission;

(b) overseeing an organizational structure and appropriate procedures for the Interstate Commission to provide for the creation of rules, operating procedures, and administrative and technical support functions; and

(c) planning, implementing, and coordinating communications and activities with other state, federal, and local government organizations in order to advance the goals of the Interstate Commission.

(4) The executive committee may, subject to the approval of the Interstate Commission, appoint or retain an executive director for a period, upon terms and conditions, and for compensation as the Interstate Commission considers appropriate. The executive director shall serve as secretary to the Interstate Commission, but may not be a member of the Interstate Commission. The executive director shall hire and supervise other persons as authorized by the Interstate Commission.

(5) The Interstate Commission's executive director and its employees are immune from suit and liability, either personally or in their official capacity, for a claim for damage to or loss of property or personal injury or other civil liability caused or arising out of or relating to an actual or alleged act, error, or omission that occurred or that the person had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities. However, that person is not protected from suit or liability for damage, loss, injury, or liability caused by the person's intentional or willful and wanton misconduct.

(6) The liability of the Interstate Commission's executive director and employees or Interstate Commission representatives, acting within the scope of their employment or duties for acts, errors, or omissions occurring within their state, may not exceed the limits of liability set forth under the constitution and laws of that state for state officials, employees, and agents. The Interstate Commission is considered to be an instrumentality of the states for the purposes of any such action. Nothing in this subsection may be construed to protect a person from suit or liability for damage, loss, injury, or liability caused by the person's intentional or willful and wanton misconduct.

(7) The Interstate Commission shall defend the executive director and its employees and, subject to the approval of the attorney general or other appropriate legal counsel of the member state represented by an Interstate

Commission representative, shall defend the Interstate Commission representative in any civil action seeking to impose liability arising out of an actual or alleged act, error, or omission that occurred within the scope of Interstate Commission employment, duties, or responsibilities or that the defendant had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities if the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of the person.

(8) To the extent not covered by the state involved, the member state, the Interstate Commission, or the representatives or employees of the Interstate Commission must be held harmless in the amount of a settlement or judgment, including attorney fees and costs, obtained against those persons arising out of an actual or alleged act, error, or omission that occurred within the scope of Interstate Commission employment, duties, or responsibilities or that the persons had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities if the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of the persons.

#### ARTICLE XII

##### RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

(1) The Interstate Commission shall promulgate reasonable rules in order to effectively and efficiently achieve the purposes of this compact. Notwithstanding the foregoing, in the event the Interstate Commission exercises its rulemaking authority in a manner that is beyond the scope of the purposes of this compact or the powers granted under the compact, then such an action by the Interstate Commission is invalid and has no force or effect.

(2) Rules must be made pursuant to a rulemaking process that substantially conforms to the Model State Administrative Procedure Act revised as of 2012 as may be appropriate to the operations of the Interstate Commission.

(3) Not later than 30 days after a rule is promulgated, any person may file a petition for judicial review of the rule. However, the filing of a petition does not stay or otherwise prevent the rule from becoming effective unless the court finds that the petitioner has a substantial likelihood of success. The court shall give deference to the actions of the Interstate Commission consistent with applicable law and may not find the rule to be unlawful if the rule represents a reasonable exercise of the Interstate Commission's authority.

(4) If a majority of the legislatures of the member states rejects a rule by enactment of a statute or resolution in the same manner used to adopt the compact, then the rule has no further force and effect in any member state.

#### ARTICLE XIII

##### OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION

(1) Each member state shall enforce this compact to effectuate the compact's purposes and intent.

(2) All courts shall take judicial notice of the compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of this compact that may affect the powers, responsibilities, or actions of the Interstate Commission.

(3) The Interstate Commission is entitled to receive all service of process in any such proceeding and has standing to intervene in the proceeding for all purposes. Failure to provide service of process to the Interstate Commission

renders a judgment or order void as to the Interstate Commission, this compact, or promulgated rules.

(4) The purpose of this compact is not to supersede the sovereignty of any member state but instead to facilitate the collective exercise of each state's sovereignty to allow a uniform solution without federal intervention. No provision of the interstate compact may be construed as a waiver of a state's sovereignty.

(5) If the Interstate Commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact or the bylaws or promulgated rules, the Interstate Commission shall:

(a) provide written notice to the defaulting state and other member states of the nature of the default, the means of curing the default, and any action taken by the Interstate Commission. The Interstate Commission shall specify the conditions by which the defaulting state is required to cure its default.

(b) provide remedial training and specific technical assistance regarding the default.

(6) If the defaulting state fails to cure the default, the defaulting state must be terminated from the compact upon an affirmative vote of a majority of the member states and all rights, privileges, and benefits conferred by this compact must be terminated from the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of the default, except that in the event of a default by this state, its total financial responsibility is limited to the amount of its most recent annual assessment.

(7) Suspension or termination of membership in the compact may be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate must be given by the Interstate Commission to the governor, the majority and minority leaders of the defaulting state's legislature, and each of the member states.

(8) The state that has been suspended or terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of suspension or termination up to a maximum amount of \$5,000 multiplied by the number of years that the state has been a member of the compact. In the event that this state is suspended or terminated, its total financial responsibility is limited to the amount of its most recent annual assessment.

(9) The Interstate Commission may not bear any costs relating to any state that has been found to be in default or that has been suspended or terminated from the compact unless otherwise mutually agreed upon in writing between the Interstate Commission and the defaulting state.

(10) The defaulting state may appeal the action of the Interstate Commission by petitioning the U.S. district court for the District of Columbia or the federal district where the Interstate Commission has its principal offices. The prevailing party must be awarded all costs of litigation, including reasonable attorney fees.

(11) The Interstate Commission shall attempt, upon the request of a member state, to resolve disputes that are subject to the compact and that may arise among member states and between member and nonmember states.

(12) The Interstate Commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes as appropriate.

ARTICLE XIV  
FINANCING OF THE INTERSTATE COMMISSION

(1) The Interstate Commission shall pay or provide for the payment of the reasonable expenses of its establishment, organization, and ongoing activities.

(2) The Interstate Commission may levy on and collect an annual assessment from each member state to cover the cost of the operations and activities of the Interstate Commission and its staff, which must be in a total amount sufficient to cover the Interstate Commission's annual budget as approved each year. The aggregate annual assessment amount must be allocated based upon a formula to be determined by the Interstate Commission, which shall promulgate a rule binding upon all member states to the limits as specified herein.

(3) The annual assessment applicable to this state may not exceed an amount equal to \$2 multiplied by the latest available number of children of military families in this state.

(4) This state may not be held liable for the payment of any special assessment or other assessment other than the annual assessment in the amount established by subsection (3).

(5) The Interstate Commission may not incur obligations of any kind prior to securing the funds adequate to meet those obligations, and the Interstate Commission may not pledge the credit of any of the member states except by and with the authority of the member state.

(6) The Interstate Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Interstate Commission are subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Interstate Commission must be audited yearly by a certified or licensed public accountant, and the report of the audit must be included in and become part of the annual report of the Interstate Commission.

(7) All expenditures for the state, including withdrawal or dissolution costs, or both, may not exceed an amount of \$5,000 annually.

ARTICLE XV  
MEMBER STATES, EFFECTIVE DATE, AND AMENDMENT

(1) Any state is eligible to become a member state, except that in the case of this state, withdrawal from the compact may also be accomplished by statutorily allowing for expiration of this section.

(2) Withdrawal from the compact must be by the enactment of a statute repealing the compact, except in the case of this state, withdrawal from the compact may also be accomplished by statutorily allowing for the expiration of this section.

(3) The Interstate Commission may propose amendments to the compact for enactment by the member states. An amendment may not become effective and binding upon the Interstate Commission and the member states unless it is enacted into law by unanimous consent of the member states.

ARTICLE XVI  
WITHDRAWAL AND DISSOLUTION

(1) Once effective, the compact continues in force and remains binding upon each and every member state. However, a member state may withdraw from the compact by specifically repealing the statute that enacted the compact into law,

except that in the case of this state, withdrawal from the compact may also be accomplished by statutorily allowing for expiration of this section.

(2) Withdrawal from this compact must be by the enactment of legislation repealing the compact except in the case of this state, withdrawal from the compact may also be accomplished by statutorily allowing for the expiration of this section.

(3) The withdrawing state shall immediately notify the chairperson of the Interstate Commission in writing upon the introduction of legislation repealing this compact in the withdrawing state, except that if this state elects to withdraw from the compact by statutorily allowing for the expiration of this section, this state shall notify the chairperson of the commission when it becomes evident that the expiration will take effect. The Interstate Commission shall notify the other member states of the withdrawing state's intent to withdraw within 60 days of its receipt of the notice.

(4) The withdrawing state is responsible for all assessments, obligations, and liabilities incurred through the effective date of withdrawal up to a maximum amount equal to \$2 multiplied by the latest available number of children of military families in this state.

(5) Reinstatement following withdrawal of a member state may occur upon the withdrawing state reenacting the compact or upon a later date as determined by the Interstate Commission.

(6) (a) This compact dissolves on the date of the withdrawal or default of the member state that reduces the membership in the compact to one member state.

(b) Upon the dissolution of this compact, the compact becomes null and void and is of no further force or effect and the business and affairs of the Interstate Commission must be concluded and surplus funds must be distributed in accordance with the bylaws.

#### ARTICLE XVII

##### SEVERABILITY AND CONSTRUCTION

(1) The provisions of this compact are severable, and if any phrase, clause, sentence, or provision is deemed unenforceable, the remaining provisions of the compact are enforceable.

(2) The provisions of this compact must be liberally construed to effectuate its purposes.

(3) Nothing in this compact may be construed to prohibit the applicability of other interstate compacts to which the states are members.

#### ARTICLE XVIII

##### BINDING EFFECT OF COMPACT AND OTHER LAWS

(1) Nothing in this compact prevents the enforcement of any other law of a member state that is not inconsistent with this compact. All member states' laws conflicting with this compact are superseded to the extent of the conflict.

(2) All lawful actions of the Interstate Commission, including all rules and bylaws promulgated by the Interstate Commission, are binding upon the member states.

(3) All agreements between the Interstate Commission and the member states are binding in accordance with their terms.

(4) In the event that any provision of this compact exceeds the constitutional limits imposed on the legislature of any member state, that provision is ineffective to the extent of the conflict with the constitutional provision in question in that member state.



ARTICLE XIX  
STATE COUNCIL - CREATION

The state council on educational opportunity for military children must be created and consist of:

- (1) the following voting members:
  - (a) the superintendent of public instruction, who shall serve as the chairperson;
  - (b) the superintendent of a school district that includes a high concentration of military children, appointed by the governor;
  - (c) a representative of a military installation, appointed by the governor;
  - (d) a legislator, appointed by the senate president;
  - (e) a representative of the executive branch of government, appointed by the governor; and
  - (f) any other individuals recommended by a majority of the members of the state council listed in subsections (1)(a) through (1)(e); and
- (2) the following nonvoting members:
  - (a) the compact commissioner appointed under Article XX; and
  - (b) the military family education liaison, appointed under Article XXI.

ARTICLE XX  
COMPACT COMMISSIONER - APPOINTMENT AND DUTIES

The governor shall appoint a compact commissioner who is responsible for the administration and management of the state's participation in the compact on educational opportunity for military children.

ARTICLE XXI  
MILITARY FAMILY EDUCATION LIAISON -  
APPOINTMENT AND DUTIES

The state council shall appoint a military family education liaison to assist military families and the state in facilitating the implementation of the compact on educational opportunity for military children.

ARTICLE XXII  
PROVISION OF FUNDING - ADJUTANT GENERAL

Each state's equivalent of a department of military affairs under the adjutant general shall pay all expenses incurred by the state to participate in the compact on educational opportunity for military children, including the reimbursement of actual and necessary expenses incurred by members of the state council.

**Section 2. Report to legislature.** By July 1, 2014, representatives of the Great Falls school district, the Helena school district, and a member of the military, as specified by the adjutant general, shall provide, singly or jointly, a report to the senate president, the speaker of the house, and the education and local government interim committee regarding the state's participation in the compact on educational opportunity for military children established in [section 1].

**Section 3. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 20, chapter 1, part 2, and the provisions of Title 20, chapter 1, part 2, apply to [section 1].

**Section 4. Termination.** [This act] terminates June 30, 2015.

Approved April 26, 2013

**CHAPTER NO. 322**

[SB 275]

AN ACT PROVIDING FOR A VETERAN DESIGNATION ON STATE DRIVER'S LICENSES AND IDENTIFICATION CARDS; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 61-5-111, 61-5-114, AND 61-12-501, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE.

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

**Section 1. Veteran status on driver's license and identification cards — documentation — rulemaking.** (1) Upon receipt of documentation confirming veteran status from a person who wishes to have that status indicated on a driver's license or identification card issued by the department of justice, the department shall verify the person's status as a veteran.

(2) When the person applies for, renews, or seeks replacement of a driver's license or identification card under Title 61, the person may request that veteran status be indicated on the driver's license or identification card.

(3) The department shall, in consultation with the department of justice, make rules necessary to carry out the provisions of this section.

**Section 2.** Section 61-5-111, MCA, is amended to read:

**"61-5-111. Contents of driver's license, renewal, renewal by mail, license expirations, grace period, and fees for licenses, permits, and endorsements — notice of expiration.** (1) (a) The department may appoint county treasurers and other qualified officers to act as its agents for the sale of driver's license receipts. The department shall adopt necessary rules governing sales. In areas in which the department provides driver licensing services 3 days or more a week, the department is responsible for sale of receipts and may appoint an agent to sell receipts.

(b) The department may enter into an authorized agent agreement with the county treasurer of any county in which the department no longer maintains a driver examination station for the purpose of providing driver's license renewal services.

(2) (a) The department, upon receipt of payment of the fees specified in this section, shall issue a driver's license to each qualifying applicant. The license must contain:

(i) a full-face photograph of the licensee in the size and form prescribed by the department;

(ii) a distinguishing number issued to the licensee;

(iii) the full legal name, date of birth, Montana residence address unless the licensee requests use of the mailing address, and a brief description of the licensee; ~~and~~

(iv) either the licensee's customary signature or a digital reproduction of the licensee's customary signature; *and*

(v) *if the applicant qualifies under subsection (7), indication of the applicant's status as a veteran.*

(b) The department may not use the licensee's social security number as the distinguishing number unless the licensee expressly authorizes the use. A license is not valid until it is signed by the licensee.

(3) (a) When a person applies for renewal of a driver's license, the department shall conduct a records check in accordance with 61-5-110(1) to determine the applicant's eligibility status and shall test the applicant's

eyesight. The department may also require the applicant to submit to a knowledge and road or skills test if:

(i) the renewal applicant has a physical or mental disability, limitation, or condition that impairs, or may impair, the applicant's ability to exercise ordinary and reasonable control in the safe operation of a motor vehicle on the highway; and

(ii) the expired or expiring license does not include adaptive equipment or operational restrictions appropriate to the applicant's functional abilities; or

(iii) the applicant wants to remove or modify the restrictions stated on the expired or expiring license.

(b) In the case of a commercial driver's license, the department shall, if the information was not provided in a prior licensing cycle, require the renewal applicant to provide the name of each jurisdiction in which the applicant was previously licensed to drive any type of motor vehicle during the 10-year period immediately preceding the date of the renewal application and may also require that the applicant successfully complete a written examination as required by federal regulations.

(c) A person is considered to have applied for renewal of a Montana driver's license if the application is made within 6 months before or 3 months after the expiration of the person's license. Except as provided in subsection (3)(d), a person seeking to renew a driver's license shall appear in person at a Montana driver's examination station.

(d) (i) Except as provided in subsections (3)(d)(iv) through (3)(d)(vi), a person may renew a driver's license by mail if the person certifies that the person is temporarily out of state and will not be returning to the state prior to the expiration of the license. A person may not renew by mail for a subsequent license term after a mail renewal, except that a spouse or dependent of a person stationed outside Montana on active military duty may renew a driver's license by mail for one additional consecutive term following a mail renewal.

(ii) An applicant who renews a driver's license by mail shall submit to the department an approved vision examination and a medical evaluation from a licensed physician, licensed physician assistant, or advanced practice registered nurse, as defined in 37-8-102, in addition to the fees required for renewal.

(iii) If the department does not have a digitized photograph or signature record of the renewal applicant from the expiring license, then the department may require the renewal applicant to submit a personal photograph and signature that meets the requirements prescribed by the department.

(iv) Except as provided in subsections (4)(b) and (4)(c), the term of a license renewed by mail is 8 years.

(v) The department may not renew a license by mail if:

(A) the records check conducted in accordance with 61-5-110(1) shows an ineligible license status for the applicant; or

(B) the applicant holds a commercial driver's license with a hazardous materials endorsement, the retention of which requires additional testing and a security threat assessment under 49 CFR, part 1572.

(vi) If a license was issued to a foreign national whose presence in the United States is temporarily authorized under federal law, the license may not be renewed by mail.

(e) The department shall mail a driver's license renewal notice no earlier than 60 days and no later than 30 days prior to the expiration date of a driver's license. Except as provided in 61-3-119 and 61-5-115, the department shall mail the notice to the Montana mailing address shown on the driver's license.

(4) (a) Except as provided in subsections (4)(b) through (4)(e), a license expires on the anniversary of the licensee's birthday 8 years or less after the date of issue or on the licensee's 75th birthday, whichever occurs first.

(b) A license issued to a person who is 75 years of age or older expires on the anniversary of the licensee's birthday 4 years or less after the date of issue.

(c) A license issued to a person who is under 21 years of age expires on the licensee's 21st birthday.

(d) (i) Except as provided in subsection (4)(d)(ii), a commercial driver's license expires on the anniversary of the licensee's birthday 5 years or less after the date of issue.

(ii) When a person obtains a Montana commercial driver's license with a hazardous materials endorsement after surrendering a comparable commercial driver's license with a hazardous materials endorsement from another licensing jurisdiction, the license expires on the anniversary of the licensee's birthday 5 years or less after the date of the issue of the surrendered license if, as reported in the commercial driver's license information system, a security threat assessment was performed on the person as a condition of issuance of the surrendered license.

(e) A license issued to a person who is a foreign national whose presence in the United States is temporarily authorized under federal law expires, as determined by the department, no later than the expiration date of the official document issued to the person by the bureau of citizenship and immigration services of the department of homeland security authorizing the person's presence in the United States.

(5) When the department issues a driver's license to a person under 18 years of age, the license must be clearly marked with a notation that conveys the restrictions imposed under 61-5-133.

(6) (a) Upon application for a driver's license or commercial driver's license and any combination of the specified endorsements, the following fees must be paid:

(i) driver's license, except a commercial driver's license — \$5 a year or fraction of a year;

(ii) motorcycle endorsement — 50 cents a year or fraction of a year;

(iii) commercial driver's license:

(A) interstate — \$10 a year or fraction of a year; or

(B) intrastate — \$8.50 a year or fraction of a year.

(b) A renewal notice for either a driver's license or a commercial driver's license is 50 cents.

(7) (a) *Upon receiving a request from a person whose status as a veteran has been verified by the department of military affairs pursuant to [section 1] and upon receiving the information and fees required in this part, the department shall include the word "veteran" on the face of the license.*

(b) *After a person's status as a veteran is denoted on a driver's license, the department may not require further documentation of that status from the holder of the license upon subsequent renewal or replacement."*

**Section 3.** Section 61-5-114, MCA, is amended to read:

**“61-5-114. Replacement license or permit — *veteran designation*. (1)**

If an instruction permit or driver's license issued under the provisions of this chapter is lost or destroyed or a person wants to update personal information contained on an instruction permit or a driver's license issued to the person, the person to whom the permit or license was issued may, upon the payment of a fee of \$10, obtain a replacement permit or license, upon furnishing proof satisfactory to the department that the permit or license has been lost or destroyed or that personal information has changed.

(2) If the hazardous materials endorsement on a commercial driver's license issued under the provisions of this chapter is revoked or removed pursuant to the authority provided in 61-5-147, the person to whom the license was issued shall surrender to the department the person's commercial driver's license with the hazardous materials endorsement and may obtain, upon making application and paying a \$10 fee, a replacement license that does not include a hazardous materials endorsement.

(3) *The department shall include the word “veteran” on the face of a driver's license if the requirements of 61-5-111(7) are met by the person applying for the driver's license.”*

**Section 4.** Section 61-12-502, MCA, is amended to read:

**“61-12-502. Rules for identification cards — *veteran designation*. (1)**

The department shall formulate and adopt rules governing the issuance and cancellation of identification cards that comport with the proof of identify, residence, and authorized presence standards for a driver's license issued under Title 61, chapter 5.

(2) *The department shall include the word “veteran” on the face of an identification card if the requirements of 61-5-111(7) are met by the person applying for the identification card.”*

**Section 5. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 10, chapter 2, and the provisions of Title 10, chapter 2, apply to [section 1].

**Section 6. Effective date.** [This act] is effective January 1, 2014.

Approved April 26, 2013

## CHAPTER NO. 323

[SB 355]

AN ACT CREATING A PETITION PROCESS TO JUDICIALLY DETERMINE CLAIMS FOR EXISTING WATER RIGHTS THAT WERE EXEMPT FROM FILING FOR THE ADJUDICATION OF WATER RIGHTS; PROVIDING THAT WITHOUT A DETERMINATION WATER RIGHTS EXEMPT FROM FILING ARE NOT ADMINISTERED BY FIRST IN TIME, FIRST IN RIGHT; AMENDING SECTIONS 85-2-222, 85-2-233, AND 85-2-234, MCA.

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

**Section 1.** Section 85-2-222, MCA, is amended to read:

**“85-2-222. Exemptions — *petition for determination*. (1)** Claims for existing rights for livestock and individual *uses* as opposed to municipal domestic uses based upon instream flow or ground water sources and claims for rights in the Powder River basin included in a declaration filed pursuant to the order of the department or a district court issued under sections 8 and 9 of Chapter 452, Laws of 1973, or under sections 3 and 4 of Chapter 485, Laws of

1975, are exempt from the filing requirements of 85-2-221(1). ~~Such claims may, however, be voluntarily filed.~~

(2) *The owner of an existing right exempt from filing under this section who did not voluntarily file a claim may request a judicial determination from the water court of the existing water right at least 90 days prior to issuance of a final decree pursuant to 85-2-234 or upon the reopening of a final decree pursuant to 85-2-237, whichever occurs later.*

(3) *To request a judicial determination of an existing right exempt from filing, the owner shall:*

(a) *file a petition in the water court and pay a filing fee, including the cost of examination by the department under 85-2-243;*

(b) *submit information required by 85-2-224(1) and (2) on a form provided by the department; and*

(c) *provide and pay for the notice required by 85-2-233(6).*

(4) *A claim of an existing right undergoing judicial determination pursuant to this section constitutes prima facie proof of its content.*

(5) *The provisions of 85-2-233, 85-2-243, and 85-2-248 as well as supreme court examination rules apply to petitions for judicial determination under this section, except that the department may not resolve issue remarks.*

(6) *Failure to file a claim for an existing right exempt under this section or failure to request a judicial determination for an existing right exempt under this section:*

(a) *does not result in the forfeiture of an existing water right; and*

(b) *subordinates the existing right to all other water rights except those that are exempt from this section and for which there has been neither a claim filed nor a judicial determination sought.”*

**Section 2.** Section 85-2-233, MCA, is amended to read:

**“85-2-233. Hearing on temporary preliminary decree or preliminary decree — procedure.** (1) (a) For good cause shown and subject to the provisions of subsection (9), a hearing must be held before the water judge on any objection to a temporary preliminary decree, or preliminary decree, or a petition for judicial determination under 85-2-222 by:

(i) the department;

(ii) a person named in the temporary preliminary decree or preliminary decree;

(iii) any person within the basin entitled to receive notice under 85-2-232(1); or

(iv) any other person who claims rights to the use of water from sources in other basins that are hydrologically connected to the sources within the decreed basin and who would be entitled to receive notice under 85-2-232 if the claim or claims were from sources within the decreed basin.

(b) For the purposes of this subsection (1), “good cause shown” means a written statement showing that a person has an ownership interest in water or its use that has been affected by the decree.

(c) A person does not waive the right to object to a preliminary decree by failing to object to a temporary preliminary decree issued before March 28, 1997. However, a person may not raise an objection to a matter in a preliminary decree if that person was a party to the matter when the matter was previously litigated and resolved as the result of an objection raised in a temporary



preliminary decree unless the objection is allowed for any of the following reasons:

- (i) mistake, inadvertence, surprise, or excusable neglect;
- (ii) newly discovered evidence that by due diligence could not have been discovered in time to move for a new trial under Rule 59(b), Montana Rules of Civil Procedure;
- (iii) fraud, misrepresentation, or other misconduct of an adverse party;
- (iv) the judgment is void; or
- (v) any other reason justifying relief from the operation of the judgment.

(d) After March 28, 1997, a person may not raise an objection or counterobjection to a matter contained in a subsequent decree issued under this part if the matter was contained in a prior decree issued under this part for which there was an objection and counterobjection period unless the objection is allowed for any of the following reasons:

- (i) mistake, inadvertence, surprise, or excusable neglect;
- (ii) newly discovered evidence that by due diligence could not have been discovered at the close of the objection period set forth in subsection (2);
- (iii) fraud, misrepresentation, or other misconduct of an adverse party;
- (iv) the temporary preliminary decree is void; or
- (v) any other reason justifying relief from the operation of the prior decree issued under this part. The fact that a prior owner of a water right did not object or counterobject at a prior decree stage may not be a basis for a subsequent owner of the water right to object or counterobject absent a finding that one of the provisions in this subsection (1)(d) applies.

(2) Objections must be filed with the water judge within 180 days after entry of the temporary preliminary decree or preliminary decree. The water judge may, for good cause shown, extend this time limit up to two additional 90-day periods if application for an extension is made prior to expiration of the original 180-day period or any extension of it.

(3) Upon expiration of the time for filing objections under subsection (2), the water judge shall notify each party whose claim received an objection that an objection was filed. The notice must set forth the name of each objector and must allow an additional 60 days for the party whose claim received an objection to file a counterobjection to the claim or claims of the objector. Counterobjections must be limited to those claims that are included within the particular decree issued by the court.

(4) Objections and counterobjections must specify the paragraphs and pages containing the findings and conclusions to which objection is made. The request must state the specific grounds and evidence on which the objections are based.

(5) (a) Upon expiration of the time for filing counterobjections under subsection (3), the water judge shall notify each party named in the temporary preliminary decree or preliminary decree or that person's successor as documented in the department records and shall notify the attorney general that objections and counterobjections have been filed. The water judge shall fix a day when all parties who wish to participate in future proceedings are required to appear or file a statement. The water judge shall then set a date for a hearing. The water judge may conduct individual or consolidated hearings. A hearing must be conducted in the same manner as for other civil actions. At the order of the water judge, a hearing may be conducted by the water master, who shall

prepare a report of the hearing as provided in Rule 53(e), Montana Rules of Civil Procedure.

(b) In conducting hearings pursuant to this chapter, a water judge may require the parties to participate in settlement conferences or may assign the matter to a mediator. Any settlement reached by the parties is subject to review and approval by a water judge.

(6) *(a)* After the issuance of a temporary preliminary decree or preliminary decree, notice of any motion to amend a statement of claim or a timely filed objection that may adversely affect other water rights must be published *once a week* for 3 consecutive weeks in two newspapers of general circulation in the basin where the statement of claim or objection was filed *the decree was issued for:*

*(i) a motion to amend a statement of claim that may adversely affect other water rights;*

*(ii) a motion to amend a timely objection that may adversely affect other water rights; or*

*(iii) a petition for judicial determination as provided for in 85-2-222.*

(b) The notice must specify that any response or objection to the proposed amendment must be filed within 45 days of the date of the last notice.

(c) The water judge may order any additional notice of the motion as the water judge considers necessary.

(d) The costs of the notice required pursuant to this subsection must be borne by the moving party.

(7) Failure to object under subsection (1) to a compact negotiated and ratified under 85-2-702 or 85-2-703 bars any subsequent cause of action in the water court.

(8) If the court sustains an objection to a compact, it may declare the compact void. The agency of the United States, the tribe, or the United States on behalf of the tribe party to the compact is permitted 6 months after the court's determination to file a statement of claim, as provided in 85-2-224, and the court shall issue a new preliminary decree in accordance with 85-2-231. However, any party to a compact declared void may appeal from that determination in accordance with those procedures applicable to 85-2-235, and the filing of a notice of appeal stays the period for filing a statement of claim as required under this subsection.

(9) Upon petition by a claimant, the water court may grant a motion for dismissal to an objection to a temporary preliminary or preliminary decree if the objection pertains to an element of a water right that was previously decreed and if dismissal is consistent with common-law principles of issue and claim preclusion.

(10) The provisions of subsection (9) do not apply to issues arising after entry of the previous decree, including but not limited to the issues of abandonment, expansion of the water right, and reasonable diligence.

(11) All issue remarks, as defined in 85-2-250, must be finally resolved before the issuance of a final decree."

**Section 3.** Section 85-2-234, MCA, is amended to read:

**"85-2-234. Final decree.** (1) The water judge shall, on the basis of the preliminary decree, on the basis of any hearing that may have been held, and on final resolution of all issue remarks, as defined in 85-2-250, enter a final decree affirming or modifying the preliminary decree.

(2) The terms of a compact negotiated and ratified under 85-2-702 must be included in the final decree without alteration unless an objection is sustained pursuant to 85-2-233. However, the court may not alter or amend any of the terms of a compact except with the prior written consent of the parties in accordance with applicable law.

(3) The final decree must establish the existing rights and priorities within the water judge's jurisdiction of persons who have filed a claim in accordance with 85-2-221, of persons required to file a declaration of existing rights in the Powder River basin pursuant to an order of the department or a district court issued under sections 8 and 9 of Chapter 452, Laws of 1973, *of any judicial determinations made pursuant to 85-2-222*, and of any federal agency or Indian tribe possessing water rights arising under federal law, required by 85-2-702 to file claims.

(4) The final decree must establish, in a form determined to be appropriate by the water judge, one or more tabulations or lists of all water rights and their relative priorities.

(5) The final decree must state the findings of fact, along with any conclusions of law, upon which the existing rights and priorities of each person, federal agency, and Indian tribe named in the decree are based.

(6) For each person who is found to have an existing right arising under the laws of the state of Montana, the final decree must state:

- (a) the name and post-office address of the owner of the right;
- (b) the amount of water included in the right, as follows:
  - (i) by flow rate for direct flow rights, such as irrigation rights;
  - (ii) by volume for rights, such as stockpond and reservoir storage rights, and for rights that are not susceptible to measurement by flow rate; or
  - (iii) by flow rate and volume for rights that a water judge determines require both volume and flow rate to adequately administer the right;
- (c) the date of priority of the right;
- (d) the purpose for which the water included in the right is used;
- (e) the place of use and a description of the land, if any, to which the right is appurtenant;
- (f) the source of the water included in the right;
- (g) the place and means of diversion;
- (h) the inclusive dates during which the water is used each year;
- (i) any other information necessary to fully define the nature and extent of the right.

(7) For each person, tribe, or federal agency possessing water rights arising under the laws of the United States, the final decree must state:

- (a) the name and mailing address of the holder of the right;
- (b) the source or sources of water included in the right;
- (c) the quantity of water included in the right;
- (d) the date of priority of the right;
- (e) the purpose for which the water included in the right is currently used, if at all;
- (f) the place of use and a description of the land, if any, to which the right is appurtenant;
- (g) the place and means of diversion, if any; and

(h) any other information necessary to fully define the nature and extent of the right, including the terms of any compacts negotiated and ratified under 85-2-702.

(8) Clerical mistakes in a final decree may be corrected at any time on the initiative of the water judge or on the petition of any person who possesses a water right. The water judge shall order the notice of a correction proceeding that the judge determines to be appropriate to advise all persons who may be affected by the correction. An order of the water judge making or denying a clerical correction is subject to appellate review.”

Approved April 26, 2013

## CHAPTER NO. 324

[SB 357]

AN ACT REVISING LAWS RELATING TO PREPAID LEGAL INSURANCE; PROVIDING A SEPARATE LICENSE EXAM FOR PREPAID LEGAL INSURANCE; PROVIDING THAT LICENSE EXAMS COVER ONLY THE KINDS OF INSURANCE FOR WHICH THE APPLICANT APPLIES TO BE LICENSED; REVISING CONTINUING EDUCATION REQUIREMENTS FOR INDIVIDUALS LICENSED SOLELY TO SELL PREPAID LEGAL INSURANCE; AND AMENDING SECTIONS 33-17-212 AND 33-17-1203, MCA.

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

**Section 1.** Section 33-17-212, MCA, is amended to read:

**“33-17-212. Examination required — exceptions — fees.** (1) Except as provided in subsection (6), an individual applying for a license is required to pass a written examination. The examination must test the knowledge of the individual concerning each kind of insurance listed in subsection (5) for which application is made, the duties and responsibilities of an insurance producer, and the insurance laws and rules of this state. The examination must be developed and conducted under rules adopted by the commissioner.

(2) (a) The commissioner may conduct the examination or make arrangements, including contracting with an outside testing service, for administering the examination. The commissioner may arrange for the testing service to recover the cost of the examination from the applicant.

(b) *The commissioner may not charge a fee for an applicant taking an examination pertaining to prepaid legal insurance. However, the commissioner may contract with an outside testing service for administering the examination, and the commissioner may arrange for the testing service to recover the cost of the examination from the applicant.*

(3) An individual who fails to appear for the examination as scheduled or fails to pass the examination may reapply for an examination and shall remit all forms before being rescheduled for another examination.

(4) Except as provided in subsection (6), if the applicant is a business entity, each individual who is to be named in the license as having authority to act for the applicant in its insurance transactions under the license must meet the qualifications provided for in this section.

(5) Examination of an applicant for a license must cover ~~all of~~ *only* the kinds of insurance for which the applicant has applied to be licensed, as constituted by any one or more of the following classifications:

- (a) life insurance;
  - (b) disability insurance;
  - (c) property insurance, which for the purposes of this provision includes marine insurance;
  - (d) casualty insurance;
  - (e) surety insurance;
  - (f) limited lines credit insurance;
  - (g) title insurance;
  - (h) *prepaid legal insurance as provided for in 33-1-215.*
- (6) This section does not apply to and an examination is not required of:
- (a) an individual lawfully licensed as an insurance producer as to the kind or kinds of insurance to be transacted as of or immediately prior to January 1, 1961, and who continues to be licensed;
  - (b) an applicant for a license covering the same kind or kinds of insurance as to which the applicant was licensed in this state, other than under a temporary license, within the 12 months immediately preceding the date of application unless the commissioner has suspended, revoked, or terminated the previous license;
  - (c) an applicant for a license as a nonresident insurance producer;
  - (d) transportation ticket agents of common carriers applying for a license to solicit and sell only:
    - (i) accident insurance ticket policies; or
    - (ii) insurance of personal effects while being carried as baggage on a common carrier, as incidental to their duties as transportation ticket agents; ~~or~~
  - (e) an association applying for a license under 33-17-211; *or*
  - (f) *a casualty insurance producer, for the purposes of a separate exam for prepaid legal insurance, if the casualty insurance producer sells prepaid legal insurance as of [the effective date of this act] and continues to maintain a license in good standing as a casualty insurance producer.*
- (7) (a) Subject to the provisions of subsection (7)(b), an individual who applies for a nonresident insurance producer license in this state and who was previously licensed for the same lines of authority in another state may not be required to complete any preclicensing education or examination.
- (b) The exemption in subsection (7)(a) is available only if the individual is currently licensed in the other state or the individual's application is received within 90 days of the cancellation of the individual's previous license and if the other state issues a certification that, at the time of the cancellation, the individual was in good standing in that state or the state's database records, maintained by the national association of insurance commissioners or any of the association's affiliates or subsidiaries that the association oversees, indicate that the insurance producer is or was licensed in good standing for the lines of authority requested."

**Section 2.** Section 33-17-1203, MCA, is amended to read:

**"33-17-1203. Continuing education — basic requirements — exceptions.** (1) Unless exempt under subsection (3):

- (a) an individual licensed to act as an insurance producer, adjuster, or consultant other than an individual licensed only for surety bail bonds or for limited lines credit insurance shall, during each 24-month period, complete at least 24 credit hours of approved continuing education, including at least 3

hours of ethics credits and at least 1 credit hour on changes in Montana insurance statutes and administrative rules;

(b) an individual licensed to act as an insurance producer only for surety bail bonds, *prepaid legal insurance*, or ~~for~~ limited lines credit insurance shall, during each biennium, complete 5 credit hours of approved continuing education, including at least 1 credit hour on changes in Montana insurance statutes and administrative rules and the remaining credit hours in the areas of insurance law, ethics, or topics specific to surety bail bonds, *prepaid legal insurance*, or limited lines credit insurance.

(2) The commissioner may, for good cause, grant an extension of time, not to exceed 1 year, during which the requirements imposed by subsection (1) may be completed.

(3) The minimum continuing education requirements do not apply to:

(a) an individual holding a temporary license issued under 33-17-216; or

(b) an insurance producer, adjuster, or consultant otherwise exempted by the commissioner.”

Approved April 26, 2013

## CHAPTER NO. 325

[HB 15]

AN ACT APPROPRIATING MONEY TO THE DEPARTMENT OF COMMERCE FOR FINANCIAL ASSISTANCE TO PUBLIC SCHOOL FACILITY PROJECTS THROUGH THE QUALITY SCHOOLS FACILITY GRANT PROGRAM; AUTHORIZING GRANTS FROM THE SCHOOL FACILITY AND TECHNOLOGY STATE SPECIAL REVENUE ACCOUNT; PLACING CONDITIONS UPON GRANTS AND FUNDS; REVISING PRIORITIZATION OF DISTRIBUTIONS MADE FROM THE SCHOOL FACILITY AND TECHNOLOGY ACCOUNT; ALLOWING FOR CERTAIN ADMINISTRATIVE COSTS TO BE PAID FROM THE ACCOUNT; APPROPRIATING MONEY TO THE DEPARTMENT OF COMMERCE FOR EMERGENCY GRANTS; APPROPRIATING MONEY TO THE DEPARTMENT OF COMMERCE FOR PLANNING GRANTS; ESTABLISHING A PREFERENCE FOR CERTAIN PROJECTS; TRANSFERRING FUNDS FROM THE ORPHAN SHARE ACCOUNT; AMENDING SECTIONS 20-9-343, 20-9-516, 20-9-620, 90-6-802, AND 90-6-811, MCA; AND PROVIDING AN EFFECTIVE DATE.

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

**Section 1.** Section 20-9-343, MCA, is amended to read:

**“20-9-343. Definition of and revenue for state equalization aid.** (1) As used in this title, the term “state equalization aid” means revenue as required in this section for:

(a) ~~distribution to the public schools for guaranteed tax base aid, BASE aid, and state reimbursement for school facilities; and~~

(b) ~~negotiated payments authorized under 20-7-420(3) up to \$500,000 a biennium.~~

(2) ~~The superintendent of public instruction may spend throughout the biennium funds appropriated for the purposes of guaranteed tax base aid, BASE aid for the BASE funding program, state reimbursement for school facilities, and negotiated payments authorized under 20-7-420(3).~~



~~(3) The following money must be paid into the guarantee account provided for in 20-9-622 for the public schools of the state as indicated:~~

~~(a) subject to 20-9-516(2)(a) 20-9-516(3)(a), interest and income money described in 20-9-341 and 20-9-342; and~~

~~(b) investment income earned by investing interest and income money described in 20-9-341 and 20-9-342."~~

**Section 2.** 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 purpose of the account is to provide money to schools. *After the distribution pursuant to 20-9-534 is made, the remainder of the account must be used for:*

- ~~(a) major deferred maintenance;~~
- ~~(b) improving energy efficiency in school facilities;~~
- ~~(c) critical infrastructure in school districts;~~
- ~~(d) emergency facility needs;~~
- ~~(e) technological improvements; and~~
- ~~(f) state reimbursement for school facilities as provided in 20-9-371.~~

~~(2) If funds remain in the account after the distribution in subsection (1) is made, the budget director shall certify the amount of unencumbered funds available in the account. These available funds must be used for grants made by the department of commerce under 90-6-802. Grants made pursuant to 90-6-802 must be for:~~

- ~~(a) emergency facility needs;~~
- ~~(b) critical infrastructure in school districts;~~
- ~~(c) major deferred maintenance;~~
- ~~(d) improving energy efficiency in school facilities; and~~
- ~~(e) technological improvements.~~

~~(2)(3) There must be deposited in the account:~~

~~(a) an amount of money equal to the income attributable to the difference between the average sale value of 18 million board feet and the total income produced from the annual timber harvest on common school trust lands during the fiscal year;~~

~~(b) the mineral royalties transferred from the guarantee account as provided in 20-9-622; and~~

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

**Section 3.** Section 20-9-620, MCA, is amended to read:

**"20-9-620. Definition.** (1) As used in 20-9-621, 20-9-622, and this section, "distributable revenue" means, except for that portion of revenue described in 20-9-516(2)(a) 20-9-516(3)(a) and 77-1-109, 95% of all revenue from the management of school trust lands and the permanent fund, including timber sale proceeds, lease fees, interest, dividends, and net realized capital gains.

~~(2) The term does not include mineral royalties or land sale proceeds that are deposited directly in the permanent fund or net unrealized capital gains that remain in the permanent fund until realized."~~

**Section 4.** Section 90-6-802, MCA, is amended to read:

**“90-6-802. Purpose.** (1) The purpose of this part is to establish a mechanism to distribute grants to public school districts for school facility and technology projects from the school facility and technology account established in 20-9-516. The account is to be used to assist schools in addressing major deferred maintenance, energy efficiency, critical infrastructure needs, emergency facility needs, and technological improvements and establishes an ongoing flow of state revenue into the account. Grants must be distributed for projects that:

(1)(a) enhance the quality of life and protect the health, safety, and welfare of Montana’s public school students;

(2)(b) ensure the successful delivery of an educational system that meets the accreditation standards provided for in 20-7-111;

(3)(c) extend the life of Montana’s existing public school facilities;

(4)(d) promote energy conservation and reduction;

(5)(e) integrate technology into Montana’s education framework to support student educational needs for the 21st century; and

(6)(f) are fiscally responsible by considering both long-term and short-term needs of the public school district, the local community, and the state.

(2) *The department may charge reasonable administrative costs for administering the grant program. Costs must be paid from the account established in 20-9-516.”*

**Section 5. Appropriation from school facility and technology state special revenue account.** (1) There is appropriated to the department of commerce \$11,418,642 from the school facility and technology state special revenue account to be used to finance grants authorized by this section.

(2) The funds appropriated in subsection (1) must be used by the department to make grants to the public school districts listed in subsection (3) for the described purposes and in amounts not to exceed the amounts set out in subsection (3). The appropriation is subject to the conditions set forth in [section 7] and described in the quality schools facility grant program 2015 biennium report to the 63rd legislature. The legislature, pursuant to 90-6-809 and 90-6-810, authorizes the grants for the projects listed in subsection (3). The department shall commit funds to projects listed in subsection (3), up to the amounts authorized, based on the manner of disbursement set forth in subsection (5) until the funds appropriated in subsection (1) are expended.

(3) The following applicants and projects are authorized for grants and listed in the order of their priority:

Applicant/Project	Grant Amount
1. DeSmet ELE/Asbestos abatement	\$30,000
2. Fairfield ELE/Kitchen upgrades	\$596,379
3. Montana City ELE/Fire sprinklers system	\$764,700
4. Powder River HS/Asbestos abatement	\$36,380
5. Vaughn ELE/Mitigate moisture problems	\$133,227
6. Eureka ELE/Asbestos abatement	\$195,593
7. Frontier ELE/Build technology lab	\$200,000
8. Wyola ELE/Roof replacement	\$514,900
9. Lone Rock ELE/Replace gymnasium	\$206,375
10. Hamilton K-12/Replace restroom floor	\$41,494
11. Plenty Coups HS/Energy efficiency project	\$307,000

12.	St. Ignatius K-12/Roof repairs	\$534,590
13.	Simms HS/Kitchen upgrades	\$123,644
14.	Hot Springs HS/Consolidate campus facilities	\$497,240
15.	Grass Range ELE/Install air lock doors	\$45,799
16.	Flathead HS/Energy efficiency project	\$1,010,067
17.	Box Elder ELE/Install emergency generator	\$310,607
18.	Missoula ELE/Replace boiler and system	\$200,000
19.	Havre ELE/Renovations to K-2 school	\$2,000,000
20.	Geraldine ELE/Complete energy upgrades	\$68,161
21.	Plains ELE/Classroom addition project	\$1,150,000
22.	St. Regis K-12/ADA upgrades	\$185,837
23.	Corvallis K-12/Replace boiler and system	\$729,910
24.	Stanford K-12/Replace heating units	\$184,196
25.	Darby K-12/ADA upgrades	\$404,207
26.	Nashua K-12/Replace boilers and heating units	\$463,200
27.	Target Range ELE/Technology upgrades	\$31,324
28.	Ryegate K-12/Lighting replacement	\$9,962
29.	Froid HS/ELE/Replace boiler and system	\$294,000
30.	Miles City ELE/Replace boiler and system	\$149,850

(4) This section constitutes a valid obligation of funds to the grant recipients listed in subsection (3) for purposes of encumbering the school facility and technology state special revenue account funds during the biennium beginning July 1, 2013, pursuant to 17-7-302. However, a grant recipient's entitlement to receive funds is dependent on the grant recipient's compliance with the conditions referred to in [section 7] and on the availability of funds.

(5) Funding for projects in subsection (3) will be provided only as long as there are sufficient funds available from the school facility and technology state special revenue account. Funding for these projects will be made available in the order that the grant recipients satisfy the conditions in [section 7].

(6) Grants to recipients listed in subsection (3) that have not completed all of the conditions described in [section 7] by September 30, 2014, must be reviewed by the next regular session of the legislature to determine if the authorized grant should be withdrawn.

**Section 6. Approval of grants — completion of biennial appropriation.** (1) The legislature, pursuant to 90-6-809 and 90-6-810, authorizes grants for the projects and purposes identified in [section 5(3)] and for the projects and purposes identified in [sections 8 and 9].

(2) The authorization of these grants completes a biennial appropriation from the school facility and technology state special revenue account provided for in 20-9-516(1).

**Section 7. Conditions of grants — disbursement of funds.** The disbursement of grant funds for the projects specified in [section 5(3)] is subject to the conditions set forth in 90-6-812.

**Section 8. Appropriations from school facility and technology state special revenue account for emergency grants.** There is appropriated to the department of commerce \$100,000 for the biennium beginning July 1, 2013, from the school facility and technology state special revenue account for the

purpose of providing emergency grants to public school districts for a school facility project that is necessitated by an emergency, as defined in 90-6-803.

**Section 9. Appropriations from school facility and technology state special revenue account for planning grants.** There is appropriated to the department of commerce \$900,000 for the biennium beginning July 1, 2013, from the school facility and technology state special revenue account for the purpose of providing matching planning grants to public school districts for the planning of school facility projects, as defined in 90-6-803.

**Section 10.** Section 90-6-811, MCA, is amended to read:

**“90-6-811. Priorities for projects — application of criteria — consideration of project attributes — adjustments for educationally relevant factors.** (1) In preparing recommendations to the governor under 90-6-810, the department shall apply the following criteria to applications for school facility projects in the listed order of priority *giving preference to school facility projects involving repairs to existing facilities over projects involving construction of new facilities*:

(a) projects that solve urgent and serious public health or safety problems or that enable public school districts to meet state or federal health or safety standards;

(b) projects that ~~provide improvements necessary to bring school facilities up to current local, state, and federal codes and standards~~ *address deferred maintenance by repairing or replacing existing building components that are inoperable or difficult to service or that lack minimum integrity*;

(c) projects that enhance a public school district's ability to offer specific services related to the requirements of the accreditation standards provided for in 20-7-111;

(d) projects that provide long-term, cost-effective benefits through energy-efficient design;

(e) projects that incorporate long-term, cost-effective benefits to school facilities, including the technology needs of school facilities; and

(f) projects that enhance educational opportunities for students.

(2) In applying the criteria under subsection (1), the department shall consider, ~~without preference or priority~~, the following attributes of a school facility project application:

(a) the need for financial assistance;

(b) the fiscal capacity of the public school district to meet the conditions established in 90-6-812;

(c) past efforts to ensure sound, effective, long-term planning and management of the school facility and attempts to address school facility needs with local resources;

(d) the ability to obtain funds from sources other than the funds provided under this part; and

(e) the importance of the project and support for the project from the community.

(3) Before making its recommendations to the governor, the department may make adjustments to its ranking of the projects based on the educationally relevant factors established in 20-9-309. Before making any adjustments, the department may consult with the office of public instruction concerning the educationally relevant factors.”

**Section 11. Transfer of funds.** By July 15, 2013, the state treasurer shall transfer the amount of \$149,850 from the orphan share state special revenue account to the school facility and technology state special revenue account.

**Section 12. Notification to tribal governments.** The secretary of state shall send a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell Chippewa tribe.

**Section 13. Effective date.** [This act] is effective July 1, 2013.

Approved April 26, 2013

**Note:** The striking of language in the title and the striking of sections 1 through 3 was done by Governor's line item veto dated April 26, 2013.

## CHAPTER NO. 326

[SB 144]

AN ACT REVISING NOXIOUS WEED MANAGEMENT TRUST FUND LAWS; REQUIRING THE USE OF REVERTED FUNDS FOR FUTURE NOXIOUS WEED MANAGEMENT GRANT AWARDS; PROHIBITING THE DEPARTMENT OF AGRICULTURE FROM APPLYING FOR OR RECEIVING GRANT AWARDS; CLARIFYING ELIGIBLE ADMINISTRATIVE COSTS AND EXPENDITURES SUBJECT TO THE ADMINISTRATIVE EXPENDITURE LIMITATION APPLICABLE TO THE NOXIOUS WEED MANAGEMENT PROGRAM; AMENDING SECTION 80-7-814, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

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

**Section 1.** Section 80-7-814, MCA, is amended to read:

**"80-7-814. Administration and expenditure of funds.** (1) The provisions of this section constitute the noxious weed management program.

(2) (a) Except as provided in subsection (2)(b), money deposited in the noxious weed management trust fund may not be committed or expended until the principal reaches \$10 million.

(b) In the case of a noxious weed emergency, as provided in 80-7-815, a vote of three-fourths of the members of each house of the legislature may appropriate principal from the trust fund.

(c) Interest or revenue generated by the trust fund, excluding unrealized gains and losses, must be deposited in the noxious weed management special revenue fund and may be expended for noxious weed management projects before the principal of the noxious weed management trust reaches \$10 million with a majority vote of each house of the legislature.

(d) Any grant funds, regardless of the time at which the grant was awarded, that are not fully expended upon termination of the contract or an extension of the contract, not to exceed 1 year, must revert to the department. The department ~~shall deposit~~ *shall use* any reverted funds ~~into the noxious weed management trust fund as principal for future grant awards, provided the noxious weed management trust fund principal exceeds \$10 million as provided in subsection (2)(a).~~

(e) *The department may not apply for or receive grant awards from the noxious weed management special revenue fund.*

(3) The principal of the noxious weed management trust fund in excess of \$10 million may be appropriated by a majority vote of each house of the

legislature. Appropriations of the principal in excess of \$10 million may be used only to fund the noxious weed management program.

(4) The department may expend funds under this section through grants or contracts to communities, weed management districts, or other entities that it considers appropriate for noxious weed management projects. A project is eligible to receive funds only if the county in which the project occurs has funded its own weed management program using one of the following methods, whichever is less:

(a) levying an amount of not less than 1.6 mills or an equivalent amount from another source; or

(b) appropriating an amount of not less than \$100,000 from any source.

(5) The department may expend funds without the restrictions specified in subsection (4) for the following:

(a) employment of a new and innovative noxious weed management project or the development, implementation, or demonstration of any noxious weed management project that may be proposed, implemented, or established by local, state, or national organizations, whether public or private. The expenditures must be on a cost-share basis with the organizations.

(b) cost-share noxious weed management programs with local weed management districts;

(c) special grants to local weed management districts to eradicate or contain significant noxious weeds newly introduced into the county. These grants may be issued without matching funds from the district.

(d) ~~administrative expenses of costs incurred by the department for managing administering the noxious weed management program and other provisions of this part. The cost of as follows:~~

(i) *In fiscal year 2014, the funds used by the department for administering the program, including but not limited to personal services costs, operating costs, and other administrative and program costs attributable to the program, may not exceed 12% 16% of the total program expenses. amount expended through grants and contracts made under subsection (4). No additional administrative or other costs may be taken by the department on reverted funds used for future grant awards.*

(ii) *In fiscal year 2015 and in each succeeding fiscal year, the funds used by the department for administering the program, including but not limited to personal services costs, operating costs, and other administrative and program costs attributable to the program, may not exceed 12% of the total amount expended through grants and contracts made under subsection (4). No additional administrative or other costs may be taken by the department on reverted funds used for future grant awards.*

(e) administrative expenses incurred by the noxious weed management advisory council;

(f) a project recommended by the noxious weed management advisory council, if the department determines that the project will significantly contribute to the management of noxious weeds within the state; and

(g) grants to the agricultural experiment station and the cooperative extension service for crop weed management research, evaluation, and education.



(6) The agricultural experiment station and cooperative extension service shall submit annual reports on current projects and future plans to the noxious weed management advisory council.

(7) In making expenditures under subsections (3) through (5), the department shall give preference to weed management districts and community groups.

(8) If the noxious weed management trust fund is terminated by constitutional amendment, the money in the fund must be divided between all counties according to rules adopted by the department for that purpose.”

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

Approved April 26, 2013

## CHAPTER NO. 327

[SB 294]

AN ACT AUTHORIZING THE DEPARTMENT OF REVENUE TO ADJUST PENALTIES WITHIN PENALTY RANGES BASED ON MITIGATING AND AGGRAVATING CIRCUMSTANCES ON THE PART OF A LICENSEE VIOLATING A PROVISION OF STATE ALCOHOL LAWS; AND AMENDING SECTION 16-4-406, MCA.

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

**Section 1.** Section 16-4-406, MCA, is amended to read:

**“16-4-406. Renewal — suspension or revocation — penalty — mitigating and aggravating circumstances.** (1) The department shall upon a written, verified complaint of a person request that the department of justice investigate the action and operation of a brewer, winery, wholesaler, or retailer licensed under this code.

(2) Subject to the opportunity for a hearing under the Montana Administrative Procedure Act, if the department, after reviewing admissions of the licensee or receiving the results of the department of justice’s or a local law enforcement agency’s investigation, has reasonable cause to believe that a licensee has violated a provision of this code or a rule of the department, it may, in its discretion and in addition to the other penalties prescribed:

- (a) reprimand a licensee;
- (b) proceed to revoke the license of the licensee;
- (c) suspend the license for a period of not more than 3 months;
- (d) refuse to grant a renewal of the license after its expiration; or
- (e) impose a civil penalty not to exceed \$1,500.

(3) *The department shall consider mitigating circumstances and may adjust penalties within penalty ranges based on its consideration of mitigating circumstances. Examples of mitigating circumstances are:*

- (a) *there have been no violations by the licensee within the past 3 years;*
- (b) *there have been good faith efforts by the licensee to prevent a violation;*
- (c) *written policies exist that govern the conduct of the licensee’s employees;*
- (d) *there has been cooperation in the investigation of the violation that shows that the licensee, employee, or agent of the licensee accepts responsibility;*

(e) *the investigation was not based on complaints received or on observed misconduct, but was based solely on the investigating authority creating the opportunity for a violation; or*

(f) *the licensee has provided responsible alcohol server training to all of their employees.*

(4) *The department shall consider aggravating circumstances and may adjust penalties within penalty ranges based on its consideration of aggravating circumstances. Examples of aggravating circumstances are:*

(a) *prior warnings about compliance problems;*

(b) *prior violations within the past 3 years;*

(c) *lack of written policies governing employee conduct;*

(d) *multiple violations during the course of the investigation;*

(e) *efforts to conceal a violation;*

(f) *the intentional nature of the violation; or*

(g) *involvement of more than one patron or employee in a violation.”*

Approved April 26, 2013

## CHAPTER NO. 328

[SB 325]

AN ACT REVISING THE DEFINITION OF “ELIGIBLE RENEWABLE RESOURCE” FOR THE PURPOSES OF ADMINISTERING THE RENEWABLE PORTFOLIO STANDARD; AMENDING SECTION 69-3-2003, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

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

**Section 1.** Section 69-3-2003, MCA, is amended to read:

**“69-3-2003. Definitions.** As used in this part, unless the context requires otherwise, the following definitions apply:

(1) “Ancillary services” means services or tariff provisions related to generation and delivery of electric power other than simple generation, transmission, or distribution. Ancillary services related to transmission services include energy losses, energy imbalances, scheduling and dispatching, load following, system protection, spinning reserves and nonspinning reserves, and reactive power.

(2) “Balancing authority” means a transmission system control operator who balances electricity supply and load at all times to meet transmission system operating criteria and to provide reliable electric service to customers.

(3) “Common ownership” means the same or substantially similar persons or entities that maintain a controlling interest in more than one community renewable energy project even if the ownership shares differ between two community renewable energy projects. Two community renewable energy projects may not be considered to be under common ownership simply because the same entity provided debt or equity or both debt and equity to both projects.

(4) “Community renewable energy project” means an eligible renewable resource that:

(a) is interconnected on the utility side of the meter in which local owners have a controlling interest and that is less than or equal to 25 megawatts in total calculated nameplate capacity; or

(b) is owned by a public utility and has less than or equal to 25 megawatts in total nameplate capacity.

(5) (a) “Competitive electricity supplier” means any person, corporation, or governmental entity that is selling electricity to small customers at retail rates in the state of Montana and that is not a public utility or cooperative.

(b) The term does not include governmental entities selling electricity produced only by facilities generating less than 250 kilowatts that were in operation prior to 1990.

(6) “Compliance year” means each calendar year beginning January 1 and ending December 31, starting in 2008, for which compliance with this part must be demonstrated.

(7) “Cooperative utility” means:

(a) a utility qualifying as an electric cooperative pursuant to Title 35, chapter 18; or

(b) an existing municipal electric utility as of May 2, 1997.

(8) “Dispatch ability” means the ability of either a balancing authority or the owner of an electric generating resource to rapidly start, stop, increase, or decrease electricity production from that generating resource in order to respond to the balancing authority’s need to match supply resources to loads on the transmission system.

(9) “Electric generating resource” means any plant or equipment used to generate electricity by any means.

(10) “Eligible renewable resource” means a facility either located within Montana or delivering electricity from another state into Montana that commences commercial operation after January 1, 2005, and that produces electricity from one or more of the following sources:

(a) wind;

(b) solar;

(c) geothermal;

(d) water power, in the case of a hydroelectric project that:

(i) does not require a new appropriation, diversion, or impoundment of water and that has a nameplate rating of 10 megawatts or less; or

(ii) is installed at an existing reservoir or on an existing irrigation system that does not have hydroelectric generation as of April 16, 2009, and has a nameplate capacity of 15 megawatts or less;

(e) landfill or farm-based methane gas;

(f) gas produced during the treatment of wastewater;

(g) low-emission, nontoxic biomass based on dedicated energy crops, animal wastes, or solid organic fuels from wood, forest, or field residues, ~~except that the term does not include wood pieces that have been treated with chemical preservatives such as creosote, pentachlorophenol, or copper-chrome-arsenic, including wood pieces that have been treated with chemical preservatives, such as creosote, pentachlorophenol, or copper-chrome arsenic, and that are used at a facility that has a nameplate capacity of 5 megawatts or less;~~

(h) hydrogen derived from any of the sources in this subsection (10) for use in fuel cells;

(i) the renewable energy fraction from the sources identified in subsections (10)(a) through (10)(j) of electricity production from a multiple-fuel process with fossil fuels; and

(j) compressed air derived from any of the sources in this subsection (10) that is forced into an underground storage reservoir and later released, heated, and passed through a turbine generator.

(11) "Local owners" means:

- (a) Montana residents;
- (b) general partnerships of which all partners are Montana residents;
- (c) business entities organized under the laws of Montana that:
  - (i) have less than \$50 million of gross revenue;
  - (ii) have less than \$100 million of assets; and
  - (iii) have at least 50% of the equity interests, income interests, and voting interests owned by Montana residents;
- (d) Montana nonprofit organizations;
- (e) Montana-based tribal councils;
- (f) Montana political subdivisions or local governments;
- (g) Montana-based cooperatives other than cooperative utilities; or
- (h) any combination of the individuals or entities listed in subsections (11)(a) through (11)(g).

(12) "Nonspinning reserve" means offline generation that can be ramped up to capacity and synchronized to the grid within 10 minutes and that is needed to maintain system frequency stability during emergency conditions, unforeseen load swings, and generation disruptions.

(13) "Public utility" means any electric utility regulated by the commission pursuant to Title 69, chapter 3, on January 1, 2005, including the public utility's successors or assignees.

(14) "Renewable energy credit" means a tradable certificate of proof of 1 megawatt hour of electricity generated by an eligible renewable resource that is tracked and verified by the commission and includes all of the environmental attributes associated with that 1 megawatt-hour unit of electricity production.

(15) "Seasonality" means the degree to which an electric generating resource is capable of producing electricity in each of the seasons of the year.

(16) "Small customer" means a retail customer that has an individual load with an average monthly demand of less than 5,000 kilowatts.

(17) "Spinning reserve" means the online reserve capacity that is synchronized to the grid system and immediately responsive to frequency control and that is needed to maintain system frequency stability during emergency conditions, unforeseen load swings, and generation disruptions.

(18) "Total calculated nameplate capacity" means the calculation of total nameplate capacity of the community renewable energy project and other eligible renewable resources that are:

- (a) located within 5 miles of the project;
- (b) constructed within the same 12-month period; and
- (c) under common ownership."

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

Approved April 28, 2013

**CHAPTER NO. 329**

[HB 39]

AN ACT GENERALLY REVISING SCHOOL FINANCE LAWS; CLARIFYING WHICH FUNDS MAY BE TRANSFERRED INTO THE INTERLOCAL COOPERATIVE FUND; REVISING THE ALLOCATION OF EXCESS FUND BALANCE FUNDS; PROHIBITING TRANSFERS FROM THE RETIREMENT FUND OR THE DEBT SERVICE FUND TO ANOTHER FUND; PROHIBITING THE TRANSFER OF STATE TRANSPORTATION REIMBURSEMENT PAYMENTS INTO A SCHOOL DISTRICT'S INVESTMENT ACCOUNT; CLARIFYING THE DISTRIBUTION OF FUNDS FROM THE COUNTY SCHOOL OIL AND NATURAL GAS IMPACT FUND; REVISING THE METHOD FOR ALLOCATING THE SCHOOL FACILITY AND TECHNOLOGY ACCOUNT FUNDS; AMENDING SECTIONS 20-3-363, 20-9-104, 20-9-208, 20-9-235, 20-9-517, 20-9-518, AND 20-9-534, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE.

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

**Section 1.** Section 20-3-363, MCA, is amended to read:

**"20-3-363. Multidistrict agreements — fund transfers.** (1) The boards of trustees of any two or more school districts may enter into a multidistrict agreement to create a multidistrict cooperative to perform any services, activities, and undertakings of the participating districts and to provide for the joint funding and operation and maintenance of all participating districts upon the terms and conditions as may be mutually agreed to by the districts subject to the conditions of this section. An agreement must be approved by the boards of trustees of all participating districts ~~by April 1 of the year in which the agreement is executed and by April 1 in any subsequent year to which the agreement applies.~~ *and must include a provision specifying terms upon which a district may exit the multidistrict cooperative. The agreement may be for a period of up to 3 years.*

(2) All expenditures in support of the multidistrict agreement may be made from the interlocal cooperative fund as specified in 20-9-703 and 20-9-704. Each participating district of the multidistrict cooperative may transfer funds into the interlocal cooperative fund from the *district's general fund, or any other budgeted fund of the district. budgeted funds other than the retirement fund or debt service fund, or nonbudgeted funds other than the compensated absence liability fund.* Transfers to the interlocal cooperative fund from each participating school district's general fund are limited to an amount not to exceed the direct state aid in support of the respective school district's general fund. ~~All transfers must be completed by April 1 of the year in which the agreement is executed and by April 1 in any subsequent year to which the agreement applies.~~ *Transfers from the retirement fund and debt service fund are prohibited. Transfers may not be made with funds restricted by federal law unless the transfer is in compliance with any restrictions or conditions imposed by federal law.*

(3) Expenditures from the interlocal cooperative fund under this section are limited to those expenditures that are permitted by law and that are within the final budget for the budgeted fund from which the transfer was made.

(4) The intent of this section is to increase the flexibility and efficiency of school districts without an increase in local taxes. In furtherance of this intent, if transfers of funds are made from any school district fund supported by a

nonvoted levy, the district may not increase its nonvoted levy for the purpose of restoring the amount of funds transferred.

(5) As used in this title, "multidistrict cooperative" means a public entity created by two or more school districts executing a multidistrict agreement under this section or any school district or other public entity participating in an interlocal cooperative agreement under the provisions of Title 20, chapter 9, part 7, as either a coordinating or a cooperating agency."

**Section 2.** Section 20-9-104, MCA, is amended to read:

**"20-9-104. (Temporary) General fund operating reserve.** (1) At the end of each school fiscal year, the trustees of each district shall designate the portion of the general fund end-of-the-year fund balance that is to be earmarked as operating reserve for the purpose of paying general fund warrants issued by the district from July 1 to November 30 of the ensuing school fiscal year. Except as provided in subsections (7) (6) and (8) (7), the amount of the general fund balance that is earmarked as operating reserve may not exceed 10% of the final general fund budget for the ensuing school fiscal year.

(2) The amount held as operating reserve may not be used for property tax reduction in the manner permitted by 20-9-141(1)(b) for other receipts.

(3) Excess reserves as provided in subsection (7) (6) may be appropriated to reduce the BASE budget levy, the over-BASE budget levy, or the additional levy provided by 20-9-353.

(4) Any portion of the general fund end-of-the-year fund balance that is not reserved under subsection (2) or reappropriated under subsection (3) is fund balance reappropriated and must be used for property tax reduction as provided in 20-9-141(1)(b) up to an amount not exceeding 15% of a school district's maximum general fund budget.

~~(5) For fiscal year 2012, any unreserved fund balance in excess of 15% of a school district's maximum general fund budget must be remitted to the state to be deposited in the state general fund.~~

~~(6)(5) Beginning in fiscal year 2013, any~~ Any unreserved fund balance in excess of 15% of a school district's maximum general fund budget must be remitted to the state and allocated as follows:

~~(a) 70% of the excess amount must be remitted to the state to be deposited in the guarantee account provided for in 20-9-622;~~

~~(b) 5% of the excess amount must be remitted to the state to be deposited in the state school oil and natural gas impact account provided for in 20-9-517; and as follows:~~

~~(a) 70% of the excess amount must be remitted to the state to be deposited in the guarantee account provided for in 20-9-622; and~~

~~(b) 30% of the excess amount must be remitted to the school facility and technology account.~~

~~(c) 25% of the excess amount must be deposited in the county school oil and natural gas impact fund provided for in 20-9-518.~~

~~(7)(6)~~ The limitation of subsection (1) does not apply when the amount in excess of the limitation is equal to or less than the unused balance of any amount:

(a) received in settlement of tax payments protested in a prior school fiscal year;

(b) received in taxes from a prior school fiscal year as a result of a tax audit by the department of revenue or its agents; or



(c) received in delinquent taxes from a prior school fiscal year.

~~(8)~~(7) The limitation of subsection (1) does not apply when the amount earmarked as operating reserve is \$10,000 or less.

*(8) Any amounts remitted to the state under subsection (5) are not considered expenditures to be applied against budget authority.*

~~(9) Prior to June 30, 2011, a school district may transfer any general fund money in excess of 15% of the fiscal year 2011 general fund budget that is not needed to fund the budget to any budgeted fund considered appropriate by the trustees. (Terminates June 30, 2016—sec. 29, Ch. 418, L. 2011.)~~

**20-9-104. (Effective July 1, 2016) General fund operating reserve.** (1)

At the end of each school fiscal year, the trustees of each district shall designate the portion of the general fund end-of-the-year fund balance that is to be earmarked as operating reserve for the purpose of paying general fund warrants issued by the district from July 1 to November 30 of the ensuing school fiscal year. Except as provided in subsections ~~(5)~~ and (6) and (7), the amount of the general fund balance that is earmarked as operating reserve may not exceed 10% of the final general fund budget for the ensuing school fiscal year.

(2) The amount held as operating reserve may not be used for property tax reduction in the manner permitted by 20-9-141(1)(b) for other receipts.

(3) Excess reserves as provided in subsection ~~(5)~~ (6) may be appropriated to reduce the BASE budget levy, the over-BASE budget levy, or the additional levy provided by 20-9-353.

(4) Any portion of the general fund end-of-the-year fund balance that is not reserved under subsection (2) or reappropriated under subsection (3) is fund balance reappropriated and must be used for property tax reduction as provided in 20-9-141(1)(b).

*(5) Any unreserved fund balance in excess of 15% of a school district's maximum general fund budget must be remitted to the state and allocated as follows:*

*(a) 70% of the excess amount must be remitted to the state to be deposited in the guarantee account provided for in 20-9-622; and*

*(b) 30% of the excess amount must be remitted to the school facility and technology account.*

~~(5)~~(6) The limitation of subsection (1) does not apply when the amount in excess of the limitation is equal to or less than the unused balance of any amount:

(a) received in settlement of tax payments protested in a prior school fiscal year;

(b) received in taxes from a prior school fiscal year as a result of a tax audit by the department of revenue or its agents; or

(c) received in delinquent taxes from a prior school fiscal year.

~~(6)~~(7) The limitation of subsection (1) does not apply when the amount earmarked as operating reserve is \$10,000 or less.

*(8) Any amounts remitted to the state under subsection (5) are not considered expenditures to be applied against budget authority."*

**Section 3.** Section 20-9-208, MCA, is amended to read:

**"20-9-208. Transfers among appropriation items of fund — transfers from fund to fund.** (1) Whenever it appears to the trustees of a district that the appropriated amount of an item of a budgeted fund of the final budget or a budget amendment is in excess of the amount actually required during the

school fiscal year for the appropriation item, the trustees may transfer any of the excess appropriation amount to any other appropriation item of the same budgeted fund.

(2) Unless otherwise restricted by a specific provision in this title, transfers may be made between different funds of the same district or between the final budget and a budget amendment under one of the following circumstances:

(a) (i) Except as provided in ~~subsection~~ *subsections (2)(a)(ii) through (2)(a)(iv)*, transfers may be made from one budgeted fund to another budgeted fund or between the final budget and a budget amendment for a budgeted fund whenever the trustees determine, in their discretion, that the transfer of funds is necessary to improve the efficiency of spending within the district or when an action of the trustees results in savings in one budgeted fund that can be put to more efficient use in another budgeted fund. Transfers may not be made with funds approved by the voters or with funds raised by a nonvoted levy unless:

(A) the transfer is within or directly related to the purposes for which the funds were raised and the trustees hold a properly noticed hearing to accept public comment on the transfer; or

(B) the transfer is approved by the qualified electors of the district in an election called for the purpose of approving the transfer, in which case the funds may be spent for the purpose approved on the ballot.

(ii) Unless otherwise authorized by a specific provision in this title, transfers from the general fund to any other fund and transfers to the general fund from any other fund are prohibited.

*(iii) Unless otherwise authorized by a specific provision in this title, transfers from the retirement fund to any other fund are prohibited.*

*(iv) Unless otherwise authorized by a specific provision in this title, transfers from the debt service fund to any other fund are prohibited.*

(b) Transfers may be made from one nonbudgeted fund to another nonbudgeted fund whenever the trustees determine that the transfer of funds is necessary to improve the efficiency of spending within the district. Transfers may not be made with funds restricted by ~~state or~~ federal law unless the transfer is in compliance with any restrictions or conditions imposed by ~~state or~~ federal law. Before a transfer can occur, the trustees shall hold a properly noticed hearing to accept public comment on the transfer.

(3) The trustees shall enter the authorized transfers upon the permanent records of the district.

(4) The intent of this section is to increase the flexibility and efficiency of school districts without an increase in local taxes. In furtherance of this intent, if transfers of funds are made from any school district fund supported by a nonvoted levy, the district may not increase its nonvoted levy for the purpose of restoring the amount of funds transferred.”

**Section 4.** Section 20-9-235, MCA, is amended to read:

**“20-9-235. Authorization for school district investment account.** (1) The trustees of a school district may establish investment accounts and may temporarily transfer into the accounts all or a portion of any of its budgeted or nonbudgeted funds.

(2) Money transferred into investment accounts established under this section may be expended from a subsidiary checking account under the conditions specified in subsection (3)(b).

(3) The district may either:

(a) establish and use the accounts as nonspending accounts to ensure that district funds remain in an interest-bearing status until money is reverted to the budgeted or nonbudgeted fund of original deposit as necessary for use by the county treasurer to pay claims against the district. The district shall ensure that sufficient money is reverted to the district's budgeted and nonbudgeted funds maintained by the county treasurer in sufficient time to pay all claims presented against the applicable funds of the district. The county treasurer shall accept all money that is reverted upon tendered transfer of the district.

(b) establish a subsidiary checking account for expenditures from the investment accounts. The district may write checks on or provide electronic payments from the account if:

(i) the payments made from the accounts representing budgeted funds are in compliance with the budget adopted by the trustees;

(ii) the accounts are subject to the audit of district finances completed for compliance with 2-7-503 and 20-9-503; and

(iii) the district complies with all accounting system requirements required by the superintendent of public instruction.

(4) (a) A district that chooses to establish a school district investment account described in this section shall enter into a written agreement with the county treasurer. The agreement must:

(i) establish specific procedures and reporting dates to comply with the requirements of subsection (3);

(ii) be binding upon the district and the county treasurer for a negotiated period of time;

(iii) be signed by the presiding officer of the board of trustees and the county treasurer; and

(iv) coincide with fiscal years beginning on July 1 and ending on June 30.

(b) The district and the county treasurer may renew an agreement, including terms and conditions on which they agree, provided that the terms and conditions comply with the provisions of this section.

(5) Except for debt service money that the county treasurer is required by law to collect and report to the districts *and state transportation reimbursement payments provided for in 20-10-141 and 20-10-142*, all other revenue may be sent directly to a participating district's investment account.

(6) The trustees shall implement an accounting system for the investment account pursuant to rules adopted by the superintendent of public instruction. The rules for the accounting system must include but are not limited to:

(a) providing for the internal control of deposits into and transfers between a district's investment accounts and budgeted and nonbudgeted funds of the district;

(b) requiring that the principal and interest earned on the principal is allocated to the budgeted or nonbudgeted fund from which the deposit was originally made; and

(c) ensuring that other proper accounting principles are followed.

(7) All interest earned on the district's general fund deposits must be allocated for district property tax reduction as required by 20-9-141.

(8) In making deposits to investment accounts under this section, a district shall comply with the requirements of Title 17, chapter 6, part 1, with respect to deposits in excess of the amount insured by the federal deposit insurance corporation or the national credit union administration, as applicable.

(9) A district establishing investment accounts under the section shall pay the automated clearinghouse system charges for all automated clearinghouse transfers made by the office of public instruction to the district's accounts."

**Section 5.** Section 20-9-517, MCA, is amended to read:

**"20-9-517. (Effective July 1, 2013) State school oil and natural gas impact account.** (1) There is a state school oil and natural gas impact account in the state special revenue fund provided for in 17-2-102. The purpose of the account is to provide money to schools that are not receiving oil and natural gas production taxes under 15-36-331 but are impacted by contiguous counties that are benefiting from receipt of oil and natural gas production taxes.

(2) There must be deposited in the account oil and natural gas production taxes, if any, pursuant to 20-9-310(7) and any amounts pursuant to 20-9-104(6).

(3) A school district may apply to the superintendent of public instruction for funds from the account for circumstances that are directly related to impacts resulting from the development or cessation of development of oil and natural gas as follows:

(a) an unusual enrollment increase as determined pursuant to 20-9-161 and 20-9-314;

(b) *an unusual enrollment decrease;*

(c) *higher rates of student mobility;*

~~(b)~~(d) a district's need to hire new teachers or staff as a result of increased enrollment;

~~(e)~~(e) the opening or reopening of an elementary or high school approved by the superintendent of public instruction pursuant to 20-6-502 or 20-6-503; or

~~(d)~~(f) major maintenance for a school or district.

(4) In reviewing an applicant's request for funding, the superintendent of public instruction shall consider the following:

(a) the local district's or school's need;

(b) the severity of the energy development impacts;

(c) availability of funds in the account; and

(d) the applicant district's ability to meet the needs identified in subsection (3).

(5) The superintendent of public instruction shall adopt rules necessary to implement the application and distribution process.

(6) The amount in the account may not exceed \$7.5 million. Any amount over \$7.5 million must be deposited in the state general fund."

**Section 6.** Section 20-9-518, MCA, is amended to read:

**"20-9-518. (Effective July 1, 2013) County school oil and natural gas impact fund.** (1) The governing body of a county receiving an allocation under 20-9-104(6) and 20-9-310(7)(7) shall establish a county school oil and natural gas impact fund.

(2) Money received by a county pursuant to 20-9-104(6) and 20-9-310(7)(7) must remain in the fund and may not be appropriated by the governing body until:

(a) the amount of oil and natural gas production taxes received by a school district for the fiscal year is ~~30%~~ 50% or less of the amount of the average received by the district in the previous 4 fiscal years; or

(b) the average price for a barrel of oil is \$50 a barrel or less for the fiscal year; or as reported in the Wall Street Journal for west Texas intermediate crude

oil during a calendar quarter is less than \$65 a barrel. The average price for each barrel must be computed by dividing the sum of the daily price for west Texas intermediate crude oil as reported in the Wall Street Journal for the calendar quarter by the number of days on which the price was reported in the quarter.

~~(e) the production of oil in the county drops 50% or more below the average oil production in the county during the immediately preceding 5-year period.~~

(3) Within 120 days following the end of the fiscal year, the superintendent of public instruction shall determine if the criteria in subsection (2)(a) have been met and the department of revenue shall determine if the criteria in subsection (2)(b) have been met.

~~(3)(4)~~ Within 30 days of any of the circumstances described in subsections (2)(a) through (2)(c) occurring, the governing body of the county treasurer shall allocate 80% of the money proportionally to affected high school districts and elementary school districts in the county based on the ratio that each district's average number belonging bears to the county average number belonging for the school year. A school district receiving this money may deposit the funds in any budgeted fund of the district at the discretion of the trustees.

~~(4)(5)~~ The governing body of the county may use 20% of the money in the fund to:

(a) pay for outstanding capital project bonds or other expenses incurred prior to the reduction in the price of oil described in subsection (2)(b) or the receipt of the oil and natural gas production taxes described in subsection (2);

(b) offset property tax levy increases that are directly caused by the cessation or reduction of oil and natural gas activity;

(c) promote diversification and development of the economic base within the jurisdiction;

(d) attract new industry to the area impacted by the changes in oil and natural gas activity leading to the reduction in the price of oil or the receipt of the oil and natural gas production taxes described in subsection (2); or

(e) provide cash incentives for expanding the employment base of the area impacted by the changes in oil and natural gas activity leading to the reduction in the price of oil or the receipt of the oil and natural gas production taxes described in subsection (2).

~~(5)(6)~~ Except as provided in subsection (4)(b) (5)(b), money held in the fund may not be considered as fund balance for the purpose of reducing mill levies.

~~(6)(7)~~ Money in the fund must be invested as provided by law. Interest and income from the investment of money in the fund must be credited to the fund."

**Section 7.** Section 20-9-534, MCA, is amended to read:

**"20-9-534. Statutory appropriation for school technology purposes.**

(1) The amount of \$1 million a year is statutorily appropriated, as provided in 17-7-502, from the school facility and technology account established in 20-9-516 for grants for school technology purposes.

(2) By the third Friday in July, the superintendent of public instruction shall allocate the annual statutory appropriation for school technology purposes to each district based on the ratio that each district's BASE budget bears to the statewide BASE budget amount for all school districts multiplied by the amount of money provided in 20-9-343 for the purposes of 20-9-533 in the prior fiscal year."

**Section 8. Coordination instruction.** If both Senate Bill No. 175 and [this act] are passed and approved and if both contain a section that amends

20-9-518, then the sections amending 20-9-518 are void and 20-9-518 must be amended as follows:

**“20-9-518. (Effective July 1, 2013) County school oil and natural gas impact fund.** (1) The governing body of a county receiving an allocation under ~~20-9-104(6) and 20-9-310(7)~~ *20-9-310(4)(b)* shall establish a county school oil and natural gas impact fund.

(2) Money received by a county pursuant to ~~20-9-104(6) and 20-9-310(7)~~ *20-9-310(4)(b)* must remain in the fund and may not be appropriated by the governing body until:

(a) the amount of oil and natural gas production taxes received by a school district for the fiscal year is ~~30%~~ *50%* or less of the amount of the average received by the district in the previous 4 fiscal years; *or*

(b) the average price for a barrel of oil is ~~\$50 a barrel or less for the fiscal year, or as reported in the Wall Street Journal for west Texas intermediate crude oil during a calendar quarter is less than \$65 a barrel.~~ *The average price for each barrel must be computed by dividing the sum of the daily price for west Texas intermediate crude oil as reported in the Wall Street Journal for the calendar quarter by the number of days on which the price was reported in the quarter.*

~~(c) the production of oil in the county drops 50% or more below the average oil production in the county during the immediately preceding 5-year period.~~

(3) (a) *Within 120 days following the end of the fiscal year, the superintendent of public instruction shall determine if the criteria in subsection (2)(a) have been met and the department of revenue shall determine if the criteria in subsection (2)(b) have been met.*

(b) *If it is determined under subsection (3)(a) that the criteria in subsection (2)(a) or (2)(b) have been met, the superintendent of public instruction or the department of revenue shall notify the county treasurer.*

~~(3)(4) Within 30 days of any of the circumstances described in subsections (2)(a) through (2)(c) occurring, the governing body of the county Upon notification under subsection (3)(b), the county treasurer shall allocate 80% of the money proportionally to affected high school districts and elementary school districts in the county, which must be calculated by dividing the total funds available for distribution by the total number of quality educators, as defined in 20-4-502, employed by the qualifying school districts in the county in the immediately preceding school fiscal year. The number of quality educators used for the calculation under this subsection in a district with territory in more than one county must be prorated based on the average number belonging of the district residing in school district territory located in each respective county. A school district receiving this money may deposit the funds in any budgeted fund of the district at the discretion of the trustees.~~

~~(4)(5) The governing body of the county may use 20% of the money in the fund to:~~

(a) pay for outstanding capital project bonds or other expenses incurred prior to the reduction in the price of oil ~~described in subsection (2)(b) or the reduction in the receipt of oil and natural gas production taxes described in subsection (2);~~

(b) offset property tax levy increases that are directly caused by the cessation or reduction of oil and natural gas activity;

(c) promote diversification and development of the economic base within the jurisdiction;



(d) attract new industry to the area impacted by the changes in oil and natural gas activity *leading to the reduction in the price of oil or the reduction in the receipt of oil and natural gas production taxes* described in subsection (2); or

(e) provide cash incentives for expanding the employment base of the area impacted by the changes in oil and natural gas activity *leading to the reduction in the price of oil or the reduction in the receipt of oil and natural gas production taxes* described in subsection (2).

~~(5)~~(6) Except as provided in subsection ~~(4)(b)~~ (5)(b), money held in the fund may not be considered as fund balance for the purpose of reducing mill levies.

~~(6)~~(7) Money in the fund must be invested as provided by law. Interest and income from the investment of money in the fund must be credited to the fund.”

**Section 9. Effective date.** [This act] is effective July 1, 2013.

**Section 10. Applicability.** [This act] applies to school fiscal years beginning on or after July 1, 2013.

Approved April 30, 2013

## CHAPTER NO. 330

[HB 46]

AN ACT REVISING CAMPAIGN CONTRIBUTION LIMITATIONS FOR A CANDIDATE WHEN THE OFFICE FOR WHICH THE INDIVIDUAL WILL SEEK NOMINATION OR ELECTION IS NOT KNOWN; AND AMENDING SECTION 13-37-216, MCA.

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

**Section 1. Limitations on contributions to candidate when office sought is not known.** A candidate, as defined in 13-1-101(6)(b), who has not determined the office to which the individual will seek nomination or election is subject to the lowest contribution limitation of the offices the candidate is considering seeking.

**Section 2.** Section 13-37-216, MCA, is amended to read:

**“13-37-216. Limitations on contributions — adjustment.** (1) (a) Subject to adjustment as provided for in subsection (4) *and subject to [section 1]*, aggregate contributions for each election in a campaign by a political committee or by an individual, other than the candidate, to a candidate are limited as follows:

(i) for candidates filed jointly for the office of governor and lieutenant governor, not to exceed \$500;

(ii) for a candidate to be elected for state office in a statewide election, other than the candidates for governor and lieutenant governor, not to exceed \$250;

(iii) for a candidate for any other public office, not to exceed \$130.

(b) A contribution to a candidate includes contributions made to the candidate’s committee and to any political committee organized on the candidate’s behalf.

(2) (a) A political committee that is not independent of the candidate is considered to be organized on the candidate’s behalf. For the purposes of this section, an independent committee means a committee that is not specifically organized on behalf of a particular candidate or that is not controlled either directly or indirectly by a candidate or candidate’s committee and that does not

act jointly with a candidate or candidate's committee in conjunction with the making of expenditures or accepting contributions.

(b) A leadership political committee maintained by a political officeholder is considered to be organized on the political officeholder's behalf.

(3) All political committees except those of political party organizations are subject to the provisions of subsections (1) and (2). For purposes of this subsection, "political party organization" means any political organization that was represented on the official ballot at the most recent gubernatorial election. Political party organizations may form political committees that are subject to the following aggregate limitations, adjusted as provided for in subsection (4) and subject to [section 1], from all political party committees:

(a) for candidates filed jointly for the offices of governor and lieutenant governor, not to exceed \$18,000;

(b) for a candidate to be elected for state office in a statewide election, other than the candidates for governor and lieutenant governor, not to exceed \$6,500;

(c) for a candidate for public service commissioner, not to exceed \$2,600;

(d) for a candidate for the state senate, not to exceed \$1,050;

(e) for a candidate for any other public office, not to exceed \$650.

(4) (a) The commissioner shall adjust the limitations in subsections (1) and (3) by multiplying each limit by an inflation factor, which is determined by dividing the consumer price index for June of the year prior to the year in which a general election is held by the consumer price index for June 2002.

(b) The resulting figure must be rounded up or down to the nearest:

(i) \$10 increment for the limits established in subsection (1); and

(ii) \$50 increment for the limits established in subsection (3).

(c) The commissioner shall publish the revised limitations as a rule.

(5) A candidate may not accept any contributions, including in-kind contributions, in excess of the limits in this section.

(6) For purposes of this section, "election" means the general election or a primary election that involves two or more candidates for the same nomination. If there is not a contested primary, there is only one election to which the contribution limits apply. If there is a contested primary, then there are two elections to which the contribution limits apply."

**Section 3. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 13, chapter 37, part 2, and the provisions of Title 13, chapter 37, part 2, apply to [section 1].

Approved April 30, 2013

## CHAPTER NO. 331

[HB 48]

AN ACT REVISING THE SMALL BUSINESS HEALTH INSURANCE POOL KNOWN AS INSURE MONTANA TO IMPROVE EFFICIENCY; REMOVING IMPEDIMENTS TO FUND TRANSFERS; BASING ELIGIBILITY FOR PREMIUM ASSISTANCE PAYMENTS ON FEDERAL POVERTY LEVELS; AMENDING SECTIONS 33-22-2004, 33-22-2006, 33-22-2007, AND 33-22-2008, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

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

**Section 1.** Section 33-22-2004, MCA, is amended to read:

**“33-22-2004. Powers and duties of board.** (1) The board shall:

(a) establish an operating plan that includes but is not limited to administrative and accounting procedures for the operation of the purchasing pool and a schedule for premium incentive *payments* and premium assistance payments and that complies with the powers and duties provided for in this section;

(b) require *eligible small* employers and employees to reapply for premium incentive payments or premium assistance payments on an annual basis;

(c) upon timely reapplication, give priority to *eligible small* employers and their employees who are already receiving the premium incentive payments and premium assistance payments. If the reapplication is more than 30 days late, the priority will not be given and the *eligible small* employer will be added to the waiting list provided for in 33-22-2008.

(d) upon timely reapplication as provided in subsection (1)(c), allow *eligible small* employers to retain eligibility to receive premium incentive payments and premium assistance payments on behalf of their employees if the number of their employees goes over the maximum number, not to exceed nine employees, established by the commissioner in administrative rule;

(e) renew purchasing pool group health plan coverage for all employer groups, even if the employer group no longer receives or is eligible for a premium incentive *payment* or premium assistance payment;

(f) adopt a premium incentive payment schedule that is based on a percentage of the *eligible small* employer's share of the premium and apply the schedule uniformly to all registered eligible small employers who join the purchasing pool or obtain qualified association health plan coverage;

(g) adopt premium assistance payment amounts that, in combination with the premium incentive payments, are consistent with the amounts provided for in 33-22-2006 and 33-22-2008 or, with the assistance of the department of public health and human services, adopt a premium assistance payment schedule that is equitably proportional to the income or wage level for employees;

(h) establish criteria for determining which employees will be eligible for a premium assistance payment and the amount that the employees will receive from among those eligible small employer groups that have registered with the commissioner pursuant to 33-22-2008 and applied for coverage under the purchasing pool group health plan or qualified association health plan. However, to the extent that federal funds are used to make some premium assistance payments, criteria for those payments must be consistent with any waiver requirements determined by the department of public health and human services pursuant to 53-2-216. Eligibility for employees is not limited to the waiver eligibility groups.

(i) make appropriate changes to eligibility or other elements in the operating plan as needed to reach the goal of expending 90% of the funding dedicated to premium incentive payments and premium assistance payments during the current biennium;

(j) limit the total amount of premium incentive payments and premium assistance payments paid to the amount of available state, federal, and private funding;

(k) approve no more than six fully insured group health plans with different benefit levels that will be offered to *eligible small* employers participating in the purchasing pool;

(l) prepare appropriate specifications and bid forms and solicit bids from health insurance issuers authorized to do business in this state;

(m) contract with no more than three health insurance issuers to underwrite the group health plans that will be offered through the purchasing pool;

(n) request that the department of public health and human services seek a federal waiver for medicaid matching funds for premium assistance payments based on the department's analysis, as provided in 53-2-216, if it is in the best interests of the purchasing pool;

(o) comply with the participation requirements provided for in 33-22-1811;

(p) meet at least four times annually; and

(q) within 2 years after the purchasing pool is established and considered stable by the board, examine the possibility of offering an opportunity for individual sole proprietors without employees to purchase insurance from the purchasing pool without premium incentive payments, premium assistance payments, or tax credits.

(2) The board may:

(a) borrow money;

(b) enter into contracts with insurers, administrators, or other persons;

(c) hire employees to perform the administrative tasks of the purchasing pool;

(d) assess its members for costs associated with administration of the purchasing pool and request that the commissioner transfer funds or request that the department of public health and human services transfer funds from the special revenue account, as provided in 53-6-1201, for that purpose;

(e) set contribution levels for *eligible small* employers;

(f) at least 30 days before the end of the current fiscal year, request that funds be transferred from the funds appropriated for premium incentive payments and premium assistance payments to the department of revenue for reimbursement of the general fund to offset tax credits if the number of eligible small employers seeking premium incentive payments and employees receiving premium assistance payments is insufficient to exhaust ~~at least 90%~~ of the appropriated funds for the premium incentive *payments* and *premium* assistance payments during a fiscal year;

(g) at least 90 days before the end of the current fiscal year, request that funds be transferred from the funds allocated for tax credits to the funds appropriated for premium incentive payments and premium assistance payments if the number of eligible small employers seeking tax credits is insufficient to exhaust ~~at least 90%~~ of the funds allocated for tax credits during a fiscal year;

(h) seek other federal, state, and private funding sources;

(i) accept all small ~~employer groups~~ *employers* who apply for coverage under the small business health insurance pool group health plan even if they are not eligible for any tax credit or premium incentive payment and have not been registered by the commissioner pursuant to 33-22-2008;

(j) receive from the commissioner's office or the department of public health and human services premium incentive payments on behalf of eligible small employers and premium assistance payments on behalf of employees, collect the employer or employee premiums from the *eligible small* employer or employees, and make premium payments to insurers on behalf of the eligible small employers and employees;

(k) request the commissioner to direct more than 30% of the available funding for premium ~~incentives~~ *incentive payments* and premium assistance payments to qualified association health plan coverage instead of purchasing pool coverage; and

(l) pay appropriate commissions to licensed insurance producers who market purchasing pool coverage.”

**Section 2.** Section 33-22-2006, MCA, is amended to read:

**“33-22-2006. Premium incentive payments, premium assistance payments, and tax credits for small employer health insurance premiums paid — eligibility for small group coverage — amounts.** (1) An employer is eligible to apply for premium incentive payments and premium assistance payments or a tax credit under this part if the employer and any related employers:

(a) did not have more than the number of employees established for eligibility by the commissioner at the time of registering for premium incentive payments or premium assistance payments or a tax credit under 33-22-2008;

(b) provide or will provide a group health plan that meets the requirements of creditable coverage for the employer’s and any related employer’s employees;

(c) do not have delinquent state tax liability owing to the department of revenue from previous years; *and*

(d) have been registered as eligible small employer participants by the commissioner as provided in 33-22-2008; ~~and~~.

~~(e)(2)~~ *In addition to the requirements in subsection (1), a small employer is eligible to apply for a tax credit under this part if the small employer and any related employers do not have any employees, not including an owner, partner, or shareholder of the business, who received more than \$75,000 in wages, as defined in 39-71-123, from the small employer or related employer in the prior tax year.*

~~(2)(3) An~~ *In addition to the requirements of subsections (1) and (2), an owner, partner, or shareholder of a business an eligible small employer who received more than \$75,000 in wages, as defined in 39-71-123, and those individuals’ spouses who are employees are not eligible under this chapter for:*

~~(a) any premium assistance payment. However, a premium incentive payment may be made for the premium share paid by the business for group health insurance coverage for:~~

~~(i) the owner, partner, or shareholder;~~

~~(ii) a spouse of those listed in subsection (2)(a)(i) who is also an employee of the business; or~~

~~(iii) dependents of those listed in subsection (2)(a)(i).~~

~~(b) a tax credit for group health insurance plan premiums paid by the business or the owner, partner, or shareholder eligible small employer for group health insurance plan coverage for the individual or the individual’s dependents.~~

~~(4) In addition to the requirements in subsection (1), an owner or employee is not eligible to apply for a premium assistance payment under this part if the owner or employee has a household income greater than 400% of the federal poverty level for the year in which an application or application renewal is made.~~

~~(5) Subject to the requirements of subsection (4), the small business health insurance pool may authorize a premium incentive payment for the premium~~

share paid by an eligible small employer and related employers for a group health plan for:

(a) the owner or employee of the eligible small employer and related employers;

(b) a spouse of an owner or employee provided for in subsection (5)(a); or

(c) dependents of the owner or employee provided for in subsection (5)(a).

~~(3)~~(6) An employee, including an owner, partner, or shareholder or any dependent of an employee, who is also eligible for the children's health insurance program provided for under Title 53, chapter 4, part 10, or medicaid under Title XIX of the Social Security Act may become ineligible to receive a premium assistance payment.

~~(4)~~(7) The commissioner shall establish, by rule, the maximum number of employees that an employer may be employed to qualify employ to be qualified as an eligible small employer under subsection (1). However, the number may not be less than two employees or more than nine employees. The maximum number may be different for eligible small employers seeking premium incentive payments and premium assistance payments than for eligible small employers seeking a tax credit. The number must be set to maximize the number of employees receiving coverage under this part. The commissioner may not change the maximum employee number more often than every 6 months. If the maximum number of allowable employees is changed, the change does not disqualify registered eligible small employers with respect to the tax year for which the eligible small employer has registered.

~~(5)~~(8) Except as provided in subsection ~~(6)~~ (3), an eligible small employer may claim a tax credit in the following amounts:

(a) (i) not more than \$100 each month for each employee and \$100 each month for each employee's spouse, if the eligible small employer covers the employee's spouse, if the average age of the group is under 45 years of age; or

(ii) not more than \$125 each month for each employee and \$100 each month for each employee's spouse, if the eligible small employer covers the employee's spouse, if the average age of the group is 45 years of age or older; and

(b) not more than \$40 each month for each dependent, other than the employee's spouse, if the eligible small employer is paying for coverage for the dependents, not to exceed two dependents of an employee in addition to the employee's spouse.

~~(6)~~(9) An eligible small employer may not claim a tax credit:

(a) in excess of 50% of the total premiums paid by the eligible small employer for the qualifying small group;

(b) for premiums paid from a medical care savings account provided for in Title 15, chapter 61; or

(c) for premiums for which a deduction is claimed under 15-30-2131 or 15-31-114.

~~(7)~~(10) An eligible small employer may not claim a premium incentive payment in excess of 50% of the total premiums paid by the eligible small employer for the qualifying small group."

**Section 3.** Section 33-22-2007, MCA, is amended to read:

**"33-22-2007. Filing for tax credit — filing for premium incentive payments and premium assistance payments.** (1) An eligible small employer may:



(a) apply the tax credit against taxes due for the current tax year on a return filed pursuant to Title 15, chapter 30 or 31; or

(b) ~~if the eligible small employer did not sponsor a group health plan that provides creditable coverage for employees during the 2 years prior to the first tax year of registration for the premium incentive payments or premium assistance payments or operates a new business that is less than 2 years old and has never sponsored a group health plan that provides creditable coverage,~~ apply to receive monthly premium incentive payments and premium assistance payments to be applied to coverage obtained through the purchasing pool or qualified association health plan coverage approved by the commissioner.

(2) An eligible small employer may not, in the same tax year, apply the tax credit against taxes due for the current tax year as provided for in subsection (1)(a) and receive premium incentive payments as provided for in subsection (1)(b).

(3) The premium incentive payments and premium assistance payments provided for in subsection (1)(b) must be paid pursuant to a plan of operation implemented by the board and any applicable administrative rules.

(4) (a) If an eligible small employer's tax credit as provided in subsection (1)(a) exceeds the employer's liability under 15-30-2103 or 15-31-121, the amount of the excess must be refunded to the eligible small employer. The tax credit may be claimed even if the eligible small employer has no tax liability under 15-30-2103 or 15-31-121.

(b) A tax credit is not allowed under 15-30-2367, 15-31-132, or any other provision of Title 15, chapter 30 or 31, with respect to any amount for which a tax credit is allowed under this part.

(5) The department of revenue or the commissioner may grant a reasonable extension for filing a claim for premium incentive payments or premium assistance payments or a tax credit whenever, in the department's or the commissioner's judgment, good cause exists. The department of revenue and the commissioner shall keep a record of each extension and the reason for granting the extension.

(6) (a) If an employer that would have a claim under this part ceases doing business before filing the claim, the representative of the employer who files the tax return or pays the premium may file the claim.

(b) If a corporation that would have a claim under this part merges with or is acquired by another corporation and the merger or acquisition makes the previously eligible corporation ineligible for the premium incentive payments, premium assistance payments, or tax credit in the future, the surviving or acquired corporation may file for the premium incentive payments, premium assistance payments, or tax credit for any claim period during which the former eligible corporation remained eligible.

(c) If an employer that would have a claim under this part files for bankruptcy protection, the receiver may file for the premium incentive payments, premium assistance payments, or tax credit for any claim period during which the employer was eligible."

**Section 4.** Section 33-22-2008, MCA, is amended to read:

**"33-22-2008. Registration — funding limitations — transfers — maximum number — waiting list — information transfer for tax credits.** (1) (a) Each eligible small employer that proposes to apply for premium incentive payments and premium assistance payments or a tax credit under this part must be registered each year with the commissioner.

(b) An eligible small employer may submit a new application for the premium incentive payments and premium assistance payments or the tax credit anytime during the year, but in order to maintain the employer's registration for the next year, the registration application must be renewed each year.

(c) The registration application must include the number of individuals covered, as of the date of the registration application, under the small group health plan for which the employer is seeking premium incentive payments and premium assistance payments or a tax credit. If, after the initial registration, the number of individuals increases, the employer may apply to register the additional individuals, but those additional individuals may be added only at the discretion of the commissioner, who shall limit enrollment based on available funds.

(d) A small employer is not eligible to apply for premium incentive payments and premium assistance payments or a tax credit for a number of employees, or the employees' spouses or dependents, over the number that has been established in 33-22-2006 as the maximum number of employees ~~an~~ a *small* employer may have in order to qualify for registration for the time period in question.

(e) ~~An~~ A *small* employer's ~~decision to apply registration~~ for premium incentive payments and premium assistance payments or a tax credit is irrevocable for 12 months or until the purchasing pool group health plan or qualified association health plan renews its registration, whichever time period is less. An *eligible small* employer may choose to discontinue receiving any premium incentive payments and premium assistance payments or tax credits at any time.

(2) The commissioner shall register qualifying eligible small employers in the order in which applications are received and according to whether ~~or not~~ the application is for premium incentive payments and premium assistance payments or a tax credit. Initially, 60% of the available funding must be dedicated to provide and maintain premium incentive payments and premium assistance payments for eligible small employers ~~who have not sponsored group health plans that provide creditable coverage in the previous 2 years and~~ who chose to join the purchasing pool or a qualified association health plan and 40% of the available funding must be dedicated to tax credits for eligible small employers who currently sponsor a small group health plan that provides creditable coverage. Funding may be transferred from the allocated fund for premium incentive payments and premium assistance payments to the general fund for tax credits or from the funds allocated for tax credits to the allocated fund for premium incentive payments and premium assistance payments if the board requests the transfer as provided in 33-22-2004 and the commissioner approves the request.

(3) (a) The maximum number of eligible small employers is reached when the anticipated amount of claims for premium incentive payments and premium assistance payments and tax credits has reached ~~95%~~ 100% of the amount of money allocated for premium incentive payments and premium assistance payments and tax credits.

(b) The commissioner may establish a waiting list for applicants that are otherwise qualified for registration but cannot be registered because of a lack of money or because the maximum number of eligible small employers has been reached.

(c) The commissioner shall mail to each employer registered under this section a notice of registration containing a unique registration number and indicating eligibility for either premium incentive payments and premium assistance payments or a tax credit. The commissioner shall also issue to each employer that is eligible for premium incentive payments and premium assistance payments or the tax credit a certificate, placard, sticker, or other evidence of participation that may be publicly posted.

(d) The commissioner shall notify all persons who applied for registration and who were not accepted that they were not registered and the reason that they were not registered.

(4) A prospective participant shall apply for registration on a form provided by the commissioner. The prospective participant shall:

(a) provide the number of employees and whether the employer qualifies under 33-22-2006;

(b) provide information that is necessary to estimate the amount of the premium incentive payments and premium assistance payments payable to the applicant or the amount of the tax credit available to the applicant, such as the ages of employees or dependents, relationships of employees' dependents, and information required by the department of public health and human services for determination of eligibility for premium assistance payments matched by federal funds;

(c) indicate whether the prospective employer intends to pursue the claim as a tax credit through the income tax process or through premium incentive payments and premium assistance payments to be applied toward purchasing pool or eligible qualified association health plan coverage;

~~(d) indicate whether or not the employer previously sponsored a group health plan that provided creditable coverage and, if so, when and for how long; and~~

~~(e)~~(d) provide any additional information determined by the commissioner to be necessary to support an application.

(5) Each year, *an eligible* small employer participants shall timely reregister with the commissioner in order to determine the participant's continued eligibility. The commissioner shall accept applications for continued registration:

(a) for purchasing pool participants at any time within 12 months of the initial registration approval or within the time period for renewal of the coverage under this part, whichever is longer;

(b) for tax credit participants on December 1 of each year. The commissioner shall stop accepting renewal applications for tax credit participants 60 calendar days later.

(6) The commissioner shall transmit to the department of revenue, at least annually, a list of eligible small employers that are taxpayers entitled to the tax credit and shall specify the taxpayer's name and tax identification number, the tax year to which the credit applies, the amount of the credit, and whether the credit is to be applied against taxes due on the taxpayer's return or paid as premium incentive payments or premium assistance payments. Unless there has been a finding of fraud or misrepresentation on the part of the taxpayer regarding issues relating to eligibility for the tax credit, the department of revenue may not redetermine or change the commissioner's determination regarding the taxpayer's entitlement to and amount of the tax credit.

(7) If the department of public health and human services receives approval for a section 1115 waiver as provided in 53-2-216, the commissioner shall work with the department of public health and human services with regard to eligibility determinations as required by federal law or waiver conditions.”

**Section 5. Effective date.** [This act] is effective on passage and approval.

Approved April 30, 2013

## CHAPTER NO. 332

[HB 74]

AN ACT REQUIRING THE RELEASE OR DISCLOSURE OF RECORDS OF CHILD ABUSE OR NEGLECT TO CERTAIN LAW ENFORCEMENT, PROSECUTORIAL, AND CHILD WELFARE ENTITIES AND INDIVIDUALS; REQUIRING THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES TO ADOPT AN IMPLEMENTING RULE; AND AMENDING SECTIONS 41-3-205 AND 41-3-208, MCA.

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

**Section 1.** Section 41-3-205, MCA, is amended to read:

**“41-3-205. Confidentiality — disclosure exceptions.** (1) The case records of the department and its local affiliate, the local office of public assistance, the county attorney, and the court concerning actions taken under this chapter and all records concerning reports of child abuse and neglect must be kept confidential except as provided by this section. Except as provided in subsections ~~(7)~~ (8) and ~~(8)~~ (9), a person who purposely or knowingly permits or encourages the unauthorized dissemination of the contents of case records is guilty of a misdemeanor.

(2) Records may be disclosed to a court for in camera inspection if relevant to an issue before it. The court may permit public disclosure if it finds disclosure to be necessary for the fair resolution of an issue before it.

(3) Records, including case notes, correspondence, evaluations, videotapes, and interviews, unless otherwise protected by this section or unless disclosure of the records is determined to be detrimental to the child or harmful to another person who is a subject of information contained in the records, may be disclosed to the following persons or entities in this state and any other state or country:

(a) a department, agency, or organization, including a federal agency, military enclave, or Indian tribal organization, that is legally authorized to receive, inspect, or investigate reports of child abuse or neglect and that otherwise meets the disclosure criteria contained in this section;

(b) a licensed youth care facility or a licensed child-placing agency that is providing services to the family or child who is the subject of a report in the records or to a person authorized by the department to receive relevant information for the purpose of determining the best interests of a child with respect to an adoptive placement;

(c) a health or mental health professional who is treating the family or child who is the subject of a report in the records;

(d) a parent, guardian, or person designated by a parent or guardian of the child who is the subject of a report in the records or other person responsible for the child's welfare, without disclosure of the identity of any person who reported or provided information on the alleged child abuse or neglect incident contained in the records;

(e) a child named in the records who was allegedly abused or neglected or the child's legal guardian or legal representative, including the child's guardian ad litem or attorney or a special advocate appointed by the court to represent a child in a pending case;

(f) the state protection and advocacy program as authorized by 42 U.S.C. 15043(a)(2);

(g) approved foster and adoptive parents who are or may be providing care for a child;

(h) a person about whom a report has been made and that person's attorney, with respect to the relevant records pertaining to that person only and without disclosing the identity of the reporter or any other person whose safety may be endangered;

(i) an agency, including a probation or parole agency, that is legally responsible for the supervision of an alleged perpetrator of child abuse or neglect;

(j) a person, agency, or organization that is engaged in a bona fide research or evaluation project and that is authorized by the department to conduct the research or evaluation;

(k) the members of an interdisciplinary child protective team authorized under 41-3-108 or of a family group decisionmaking meeting for the purposes of assessing the needs of the child and family, formulating a treatment plan, and monitoring the plan;

(l) the coroner or medical examiner when determining the cause of death of a child;

(m) a child fatality review team recognized by the department;

(n) a department or agency investigating an applicant for a license or registration that is required to operate a youth care facility, day-care facility, or child-placing agency;

(o) a person or entity who is carrying out background, employment-related, or volunteer-related screening of current or prospective employees or volunteers who have or may have unsupervised contact with children through employment or volunteer activities. A request for information under this subsection (3)(o) must be made in writing. Disclosure under this subsection (3)(o) is limited to information that indicates a risk to children, persons with developmental disabilities, or older persons posed by the person about whom the information is sought, as determined by the department.

(p) the news media, a member of the United States congress, or a state legislator, if disclosure is limited to confirmation of factual information regarding how the case was handled and if disclosure does not violate the privacy rights of the child or the child's parent or guardian, as determined by the department;

(q) an employee of the department or other state agency if disclosure of the records is necessary for administration of programs designed to benefit the child;

(r) an agency of an Indian tribe, a qualified expert witness, or the relatives of an Indian child if disclosure of the records is necessary to meet requirements of the federal Indian Child Welfare Act;

(s) a juvenile probation officer who is working in an official capacity with the child who is the subject of a report in the records;

(t) ~~a county attorney, peace officer, or~~ an attorney who is hired by or represents the department if disclosure is necessary for the investigation, defense, or prosecution of a case involving child abuse or neglect;

(u) a foster care review committee established under 41-3-115 or, when applicable, a citizen review board established under Title 41, chapter 3, part 10;

(v) a school employee participating in an interview of a child by a social worker, county attorney, or peace officer, as provided in 41-3-202;

(w) a member of a county interdisciplinary child information team formed under the provisions of 52-2-211;

(x) members of a local interagency staffing group provided for in 52-2-203;

(y) a member of a youth placement committee formed under the provisions of 41-5-121; or

(z) a principal of a school or other employee of the school district authorized by the trustees of the district to receive the information with respect to a student of the district who is a client of the department.

(4) (a) *The records described in subsection (3) must be promptly released to any of the following individuals upon a written request by the individual to the department or the department's designee:*

(i) *the attorney general;*

(ii) *a county attorney or deputy county attorney of the county in which the alleged abuse or neglect occurred; or*

(iii) *a peace officer, as defined in 45-2-101, in the jurisdiction in which the alleged abuse or neglect occurred.*

(b) *The records described in subsection (3) must be promptly disclosed by the department to an appropriate individual described in subsection (4)(a) or to a county interdisciplinary child information team established pursuant to 52-2-211 upon the department's receipt of a report indicating that any of the following has occurred:*

(i) *the death of the child as a result of child abuse or neglect;*

(ii) *a sexual offense, as defined in 46-23-502, against the child;*

(iii) *exposure of the child to an actual and not a simulated violent offense as defined in 46-23-502; or*

(iv) *child abuse or neglect, as defined in 41-3-102, due to exposure of the child to circumstances constituting the criminal manufacture or distribution of dangerous drugs.*

~~(4)~~(5) A school or school district may disclose, without consent, personally identifiable information from the education records of a pupil to the department, the court, a review board, and the child's assigned attorney, guardian ad litem, or special advocate.

~~(5)~~(6) Information that identifies a person as a participant in or recipient of substance abuse treatment services may be disclosed only as allowed by federal substance abuse confidentiality laws, including the consent provisions of the law.

~~(6)~~(7) The confidentiality provisions of this section must be construed to allow a court of this state to share information with other courts of this state or of another state when necessary to expedite the interstate placement of children.

~~(7)~~(8) A person who is authorized to receive records under this section shall maintain the confidentiality of the records and may not disclose information in the records to anyone other than the persons described in ~~subsection~~ *subsections*



(3)(a) *and* (4). However, this subsection may not be construed to compel a family member to keep the proceedings confidential.

(8)(9) A news organization or its employee, including a freelance writer or reporter, is not liable for reporting facts or statements made by an immediate family member under subsection (7) (8) if the news organization, employee, writer, or reporter maintains the confidentiality of the child who is the subject of the proceeding.

(9)(10) This section is not intended to affect the confidentiality of criminal court records, records of law enforcement agencies, or medical records covered by state or federal disclosure limitations.

(10)(11) Copies of records, evaluations, reports, or other evidence obtained or generated pursuant to this section that are provided to the parent, the guardian, or the parent or guardian's attorney must be provided without cost."

**Section 2.** Section 41-3-208, MCA, is amended to read:

**"41-3-208. Rulemaking authority.** (1) The department of public health and human services shall adopt rules to govern the procedures used by department personnel in preparing and processing reports and in making investigations authorized by this chapter.

(2) The department may adopt rules to govern the disclosure of case records containing reports of child abuse and neglect.

(3) *The department shall adopt a rule specifying the procedure to be used for the release and disclosure of records as provided in 41-3-205(4). In adopting the rule, the department shall collaborate with the attorney general and appropriate county attorneys, law enforcement agencies, and county interdisciplinary child information teams established pursuant to 52-2-211."*

Approved April 30, 2013

## CHAPTER NO. 333

[HB 76]

AN ACT CREATING AN INDEPENDENT OFFICE OF THE CHILD AND FAMILY OMBUDSMAN; DESCRIBING THE DUTIES AND POWERS OF THE OFFICE; AMENDING SECTION 41-3-205, MCA; PROVIDING FOR CONTINGENT VOIDNESS; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE.

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

**Section 1. Office of child and family ombudsman established.** (1) There is an office of the child and family ombudsman within the department of justice provided for in 2-15-2001.

(2) As used in this part, "ombudsman" means the office of the child and family ombudsman.

**Section 2. Purpose and intent.** The legislature finds that:

(1) an independent, impartial, and confidential ombudsman can serve to protect the interests and rights of Montana's children and families; and

(2) an independent, impartial, and knowledgeable ombudsman can work collaboratively with the department to strengthen the department's child and family services.

**Section 3. Appointment.** (1) The attorney general shall appoint an individual who is a resident of this state and is qualified by training and experience to perform the duties of the ombudsman as provided in [section 6].

(2) The appointment must be made from a list of at least three persons prepared and submitted by a committee consisting of:

- (a) one attorney appointed by the Montana bar association;
- (b) one district court judge appointed by the chief justice of the Montana supreme court;
- (c) one medical doctor appointed by the Montana medical association;
- (d) one psychologist appointed by the Montana psychological association;
- (e) one social worker appointed by the Montana chapter of the national association of social workers;
- (f) one person appointed by the attorney general as a representative of private children's agencies;
- (g) one person appointed by the attorney general as a representative of the general public; and
- (h) one person appointed by the director of the department.

**Section 4. Staff.** Subject to available funding, the department of justice shall hire necessary staff to carry out the provisions of [sections 1 through 7]. Staff must be under the supervision of the ombudsman.

**Section 5. Independence.** The ombudsman acts independently of the department of public health and human services in the performance of the duties of the office.

**Section 6. Duties.** The duties of the ombudsman are to:

- (1) ensure that each child under the jurisdiction of the department, and in appropriate cases an individual interested in the child's welfare, is apprised of the child's rights under the law;
- (2) take all possible action, including but not limited to programs of public education and advocacy, to pursue the legal, civil, and special protections of children;
- (3) help interested parties obtain any information pertaining to the case work and procedures of the department that they are entitled to under the law;
- (4) review complaints and investigate, in accordance with the powers provided for in [section 7] and with procedures adopted and made publicly available by the ombudsman, those complaints that indicate, in the opinion of the ombudsman, that a child might be in need of assistance from the ombudsman;
- (5) investigate, in accordance with the powers provided for in [section 7] and with procedures adopted and made publicly available by the ombudsman, the circumstances relating to the death of any child who has received services from the department;
- (6) when the ombudsman's investigation related to a complaint or a death appears to warrant it, share the relevant findings, subject to the disclosure restrictions and confidentiality requirements provided in [section 7], with individuals or entities that are legally authorized to receive, inspect, or investigate reports of child abuse or neglect;
- (7) periodically review the procedures used by the department with a view toward the rights of children;
- (8) recommend to the department changes in its procedures; and

(9) annually submit to the attorney general a detailed report analyzing the work of the ombudsman and any recommendations resulting from it.

**Section 7. Powers of ombudsman.** (1) The ombudsman has, subject to subsection (2), the power to:

(a) inspect, copy, or subpoena department records, including case notes, correspondence, evaluations, videotapes, and interviews pertaining to any child under the jurisdiction of the department who is alleged to be abused or neglected;

(b) request that individuals or entities outside the department that are legally authorized to receive, inspect, or investigate reports of child abuse or neglect provide information related to a complaint or death that the ombudsman is investigating; and

(c) take appropriate steps to see that persons are made aware of the services and procedures of the office of the child and family ombudsman, its purpose, and how it can be contacted.

(2) The ombudsman is subject to the disclosure restrictions and confidentiality requirements provided in 41-3-205.

**Section 8.** Section 41-3-205, MCA, is amended to read:

**“41-3-205. Confidentiality — disclosure exceptions.** (1) The case records of the department and its local affiliate, the local office of public assistance, the county attorney, and the court concerning actions taken under this chapter and all records concerning reports of child abuse and neglect must be kept confidential except as provided by this section. Except as provided in subsections (7) and (8), a person who purposely or knowingly permits or encourages the unauthorized dissemination of the contents of case records is guilty of a misdemeanor.

(2) Records may be disclosed to a court for in camera inspection if relevant to an issue before it. The court may permit public disclosure if it finds disclosure to be necessary for the fair resolution of an issue before it.

(3) Records, including case notes, correspondence, evaluations, videotapes, and interviews, unless otherwise protected by this section or unless disclosure of the records is determined to be detrimental to the child or harmful to another person who is a subject of information contained in the records, may be disclosed to the following persons or entities in this state and any other state or country:

(a) a department, agency, *ombudsman*, or organization, including a federal agency, military enclave, or Indian tribal organization, that is legally authorized to receive, inspect, or investigate reports of child abuse or neglect and that otherwise meets the disclosure criteria contained in this section;

(b) a licensed youth care facility or a licensed child-placing agency that is providing services to the family or child who is the subject of a report in the records or to a person authorized by the department to receive relevant information for the purpose of determining the best interests of a child with respect to an adoptive placement;

(c) a health or mental health professional who is treating the family or child who is the subject of a report in the records;

(d) a parent, guardian, or person designated by a parent or guardian of the child who is the subject of a report in the records or other person responsible for the child's welfare, without disclosure of the identity of any person who reported or provided information on the alleged child abuse or neglect incident contained in the records;

(e) a child named in the records who was allegedly abused or neglected or the child's legal guardian or legal representative, including the child's guardian ad litem or attorney or a special advocate appointed by the court to represent a child in a pending case;

(f) the state protection and advocacy program as authorized by 42 U.S.C. 15043(a)(2);

(g) approved foster and adoptive parents who are or may be providing care for a child;

(h) a person about whom a report has been made and that person's attorney, with respect to the relevant records pertaining to that person only and without disclosing the identity of the reporter or any other person whose safety may be endangered;

(i) an agency, including a probation or parole agency, that is legally responsible for the supervision of an alleged perpetrator of child abuse or neglect;

(j) a person, agency, or organization that is engaged in a bona fide research or evaluation project and that is authorized by the department to conduct the research or evaluation;

(k) the members of an interdisciplinary child protective team authorized under 41-3-108 or of a family group decisionmaking meeting for the purposes of assessing the needs of the child and family, formulating a treatment plan, and monitoring the plan;

(l) the coroner or medical examiner when determining the cause of death of a child;

(m) a child fatality review team recognized by the department;

(n) a department or agency investigating an applicant for a license or registration that is required to operate a youth care facility, day-care facility, or child-placing agency;

(o) a person or entity who is carrying out background, employment-related, or volunteer-related screening of current or prospective employees or volunteers who have or may have unsupervised contact with children through employment or volunteer activities. A request for information under this subsection (3)(o) must be made in writing. Disclosure under this subsection (3)(o) is limited to information that indicates a risk to children, persons with developmental disabilities, or older persons posed by the person about whom the information is sought, as determined by the department.

(p) the news media, a member of the United States congress, or a state legislator, if disclosure is limited to confirmation of factual information regarding how the case was handled and if disclosure does not violate the privacy rights of the child or the child's parent or guardian, as determined by the department;

(q) an employee of the department or other state agency if disclosure of the records is necessary for administration of programs designed to benefit the child;

(r) an agency of an Indian tribe, a qualified expert witness, or the relatives of an Indian child if disclosure of the records is necessary to meet requirements of the federal Indian Child Welfare Act;

(s) a juvenile probation officer who is working in an official capacity with the child who is the subject of a report in the records;

(t) a county attorney, peace officer, or attorney who is hired by or represents the department if disclosure is necessary for the investigation, defense, or prosecution of a case involving child abuse or neglect;

(u) a foster care review committee established under 41-3-115 or, when applicable, a citizen review board established under Title 41, chapter 3, part 10;

(v) a school employee participating in an interview of a child by a social worker, county attorney, or peace officer, as provided in 41-3-202;

(w) a member of a county interdisciplinary child information team formed under the provisions of 52-2-211;

(x) members of a local interagency staffing group provided for in 52-2-203;

(y) a member of a youth placement committee formed under the provisions of 41-5-121; or

(z) a principal of a school or other employee of the school district authorized by the trustees of the district to receive the information with respect to a student of the district who is a client of the department.

(4) A school or school district may disclose, without consent, personally identifiable information from the education records of a pupil to the department, the court, a review board, *the office of the child and family ombudsman provided for in [section 1]*, and the child's assigned attorney, guardian ad litem, or special advocate.

(5) Information that identifies a person as a participant in or recipient of substance abuse treatment services may be disclosed only as allowed by federal substance abuse confidentiality laws, including the consent provisions of the law.

(6) The confidentiality provisions of this section must be construed to allow a court of this state to share information with other courts of this state or of another state when necessary to expedite the interstate placement of children.

(7) A person who is authorized to receive records under this section shall maintain the confidentiality of the records and may not disclose information in the records to anyone other than the persons described in subsection (3)(a). However, this subsection may not be construed to compel a family member to keep the proceedings confidential.

(8) A news organization or its employee, including a freelance writer or reporter, is not liable for reporting facts or statements made by an immediate family member under subsection (7) if the news organization, employee, writer, or reporter maintains the confidentiality of the child who is the subject of the proceeding.

(9) This section is not intended to affect the confidentiality of criminal court records, records of law enforcement agencies, or medical records covered by state or federal disclosure limitations.

(10) Copies of records, evaluations, reports, or other evidence obtained or generated pursuant to this section that are provided to the parent, the guardian, or the parent or guardian's attorney must be provided without cost."

**Section 9. Codification instruction.** [Sections 1 through 7] are intended to be codified as an integral part of Title 41, and the provisions of Title 41 apply to [sections 1 through 7].

**Section 10. Contingent voidness.** If House Bill No. 2 does not appropriate money to the department of justice for the purposes of [sections 1 through 7], then [this act] is void.

**Section 11. Effective date.** [This act] is effective July 1, 2013.

**Section 12. Termination.** [This act] terminates June 30, 2015.

Approved April 30, 2013

## CHAPTER NO. 334

[HB 87]

AN ACT REQUIRING THAT RATES FOR HEALTH INSURANCE COVERAGE BE FILED WITH THE COMMISSIONER OF INSURANCE FOR REVIEW; PROVIDING STANDARDS FOR REVIEW AND NOTICE OF DEFICIENCY; PROVIDING RULEMAKING AUTHORITY; APPROPRIATING AND AUTHORIZING THE USE OF FUNDS FOR IMPLEMENTATION OF THE REVIEW; AMENDING SECTION 33-31-111, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE.

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

**Section 1. Health insurance rates — filing required — use.** (1) Each health insurance issuer that issues, delivers, or renews individual or small employer group health insurance coverage in the individual or small employer group market shall, at least 60 days before the rate goes into effect, file with the commissioner its rates, fees, dues, and other charges for each product form intended for use in Montana, together with sufficient information to support the premium to be charged as described in [sections 1 through 4]. This filing may be made simultaneously with a notice of premium increase to policyholders and certificate holders required by 33-22-107.

(2) A health insurance issuer may submit a single combined justification for rate increases subject to review affecting multiple products if the claims experience of all products has been aggregated to calculate the rate increases and the rate increases are the same for all products. Rate increases are determined by combining the total amount of increases taken on a single product form or market segment, if the rate increase is the same for all products, over a 12-month period. A market segment means the individual or small group market.

(3) The commissioner may waive the 60-day filing requirement under subsection (1) if the rate increase is implemented pursuant to 33-22-107(1)(b). However, the rates and justifications for the rate increase still must be filed.

(4) The health insurance issuer shall submit a new filing to reflect any material change to the previous rate filing. For all other changes, the insurer shall submit an amendment to a previous rate filing. The insurer may file an actuarial trend to phase in rate increases over a 12-month period. The insurer may file amendments to that trend within the 12-month period.

(5) The filing of rates for health plans must include:

(a) the product form number or numbers and approval date of the product form or forms to which the rate applies;

(b) a statement of actuarial justification; and

(c) information sufficient to support the rate as described in [section 2].

(6) The commissioner shall prescribe the form and content of the information required under this section.

(7) A rate filing required under this section must be submitted by a qualified actuary representing the health insurance issuer. The qualified actuary shall certify in a form prescribed by the commissioner that, to the best of the actuary's



knowledge and belief, the rates are not excessive, inadequate, unjustified, or unfairly discriminatory, as described in [section 2], and comply with the applicable provisions of Title 33 and rules adopted pursuant to Title 33.

(8) The rate filing must be delivered by the national association of insurance commissioners' system for electronic rate and form filing.

(9) An insurer may use a rate filing under this section 60 days after the date of filing with the commissioner unless the health insurance issuer fails to provide the minimum documentation required in [section 2].

(10) [Sections 1 through 4] do not apply to coverage consisting solely of excepted benefits as defined in 33-22-140.

**Section 2. Standards for review — notice of deficiency.** (1) (a) When reviewing a premium rate filing, the commissioner shall consider whether the proposed premium rate is excessive, inadequate, unjustified, or unfairly discriminatory. Rates may be considered excessive if they cause the premium charged for the health insurance coverage to be unreasonably high in relation to the benefits provided under the coverage. In order to determine if the rate is excessive, the commissioner shall consider whether:

- (i) the assumptions on which the rate increase is based are reasonable; and
- (ii) one or more of the assumptions is not supported by the evidence.

(b) Rates may be considered inadequate if the rate is unreasonably low for the coverage provided, and the commissioner may consider if the rate would endanger the solvency of the insurer or disrupt the insurance market in Montana.

(c) A rate increase may be considered unjustified if the health insurance issuer provides data or documentation in connection with the increase that is incomplete, inadequate, or otherwise does not provide a basis upon which the reasonableness of an increase may be determined.

(d) Rates may be considered unfairly discriminatory if they violate 33-18-206, 33-22-526, 49-2-309, or other applicable state laws prohibiting discrimination in health insurance.

(2) In order to determine whether the proposed premium rates for health insurance coverage are not excessive, inadequate, unjustified, or unfairly discriminatory, the commissioner may consider:

(a) the health insurance issuer's financial position, including but not limited to surplus, reserves, and investment savings;

(b) historical and projected administrative costs and medical and hospital expenses, including medical trends;

(c) the historical and projected medical loss ratio;

(d) changes to covered benefits or health plan design, along with actuarial projections concerning cost savings or additional expenses related to those changes;

(e) changes in the health insurance issuer's health care cost containment and quality improvement efforts following the health insurance issuer's last rate filing for the same category of health plan;

(f) product development and startup costs, drug and other benefit costs or expenses, and product age and credibility;

(g) whether the proposed change in the premium rate is necessary to maintain the health insurance issuer's solvency or to maintain rate stability and prevent excessive rate increases in the future;

(h) historical and projected claims experience;

- (i) trend projections related to utilization and service or unit cost;
  - (j) allocation of the overall rate increase to claims and nonclaims costs;
  - (k) allocation of current and projected premium for each enrollee each month;
  - (l) the 3-year history of rate increases for the product or group of products associated with the rate increase if the product is 3 years old or older and otherwise any available rate history;
  - (m) employee and executive compensation data from the health insurance issuer's annual financial statements; and
  - (n) any other applicable information identified in administrative rules adopted pursuant to Title 33, except that the administrative rules may not include by reference any provisions of Public Law 111-148 and Public Law 111-152 or any regulations promulgated under those laws.
- (3) The commissioner shall review rate filings and, if applicable, shall provide a notice of deficiencies containing detailed reasons describing why the commissioner finds that the proposed premium rate is excessive, inadequate, unjustified, or unfairly discriminatory. The notice must be provided within 60 days of receipt of filing.
- (4) Within 30 days after receiving a notice of deficiencies alleging that a proposed rate is excessive, inadequate, unjustified, or unfairly discriminatory, the insurer may amend its rate filing, request reconsideration based upon additional information, or implement the proposed rate, unless the rate is unfairly discriminatory, pursuant to subsection (1)(d).
- (5) At the end of the 30-day period described in subsection (4), if the insurer implements a rate that the commissioner has determined to be excessive, inadequate, unjustified, or unfairly discriminatory, the commissioner shall publish the finding on the commissioner's website indicating the commissioner's determination.

**Section 3. Trade secret disclosure exemption.** The commissioner, upon request by the health insurance issuer, may exempt from disclosure any part of a premium rate filing submitted pursuant to [section 1] that the commissioner determines to contain trade secrets as defined in 30-14-402. The commissioner may not disclose that part of a filing that is subject to a health insurance issuer's request until the commissioner makes a determination under this section. The commissioner shall provide the issuer with 30 days' advance notice of the determination before releasing the information to the public.

**Section 4. Rulemaking.** The commissioner may adopt rules necessary to implement the provisions of [sections 1 through 4], except that the administrative rules may not include by reference any provisions of Public Law 111-148 and Public Law 111-152 or any regulations promulgated under those laws.

**Section 5.** Section 33-31-111, MCA, is amended to read:

**"33-31-111. Statutory construction and relationship to other laws.**

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

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

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

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

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

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

(a) prohibitions against interference with certain communications as provided under *Title 33*, chapter 1, part 8;

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

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

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

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

(7) Title 33, chapter 1, parts 12 and 13, Title 33, chapter 2, part 19, 33-2-1114, 33-2-1211, 33-2-1212, 33-3-401, 33-3-422, 33-3-431, 33-15-308, Title 33, chapter 17, Title 33, chapter 19, 33-22-107, 33-22-129, 33-22-131, 33-22-136, 33-22-137, 33-22-141, 33-22-142, 33-22-152, [sections 1 through 4], 33-22-244, 33-22-246, 33-22-247, 33-22-514, 33-22-515, 33-22-521, 33-22-523, 33-22-524, 33-22-526, and 33-22-706 apply to health maintenance organizations.”

**Section 6. Appropriation and authorization.** The commissioner is authorized to expend \$204,000 in each of the fiscal years beginning July 1, 2013, and July 1, 2014, for a biennial total of \$408,000. These funds are appropriated from the state special revenue fund credited to the state auditor’s office and must be used exclusively for purposes of implementing [this act], including but not limited to the payment of contracting services to perform the rate review.

**Section 7. Codification instruction.** [Sections 1 through 4] are intended to be codified as an integral part of Title 33, chapter 22, and the provisions of Title 33, chapter 22, apply to [sections 1 through 4].

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

**Section 9. Effective date — applicability.** [This act] is effective July 1, 2013, and applies to rate filings that affect health insurance coverage in the individual or small group market issued on or after January 1, 2014.

Approved April 30, 2013

**CHAPTER NO. 335**

[HB 106]

AN ACT GENERALLY REVISING WATER LAWS; ELIMINATING REDUNDANT LANGUAGE; CLARIFYING THE PROCESS FOR A PERMIT OR A CHANGE IN APPROPRIATION RIGHT; STREAMLINING PERMIT REQUIREMENTS IN CLOSED BASINS; AMENDING SECTIONS 85-2-102, 85-2-302, 85-2-310, 85-2-311, 85-2-314, 85-2-320, 85-2-360, 85-2-361, 85-2-362, 85-2-369, 85-2-402, AND 85-2-424, MCA; AND REPEALING SECTION 85-2-363, MCA.

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

**Section 1.** Section 85-2-102, MCA, is amended to read:

**“85-2-102. Definitions.** Unless the context requires otherwise, in this chapter, the following definitions apply:

(1) “Appropriate” means:

(a) to divert, impound, or withdraw, including by stock for stock water, a quantity of water for a beneficial use;

(b) in the case of a public agency, to reserve water in accordance with 85-2-316;

(c) in the case of the department of fish, wildlife, and parks, to change an appropriation right to instream flow to protect, maintain, or enhance streamflows to benefit the fishery resource in accordance with 85-2-436;

(d) in the case of the United States department of agriculture, forest service:

(i) instream flows and in situ use of water created in 85-20-1401, Article V; or

(ii) to change an appropriation right to divert or withdraw water under subsection (1)(a) to instream flow to protect, maintain, or enhance streamflows in accordance with 85-2-320;

(e) temporary changes or leases for instream flow to maintain or enhance instream flow to benefit the fishery resource in accordance with 85-2-408;

(f) a use of water for aquifer recharge or mitigation; or

(g) a use of water for an aquifer storage and recovery project as provided in 85-2-368.

(2) “Aquifer recharge” means either the controlled subsurface addition of water directly to the aquifer or controlled application of water to the ground surface for the purpose of replenishing the aquifer to offset adverse effects resulting from net depletion of surface water.

(3) “Aquifer storage and recovery project” means a project involving the use of an aquifer to temporarily store water through various means, including but not limited to injection, surface spreading and infiltration, drain fields, or another department-approved method. The stored water may be either pumped from the injection well or other wells for beneficial use or allowed to naturally drain away for a beneficial use.

(4) “Beneficial use”, unless otherwise provided, means:

(a) a use of water for the benefit of the appropriator, other persons, or the public, including but not limited to agricultural, stock water, domestic, fish and wildlife, industrial, irrigation, mining, municipal, power, and recreational uses;

(b) a use of water appropriated by the department for the state water leasing program under 85-2-141 and of water leased under a valid lease issued by the department under 85-2-141;

(c) a use of water by the department of fish, wildlife, and parks through a change in an appropriation right for instream flow to protect, maintain, or enhance streamflows to benefit the fishery resource authorized under 85-2-436;

(d) a use of water through a temporary change in appropriation right or lease to enhance instream flow to benefit the fishery resource in accordance with 85-2-408;

(e) a use of water for aquifer recharge or mitigation; or

(f) a use of water for an aquifer storage and recovery project as provided in 85-2-368.

(5) "Certificate" means a certificate of water right issued by the department.

(6) "Change in appropriation right" means a change in the place of diversion, the place of use, the purpose of use, or the place of storage.

(7) "Commission" means the fish, wildlife, and parks commission provided for in 2-15-3402.

(8) "Correct and complete" means that the information required to be submitted conforms to the standard of substantial credible information and that all of the necessary parts of the form requiring the information have been filled in with the required information for the department to begin evaluating the information.

(9) "Declaration" means the declaration of an existing right filed with the department under section 8, Chapter 452, Laws of 1973.

(10) "Department" means the department of natural resources and conservation provided for in Title 2, chapter 15, part 33.

(11) "Developed spring" means any artificial opening or excavation in the ground, however made, including any physical alteration at the point of discharge regardless of whether it results in any increase in the yield of ground water, from which ground water is sought or can be obtained or through which it flows under natural pressures or is artificially withdrawn.

(12) "Existing right" or "existing water right" means a right to the use of water that would be protected under the law as it existed prior to July 1, 1973. The term includes federal non-Indian and Indian reserved water rights created under federal law and water rights created under state law.

(13) "Ground water" means any water that is beneath the ground surface.

(14) "Late claim" means a claim to an existing right forfeited pursuant to the conclusive presumption of abandonment under 85-2-226.

(15) "Mitigation" means the reallocation of surface water or ground water through a change in appropriation right or other means that does not result in surface water being introduced into an aquifer through aquifer recharge to offset adverse effects resulting from net depletion of surface water.

(16) "Municipality" means an incorporated city or town organized and incorporated under Title 7, chapter 2.

(17) (a) "National forest system lands" means all lands within Montana that are owned by the United States and administered by the secretary of agriculture through the forest service.

(b) The term does not include any lands within the exterior boundaries of national forest system units that are not owned by the United States and administered by the secretary of agriculture through the forest service.

(17)(18) "Permit" means the permit to appropriate issued by the department under 85-2-301 through 85-2-303 and 85-2-306 through 85-2-314.

(18)(19) "Person" means an individual, association, partnership, corporation, state agency, political subdivision, the United States or any agency of the United States, or any other entity.

(19)(20) (a) "Political subdivision" means any county, incorporated city or town, public corporation, or district created pursuant to state law or other public body of the state empowered to appropriate water.

(b) The term does not mean a private corporation, association, or group.

(20)(21) "Salvage" means to make water available for beneficial use from an existing valid appropriation through application of water-saving methods.

(21)(22) "State water reservation" means a water right created under state law after July 1, 1973, that reserves water for existing or future beneficial uses or that maintains a minimum flow, level, or quality of water throughout the year or at periods or for defined lengths of time.

(22)(23) "Substantial credible information" means probable, believable facts sufficient to support a reasonable legal theory upon which the department should proceed with the action requested by the person providing the information.

(23)(24) "Waste" means the unreasonable loss of water through the design or negligent operation of an appropriation or water distribution facility or the application of water to anything but a beneficial use.

(24)(25) "Water" means all water of the state, surface and subsurface, regardless of its character or manner of occurrence, including but not limited to geothermal water, diffuse surface water, and sewage effluent.

(25)(26) "Water division" means a drainage basin as defined in 3-7-102.

(26)(27) "Water judge" means a judge as provided for in Title 3, chapter 7.

(27)(28) "Water master" means a master as provided for in Title 3, chapter 7.

(28)(29) "Watercourse" means any naturally occurring stream or river from which water is diverted for beneficial uses. It does not include ditches, culverts, or other constructed waterways.

(29)(30) "Well" means any artificial opening or excavation in the ground, however made, by which ground water is sought or can be obtained or through which it flows under natural pressures or is artificially withdrawn."

**Section 2.** Section 85-2-302, MCA, is amended to read:

**"85-2-302. Application for permit — definition or change in appropriation right.** (1) Except as provided in 85-2-306 and 85-2-369, a person may not appropriate water or commence construction of diversion, impoundment, withdrawal, or related distribution works ~~except by applying for and receiving~~ *unless the person applies for and receives* a permit or an authorization for a change in appropriation right from the department.

(2) The department shall adopt rules that are necessary to determine whether or not an application is correct and complete, based on the provisions applicable to issuance of a permit under this part or a change in appropriation right pursuant to Title 85, chapter 2, part 4. The rules must be adopted in compliance with Title 2, chapter 4.

(3) The application must be made on a form prescribed by the department. The department shall make the forms available through its offices.

(4) (a) Subject to subsection (4)(b), the applicant shall submit a correct and complete application. The determination of whether an application is correct and complete must be based on rules adopted under subsection (2) that are in effect at the time the application is submitted.



(b) If an application is for a permit to appropriate water with a point of diversion, conveyance, or place of use on national forest system lands, the application is not correct and complete under this section until the applicant has submitted proof of any written special use authorization required by federal law to occupy, use, or traverse national forest system lands for the purpose of diversion, impoundment, storage, transportation, withdrawal, use, or distribution of water under the permit.

(c) ~~As used in this part, "national forest system lands" has the same meaning as that provided in 85-20-1401, Article I.~~

(5) The department shall notify the applicant of any defects in an application within 180 days. The defects must be identified by reference to the rules adopted under subsection (2). If the department does not notify the applicant of any defects within 180 days, the application must be treated as a correct and complete application.

(6) An application does not lose priority of filing because of defects if the application is corrected or completed within 30 days of the date of notification of the defects or within a further time as the department may allow, but not to exceed 90 days from the date of notification. If an application is made correct and complete after the mandated time period, but within 90 days of the date of notification of the defects, the priority date of the application is the date the application is made correct and complete.

(7) An application not corrected or completed within 90 days from the date of notification of the defects is terminated."

**Section 3.** Section 85-2-310, MCA, is amended to read:

**"85-2-310. Action on application for permit or change in appropriation right.** (1) (a) If the department proposes to deny an application for a permit or a change in appropriation right under 85-2-307, unless the applicant withdraws the application, the department shall hold a hearing pursuant to 2-4-604 after serving notice of the hearing by first-class mail upon the applicant for the applicant to show cause by a preponderance of the evidence as to why the permit or change in appropriation right should not be denied.

(b) (i) Upon request from the applicant, the department shall appoint a hearing examiner who did not participate in the preliminary determination.

(ii) The applicant may make only one request pursuant to this subsection (1)(b) for a different hearing examiner.

(2) A proposal to grant ~~an application~~ *a permit or change in appropriation right* with or without conditions following a hearing on a proposal to deny the application must proceed as if the department proposed to grant the ~~application~~ *permit or change in appropriation right* in its preliminary determination pursuant to 85-2-307.

(3) If valid objections are not received on an application or if valid objections are unconditionally withdrawn and the department preliminarily determined to grant the permit or change in appropriation right, the department shall grant the permit or change in appropriation right as proposed in the preliminary determination pursuant to 85-2-307.

(4) If valid objections to an application are received and withdrawn with conditions stipulated with the applicant and the department preliminarily determined to grant the permit or change in appropriation right, the department shall grant the permit or change in appropriation right subject to conditions as necessary to satisfy applicable criteria.

(5) The department shall deny or grant with or without conditions a permit under 85-2-311 or a change in appropriation right under 85-2-402 within 90 days after the administrative record is closed.

(6) If an application is to appropriate water with a point of diversion, conveyance, or place of use on national forest system lands, any application approved by the department is subject to any written special use authorization required by federal law to occupy, use, or traverse national forest system lands for the purpose of diversion, impoundment, storage, transportation, withdrawal, use, or distribution of the water applied for and any terms, conditions, and limitations related to the use of water contained in any special use authorization required by federal law.

(7) ~~(a) Except as provided in subsection (6), an application may not be denied or approved in a modified form or upon terms, conditions, or limitations specified by the department unless the applicant is first granted an opportunity to be heard if the department proposes to grant a permit or change in appropriation right in modified form, the applicant must be given an opportunity to be heard. The addition of conditions or changes to conditions required for approval does not constitute a modification of the application. If an objection is not filed against the application but the department is of the opinion that the application should be denied or approved in a modified form or upon terms, conditions, or limitations specified by it, the department shall prepare a statement of its opinion and its reasons for the opinion.~~

~~(b) The department shall serve a statement of its opinion notice of a preliminary determination to grant a permit or change in appropriation right in a modified form by first-class mail upon the applicant, with a notice that the applicant may obtain a hearing pursuant to 2-4-604 to show cause by a preponderance of the evidence as to why the permit or change in appropriation right should not be preliminarily determined to be granted in the modified form by filing a request within 30 days after the notice is mailed. The notice must further state that the application permit or change in appropriation right will be preliminarily determined to be granted as modified in a specified manner or denied unless a hearing is requested.~~

(8) The department may cease action upon an application for a permit or change in appropriation right and return it to the applicant when it finds that the application is not in good faith or does not show a bona fide intent to appropriate water for a beneficial use. An application returned for either of these reasons must be accompanied by a statement of the reasons for which it was returned, and for a permit application there is not a right to a priority date based upon the filing of the application. Returning an application pursuant to this subsection is a final decision of the department.

(9) For all applications filed after July 1, 1973, the department shall find that an application is not in good faith or does not show a bona fide intent to appropriate water for a beneficial use if:

- (a) an application is not corrected and completed as required by 85-2-302;
- (b) the appropriate filing fee is not paid;
- (c) the application does not document:
  - (i) a beneficial use of water;
  - (ii) the proposed place of use of all water applied for;

(iii) for an appropriation of 4,000 acre-feet a year or more and 5.5 cubic feet per second or more, a detailed project plan describing when and how much water will be put to a beneficial use. The project plan must include a reasonable

timeline for the completion of the project and the actual application of the water to a beneficial use.

(iv) for appropriations not covered in subsection (9)(c)(iii), a general project plan stating when and how much water will be put to a beneficial use; and

(v) except as provided in subsection (10), if the water applied for is to be appropriated above that which will be used solely by the applicant or if it will be marketed by the applicant to other users, information detailing:

(A) each person who will use the water and the amount of water each person will use;

(B) the proposed place of use of all water by each person;

(C) the nature of the relationship between the applicant and each person using the water; and

(D) each firm contractual agreement for the specified amount of water for each person using the water; or

(d) the appropriate environmental impact statement costs or fees, if any, are not paid as required by 85-2-124.

(10) If water applied for is to be marketed by the applicant to other users for the purpose of aquifer recharge or mitigation, the applicant is exempt from the provisions of subsection (9)(c)(v). The applicant must provide information detailing the proposed place of use.”

**Section 4.** Section 85-2-311, MCA, is amended to read:

**“85-2-311. Criteria for issuance of permit.** (1) A permit may be issued under this part prior to the adjudication of existing water rights in a source of supply. In a permit proceeding under this part, there is no presumption that an applicant for a permit cannot meet the statutory criteria of this section prior to the adjudication of existing water rights pursuant to this chapter. In making a determination under this section, the department may not alter the terms and conditions of an existing water right or an issued certificate, permit, or state water reservation. Except as provided in subsections (3) and (4), the department shall issue a permit if the applicant proves by a preponderance of evidence that the following criteria are met:

(a) (i) there is water physically available at the proposed point of diversion in the amount that the applicant seeks to appropriate; and

(ii) water can reasonably be considered legally available during the period in which the applicant seeks to appropriate, in the amount requested, based on the records of the department and other evidence provided to the department. Legal availability is determined using an analysis involving the following factors:

(A) identification of physical water availability;

(B) identification of existing legal demands on the source of supply throughout the area of potential impact by the proposed use; and

(C) analysis of the evidence on physical water availability and the existing legal demands, including but not limited to a comparison of the physical water supply at the proposed point of diversion with the existing legal demands on the supply of water.

(b) the water rights of a prior appropriator under an existing water right, a certificate, a permit, or a state water reservation will not be adversely affected. In this subsection (1)(b), adverse effect must be determined based on a consideration of an applicant’s plan for the exercise of the permit that demonstrates that the applicant’s use of the water will be controlled so the water right of a prior appropriator will be satisfied;

(c) the proposed means of diversion, construction, and operation of the appropriation works are adequate;

(d) the proposed use of water is a beneficial use;

(e) the applicant has a possessory interest or the written consent of the person with the possessory interest in the property where the water is to be put to beneficial use, or if the proposed use has a point of diversion, conveyance, or place of use on national forest system lands, the applicant has any written special use authorization required by federal law to occupy, use, or traverse national forest system lands for the purpose of diversion, impoundment, storage, transportation, withdrawal, use, or distribution of water under the permit;

(f) the water quality of a prior appropriator will not be adversely affected;

(g) the proposed use will be substantially in accordance with the classification of water set for the source of supply pursuant to 75-5-301(1); and

(h) the ability of a discharge permit holder to satisfy effluent limitations of a permit issued in accordance with Title 75, chapter 5, part 4, will not be adversely affected.

(2) The applicant is required to prove that the criteria in subsections (1)(f) through (1)(h) have been met only if a valid objection is filed. A valid objection must contain substantial credible information establishing to the satisfaction of the department that the criteria in subsection (1)(f), (1)(g), or (1)(h), as applicable, may not be met. For the criteria set forth in subsection (1)(g), only the department of environmental quality or a local water quality district established under Title 7, chapter 13, part 45, may file a valid objection.

(3) The department may not issue a permit for an appropriation of 4,000 or more acre-feet of water a year and 5.5 or more cubic feet per second of water unless the applicant proves by clear and convincing evidence that:

(a) the criteria in subsection (1) are met;

(b) the proposed appropriation is a reasonable use. A finding must be based on a consideration of the following:

(i) the existing demands on the state water supply, as well as projected demands, such as reservations of water for future beneficial purposes, including municipal water supplies, irrigation systems, and minimum streamflows for the protection of existing water rights and aquatic life;

(ii) the benefits to the applicant and the state;

(iii) the effects on the quantity and quality of water for existing beneficial uses in the source of supply;

(iv) the availability and feasibility of using low-quality water for the purpose for which application has been made;

(v) the effects on private property rights by any creation of or contribution to saline seep; and

(vi) the probable significant adverse environmental impacts of the proposed use of water as determined by the department pursuant to Title 75, chapter 1, or Title 75, chapter 20.

(4) (a) The state of Montana has long recognized the importance of conserving its public waters and the necessity to maintain adequate water supplies for the state's water requirements, including requirements for federal non-Indian and Indian reserved water rights held by the United States for federal reserved lands and in trust for the various Indian tribes within the state's boundaries. Although the state of Montana also recognizes that, under

appropriate conditions, the out-of-state transportation and use of its public waters are not in conflict with the public welfare of its citizens or the conservation of its waters, the criteria in this subsection (4) must be met before out-of-state use may occur.

(b) The department may not issue a permit for the appropriation of water for withdrawal and transportation for use outside the state unless the applicant proves by clear and convincing evidence that:

(i) depending on the volume of water diverted or consumed, the applicable criteria and procedures of subsection (1) or (3) are met;

(ii) the proposed out-of-state use of water is not contrary to water conservation in Montana; and

(iii) the proposed out-of-state use of water is not otherwise detrimental to the public welfare of the citizens of Montana.

(c) In determining whether the applicant has proved by clear and convincing evidence that the requirements of subsections (4)(b)(ii) and (4)(b)(iii) are met, the department shall consider the following factors:

(i) whether there are present or projected water shortages within the state of Montana;

(ii) whether the water that is the subject of the application could feasibly be transported to alleviate water shortages within the state of Montana;

(iii) the supply and sources of water available to the applicant in the state where the applicant intends to use the water; and

(iv) the demands placed on the applicant's supply in the state where the applicant intends to use the water.

(d) When applying for a permit or a lease to withdraw and transport water for use outside the state, the applicant shall submit to and comply with the laws of the state of Montana governing the appropriation, lease, and use of water.

(5) Subject to 85-2-360, to meet the preponderance of evidence standard in this section, the applicant, in addition to other evidence demonstrating that the criteria of subsection (1) have been met, shall submit hydrologic or other evidence, including but not limited to water supply data, field reports, and other information developed by the applicant, the department, the U.S. geological survey, or the U.S. natural resources conservation service and other specific field studies.

(6) An appropriation, diversion, impoundment, use, restraint, or attempted appropriation, diversion, impoundment, use, or restraint contrary to the provisions of this section is invalid. An officer, agent, agency, or employee of the state may not knowingly permit, aid, or assist in any manner an unauthorized appropriation, diversion, impoundment, use, or other restraint. A person or corporation may not, directly or indirectly, personally or through an agent, officer, or employee, attempt to appropriate, divert, impound, use, or otherwise restrain or control waters within the boundaries of this state except in accordance with this section.

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

(8) For an application for ground water in a basin closed pursuant to ~~85-2-319, 85-2-321, 85-2-330, 85-2-336, 85-2-341, 85-2-343, or 85-2-344~~ ~~or during the period of closure for any basin that is administratively closed pursuant to 85-2-319,~~ the applicant shall comply with the provisions of 85-2-360 in addition to the requirements of this section."

**Section 5.** Section 85-2-314, MCA, is amended to read:

**“85-2-314. Revocation or modification of permit or change in appropriation right.** (1)(a) If the work on an appropriation is not commenced, prosecuted, or completed within the time stated in the permit or an extension of the time stated in the permit, if the water is not being applied to the beneficial use contemplated in the permit or change in appropriation right, or if the permit or change in appropriation right is otherwise not being followed, the department may, after notice, require the permittee or the holder of the change in appropriation right to show cause why the permit or change in appropriation right should not be modified or revoked.

(b) If the permittee or holder of the change in appropriation right fails to show sufficient cause, the department may modify or revoke the permit or change in appropriation right.

(2) (a) *A permittee or holder of a change in appropriation right may petition the department to modify or remove a condition of approval or reduce the amount of the permit or change authorization.*

(b) *The petition must be submitted on a form designated by the department, is subject to the criteria of 85-2-311 and 85-2-402, and must be processed in the same manner as an application made pursuant to 85-2-302, 85-2-307 through 85-2-309, and 85-2-310(1) through (5) except that:*

(i) *the department may waive the public notice of a preliminary determination to grant the petition if the department finds, on the basis of information reasonably available to it, that the petition as proposed in the application will not adversely affect the rights of other appropriators;*

(ii) *if the department issues a preliminary determination to grant the petition and waives public notice, the determination becomes final;*

(iii) *the department may condition a preliminary determination to grant the petition in order to meet the criteria under 85-2-311 and 85-2-402; and*

(iv) *a preliminary determination to deny a petition is final. Denial of a petition does not affect the permit or change authorization.”*

**Section 6.** Section 85-2-320, MCA, is amended to read:

**“85-2-320. Change in appropriation right authorization for instream flow — United States department of agriculture, forest service.** (1) (a) The department shall accept and process an application by the United States department of agriculture, forest service for a change in appropriation right under the provisions of 85-2-402 and this section to protect, maintain, or enhance streamflows to benefit the fishery or other resources on national forest system lands.

(b) ~~As used in this section, “national forest system lands” has the same meaning as that provided in 85-20-1401, Article I.~~

(e)(b) To change an appropriation right, the United States department of agriculture, forest service must own the appropriation right that it seeks to change to an instream flow right, the diversion or withdrawal that is to be changed to instream flow must be located within or immediately adjacent to the exterior boundaries of national forest system lands on the date provided in 85-20-1401, Article IV.B.2., and the stream reach in which the streamflow is to be protected, maintained, or enhanced must be located within or immediately adjacent to the exterior boundaries of national forest system lands as of the date provided in 85-20-1401, Article IV.B.2. The application for a change in appropriation right must:



(i) include specific information on the length and location of the stream reach in which the streamflow is to be protected, maintained, or enhanced; and

(ii) provide a detailed streamflow measuring plan that describes the point where and the manner in which the streamflow must be measured.

(2) In addition to the requirements of 85-2-402, when applying for a change in appropriation right pursuant to this section, the United States department of agriculture, forest service, shall prove by a preponderance of the evidence that:

(a) the change in appropriation right authorization to protect, maintain, or enhance streamflows to benefit the fishery or other resources, as measured at a specific point, will not adversely affect the water rights of other persons; and

(b) the amount of water for the proposed instream flow use is needed to protect, maintain, or enhance streamflows to benefit the fishery or other resources.

(3) The proposed method of measurement of the water to protect, maintain, or enhance streamflows to benefit the fishery or other resources must be approved by the department before a change in appropriation right may be approved.

(4) The department is not responsible for costs associated with installing devices or providing personnel to measure streamflows according to the measurement plan submitted under this section.

(5) If an appropriation right is changed pursuant to this section, the priority of the appropriation right remains the same as the appropriation right that was changed.

(6) A change in appropriation right authorization under this section does not create a right of access across private property or allow any infringement of private property rights.

(7) The maximum quantity of water that may be subject to a change in appropriation right authorization to protect, maintain, or enhance streamflows to benefit the fishery or other resources is the amount historically diverted. However, only the amount historically consumed or a smaller amount if specified by the department in the change in appropriation right authorization may be used to protect, maintain, or enhance streamflows to benefit the fishery or other resources below the existing point of diversion.

(8) The department may modify or revoke the change in appropriation right up to 10 years after it is approved if an appropriator with a priority of appropriation that is earlier than the change in appropriation right that was granted submits new evidence that was not available at the time the change in appropriation right was approved that proves by a preponderance of evidence that the appropriator's water right is adversely affected."

**Section 7.** Section 85-2-360, MCA, is amended to read:

**"85-2-360. Ground water appropriation right in closed basins.** (1) An application for a ground water appropriation right in a basin closed pursuant to 85-2-319, 85-2-321, 85-2-330, 85-2-336, 85-2-341, 85-2-343, or 85-2-344 ~~or administratively closed pursuant to 85-2-319~~ must be accompanied by a hydrogeologic assessment report that has been conducted pursuant to 85-2-361, *an aquifer recharge or mitigation plan if required, and an application for a change in appropriation right or rights if necessary.* ~~to predict whether the proposed appropriation right will result in a net depletion of surface water and must be accompanied by a plan as provided in 85-2-362, if necessary.~~

~~(2) If the hydrogeologic assessment conducted pursuant to 85-2-361 predicts that the proposed appropriation right will not result in a net depletion of surface water, the department shall proceed under the criteria provided in 85-2-311.~~

~~(3) (a) If the hydrogeologic assessment predicts that the proposed appropriation right will result in a net depletion of surface water, the applicant shall analyze whether the net depletion results in an adverse effect on a prior appropriator. If the applicant provides a correct and complete application, the department shall proceed to process the application as provided in 85-2-363.~~

~~(b) If the applicant has used the water for the purpose of conducting the hydrogeologic assessment, the applicant shall terminate the use of the water. Failure to terminate use of the water must result in a fine of not more than \$1,000 for each day of the violation.~~

~~(4) If the hydrogeologic assessment predicts that there will be net depletion as provided in subsection (3)(a), the department may proceed to process the application pursuant to 85-2-363 if, in addition to other applicable criteria, the applicant complies with 85-2-362.~~

~~(2) The department shall use the hydrogeologic report to determine if the proposed appropriation right could result in a net depletion of surface water.~~

~~(5)(3) (a) For the purposes of 85-2-360 through 85-2-362, the prediction of net depletion does not mean that an adverse effect on a prior appropriator will occur or if an adverse effect does occur that the entire amount of net depletion is the cause of the adverse effect. A determination of whether or not there is an adverse effect on a prior appropriator as the result of a new appropriation right is a determination that must be made by the department based on the rate, location, and timing of the net depletion that causes the adverse effect relative to the historic beneficial use of the appropriation right that may be adversely affected. A determination of whether or not there is an adverse effect on a prior appropriator as the result of a new appropriation right is a determination that must be made by the department based on the amount, location, and duration of the amount of net depletion that causes the adverse effect relative to the historic beneficial use of the appropriation right that may be adversely affected.~~

~~(6) The priority date for an appropriation right that is granted to an entity whose permit application was returned after April 11, 2006, and before May 3, 2007, because of the department's interpretation of a court decision is the date of the initial application to the department.~~

~~(b) The department may grant a permit for a new appropriation only if the applicant proves by a preponderance of the evidence that the adverse effect would be offset through an aquifer recharge or mitigation plan that meets the requirements of 85-2-362."~~

**Section 8.** Section 85-2-361, MCA, is amended to read:

**"85-2-361. Hydrogeologic assessment—definition report — minimum requirements.** (1) (a) For the purposes of 85-2-360 through 85-2-362, "hydrogeologic assessment" means a report for the project for or through which water will be put to beneficial use, the point of diversion, and the place of use that describes the geology, hydrogeologic environment, water quality with regard to the provisions of 75-5-410 and 85-2-364, and predicted net depletion, if any, including the timing of any net depletion, for surface water within the area described in subsection (2)(a)(i) within the closed basins that are subject to an appropriation right, including but not limited to rivers, streams, irrigation canals, or drains that might be affected by the new appropriation right and any predicted water quality changes that may result.

~~(b) In predicting net depletion of surface water from a proposed use, consideration must be given, at a minimum, to (1) A hydrogeologic report must include:~~

~~(i)(a) a description of the proposed appropriation, including the point of diversion, the place of use, the area affected by the proposed appropriation, and aquifers and surface waters that may be affected by the proposed appropriation right;~~

~~(b) the actual amount of water diverted for like beneficial uses and the amount of water consumed by the proposed appropriation right;~~

~~(ii)(c) any amounts the amount of water that will likely be lost in conveyance, if any, and whether any lost amounts the amount of conveyance losses that would return to the system, and the location where conveyance losses would return to the system are lost to the system through evaporation or other means or whether those amounts are returned to the system through percolation or other means; and~~

~~(iii)(d) any the amount, timing, and location of return flows from the proposed use; including but not limited to any treated wastewater return flows if the treated wastewater that is considered effluent meets the requirements of 75-5-410 and 85-2-364.~~

~~(e) the geology of the affected area, including stratigraphy and structure;~~

~~(f) the parameters of the aquifer system within the affected area to include estimates for:~~

~~(i) the lateral and vertical extent of the aquifer;~~

~~(ii) an analysis of whether the aquifer is confined or unconfined; and~~

~~(iii) the transmissivity and storage coefficient related to the aquifer;~~

~~(g) the locations of surface waters within the affected area that are subject to an appropriation right that may show a net depletion;~~

~~(h) an analysis of whether there may be a net depletion of surface water in the affected area and the rate, location, and timing of the depletion, if any; and~~

~~(i) a description of any water treatment method used at the time of any type of injection or introduction of water to the aquifer to ensure compliance with 75-5-410, 85-2-364, and the water quality laws under Title 75, chapter 5.~~

~~(2) (a) A hydrogeologic assessment that will be used to predict net depletion of surface water resulting from a new appropriation right must include hydrogeologic data or a model developed by report must be prepared by a hydrogeologist, a qualified scientist, or a qualified licensed professional engineer. that incorporates for the new appropriation:~~

~~(i) the area or estimated area of ground water that will be affected, not to exceed the boundaries of the drainage subdivisions established by the office of water data coordination, United States geological survey, and used by the water court, unless the applicant chooses to expand the boundaries;~~

~~(ii) the geology in the area identified in subsection (2)(a)(i), including stratigraphy and structure;~~

~~(iii) the parameters of the aquifer system within the area identified in subsection (2)(a)(i) to include, at a minimum, estimates for:~~

~~(A) the lateral and vertical extent of the aquifer;~~

~~(B) whether the aquifer is confined or unconfined;~~

~~(C) the effective hydraulic conductivity of the aquifer;~~

~~(D) transmissivity and storage coefficient related to the aquifer; and~~

~~(E) the estimated flow direction or directions of ground water and the rate of movement;~~

~~(iv) the locations of surface waters within the area described in subsection (2)(a)(i) that are subject to an appropriation right, including but not limited to springs, creeks, streams, or rivers that may or may not show a net depletion;~~

~~(v) evidence of water availability; and~~

~~(vi) the locations of all wells or other sources of ground water of record within the area identified in subsection (2)(a)(i).~~

~~(b) A hydrogeologic assessment must also include a water quality report that includes:~~

~~(i) the location of existing documented hazards that could be affected or exacerbated by the appropriation right, such as areas of subsidence, along with a plan to mitigate any conditions or impacts;~~

~~(ii) other water quality information necessary to comply with 75-5-410 and 85-2-364; and~~

~~(iii) a description of any water treatment method that will be used at the time of any type of injection or introduction of water to the aquifer to ensure compliance with 75-5-410 and 85-2-364 and the water quality laws under Title 75, chapter 5.~~

~~(3) The hydrogeologic assessment must include an analysis of whether the information required by subsection (2) predicts that there may be a net depletion of surface water in the area described in subsection (2)(a)(i) and the extent of the depletion, if any.~~

~~(4)(3) The hydrogeologic assessment report, the model if provided, the test well data, the monitoring well data, and other related information must be submitted to the department. The department shall submit this information to the bureau of mines and geology. The bureau of mines and geology shall ensure that information submitted pursuant to this section is entered into the *make the information available through the* ground water information center database as part of the ground water assessment program.~~

~~(5) An entity that has previously conducted some type of hydrogeologic assessment may submit the information from that assessment as the hydrogeologic assessment required by this section if the information meets the criteria and requirements of this section."~~

**Section 9.** Section 85-2-362, MCA, is amended to read:

**"85-2-362. Aquifer recharge or mitigation plans in closed basins — minimum requirements.** (1) An applicant whose hydrogeologic assessment conducted pursuant to 85-2-361 predicts that there will be a net depletion of surface water shall offset the net depletion that results in the adverse effect through a mitigation plan or an aquifer recharge plan.

(2)(1) *An applicant whose hydrogeologic report conducted pursuant to 85-2-361 predicts that there will be a net depletion of surface water shall submit an aquifer recharge or mitigation plan. An aquifer recharge or mitigation plan A mitigation plan must include:*

(a) where and how the water in the plan will be put to beneficial use;

(b) when and where, generally, water reallocated through exchange or substitution for aquifer recharge or mitigation will be required;

(c) the amount of water reallocated through exchange or substitution that is required for aquifer recharge or mitigation;

(d) how the proposed project or beneficial use for which the *aquifer recharge* or mitigation plan is required will be operated;

(e) evidence that an application for a change in appropriation right, if necessary, has been submitted;

(f) evidence of water availability;

(g) evidence of how the *aquifer recharge* or mitigation plan will offset the required amount of net depletion of surface water in a manner that will offset an adverse effect on a prior appropriator; and

(h) evidence that the appropriate water quality permits have been granted pursuant to Title 75, chapter 5, as required by 75-5-410 and 85-2-364.

~~(3)(2)~~ ~~An~~ *In addition to the requirements of subsection (1), an aquifer recharge plan must include:*

~~(a) evidence that the appropriate water quality permits have been granted pursuant to Title 75, chapter 5, as required by 75-5-410 and 85-2-364;~~

~~(b) where and how the water in the plan will be put to beneficial use;~~

~~(c) when and where, generally, water reallocated through exchange or substitution will be required;~~

~~(d) the amount of water reallocated through exchange or substitution that is required;~~

~~(e) how the proposed project or beneficial use for which the aquifer recharge plan is required will be operated;~~

~~(f) evidence that an application for a change in appropriation right, if necessary, has been submitted;~~

~~(g) a description of the process by which water will be reintroduced to the aquifer;~~

~~(h) evidence of water availability; and~~

~~(i) evidence of how the aquifer recharge plan will offset the required amount of net depletion of surface water in a manner that will offset any adverse effect on a prior appropriator.~~

~~(4)(3)~~ The department may not require an applicant, through a mitigation plan or an aquifer recharge or mitigation plan, to provide more water than the quantity needed to offset the adverse effects on a prior appropriator caused by the net depletion.

~~(5)(4)~~ An appropriation right that relies on a mitigation plan or an aquifer recharge or mitigation plan to offset net depletion of surface water that results in an adverse effect on a prior appropriator must be issued as a conditional permit that requires *must require* that the mitigation plan or aquifer recharge or mitigation plan must be exercised when the appropriation right is exercised.”

**Section 10.** Section 85-2-369, MCA, is amended to read:

~~“85-2-369. Aquifer testing, test well, or monitoring well data submission — not beneficial use Permit not required for testing. (1) All aquifer testing data and other related information from test wells, monitoring wells, or other sources that is collected for the purpose of obtaining a new appropriation right or a change in appropriation right pursuant to 85-2-360 through 85-2-362 must be submitted to the department and the bureau of mines and geology in a form prescribed by the department and the bureau of mines and geology. The bureau of mines and geology shall ensure that information submitted pursuant to this section is entered into the ground water information center database as part of the ground water assessment program.~~

~~(2)~~—(a)(1) Water testing or monitoring is not a beneficial use of water requiring the filing of a permit application.

~~(b)~~(2) A permit is not required if the intent of a person is to conduct aquifer tests, water quality tests, water level monitoring, or other testing or monitoring of a water source.”

**Section 11.** Section 85-2-402, MCA, is amended to read:

**“85-2-402. Changes in appropriation rights — definition.** (1) (a) The right to make a change in appropriation right subject to the provisions of this section in an existing water right, a permit, or a state water reservation is recognized and confirmed. In a change in appropriation right proceeding under this section, there is no presumption that an applicant for a change in appropriation right cannot establish lack of adverse effect prior to the adjudication of other rights in the source of supply pursuant to this chapter. Except as provided in 85-2-410 and subsections (15) and (16) of this section, an appropriator may not make a change in an appropriation right without the approval of the department or, if applicable, of the legislature. An applicant shall submit a correct and complete application.

(b) If an application involves a change in a point of diversion, conveyance, or place of use located on national forest system lands, the application is not correct and complete until the applicant has submitted proof to the department of any written special use authorization required by federal law for the proposed change in occupancy, use, or traverse of national forest system lands for the purpose of diversion, impoundment, storage, transportation, withdrawal, use, or distribution of water.

~~(c) As used in this part, “national forest system lands” has the same meaning as that provided in 85-20-1401, Article I.~~

(2) Except as provided in subsections (4) through (6), (15), (16), and (18) and, if applicable, subject to subsection (17), the department shall approve a change in appropriation right if the appropriator proves by a preponderance of evidence that the following criteria are met:

(a) The proposed change in appropriation right will not adversely affect the use of the existing water rights of other persons or other perfected or planned uses or developments for which a permit or certificate has been issued or for which a state water reservation has been issued under part 3.

(b) The proposed means of diversion, construction, and operation of the appropriation works are adequate, except for:

(i) a change in appropriation right for instream flow pursuant to 85-2-320 or 85-2-436;

(ii) a temporary change in appropriation right for instream flow pursuant to 85-2-408; or

(iii) a change in appropriation right pursuant to 85-2-420 for mitigation or marketing for mitigation.

(c) The proposed use of water is a beneficial use.

(d) The applicant has a possessory interest, or the written consent of the person with the possessory interest, in the property where the water is to be put to beneficial use or, if the proposed change involves a point of diversion, conveyance, or place of use on national forest system lands, the applicant has any written special use authorization required by federal law to occupy, use, or traverse national forest system lands for the purpose of diversion, impoundment, storage, transportation, withdrawal, use, or distribution of water. This subsection (2)(d) does not apply to:



(i) a change in appropriation right for instream flow pursuant to 85-2-320 or 85-2-436;

(ii) a temporary change in appropriation right for instream flow pursuant to 85-2-408; or

(iii) a change in appropriation right pursuant to 85-2-420 for mitigation or marketing for mitigation.

(e) If the change in appropriation right involves salvaged water, the proposed water-saving methods will salvage at least the amount of water asserted by the applicant.

(f) The water quality of an appropriator will not be adversely affected.

(g) The ability of a discharge permit holder to satisfy effluent limitations of a permit issued in accordance with Title 75, chapter 5, part 4, will not be adversely affected.

(3) The applicant is required to prove that the criteria in subsections (2)(f) and (2)(g) have been met only if a valid objection is filed. A valid objection must contain substantial credible information establishing to the satisfaction of the department that the criteria in subsection (2)(f) or (2)(g), as applicable, may not be met.

(4) The department may not approve a change in purpose of use or place of use of an appropriation of 4,000 or more acre-feet of water a year and 5.5 or more cubic feet per second of water unless the appropriator proves by a preponderance of evidence that:

(a) the criteria in subsection (2) are met; and

(b) the proposed change in appropriation right is a reasonable use. A finding of reasonable use must be based on a consideration of:

(i) the existing demands on the state water supply, as well as projected demands for water for future beneficial purposes, including municipal water supplies, irrigation systems, and minimum streamflows for the protection of existing water rights and aquatic life;

(ii) the benefits to the applicant and the state;

(iii) the effects on the quantity and quality of water for existing uses in the source of supply;

(iv) the availability and feasibility of using low-quality water for the purpose for which application has been made;

(v) the effects on private property rights by any creation of or contribution to saline seep; and

(vi) the probable significant adverse environmental impacts of the proposed use of water as determined by the department pursuant to Title 75, chapter 1, or Title 75, chapter 20.

(5) The department may not approve a change in purpose of use or place of use for a diversion that results in 4,000 or more acre-feet of water a year and 5.5 or more cubic feet per second of water being consumed unless:

(a) the applicant proves by clear and convincing evidence and the department finds that the criteria in subsections (2) and (4) are met; and

(b) for the withdrawal and transportation of appropriated water for out-of-state use, the department then petitions the legislature and the legislature affirms the decision of the department after one or more public hearings.

(6) The state of Montana has long recognized the importance of conserving its public waters and the necessity to maintain adequate water supplies for the state's water requirements, including requirements for federal non-Indian and Indian reserved water rights held by the United States for federal reserved lands and in trust for the various Indian tribes within the state's boundaries. Although the state of Montana also recognizes that, under appropriate conditions, the out-of-state transportation and use of its public waters are not in conflict with the public welfare of its citizens or the conservation of its waters, the following criteria must be met before out-of-state use may occur:

(a) The department and, if applicable, the legislature may not approve a change in appropriation right for the withdrawal and transportation of appropriated water for use outside the state unless the appropriator proves by clear and convincing evidence and, if applicable, the legislature approves after one or more public hearings that:

(i) depending on the volume of water diverted or consumed, the applicable criteria and procedures of subsection (2) or (4) are met;

(ii) the proposed out-of-state use of water is not contrary to water conservation in Montana; and

(iii) the proposed out-of-state use of water is not otherwise detrimental to the public welfare of the citizens of Montana.

(b) In determining whether the appropriator has proved by clear and convincing evidence that the requirements of subsections (6)(a)(ii) and (6)(a)(iii) will be met, the department and, if applicable, the legislature shall consider the following factors:

(i) whether there are present or projected water shortages within the state of Montana;

(ii) whether the water that is the subject of the proposed change in appropriation might feasibly be transported to alleviate water shortages within the state of Montana;

(iii) the supply and sources of water available to the applicant in the state where the applicant intends to use the water; and

(iv) the demands placed on the applicant's supply in the state where the applicant intends to use the water.

(c) When applying for a change in appropriation right to withdraw and transport water for use outside the state, the applicant shall submit to and comply with the laws of the state of Montana governing the appropriation and use of water.

(7) For any application for a change in appropriation right involving 4,000 or more acre-feet of water a year and 5.5 or more cubic feet per second of water, the department shall give notice of the proposed change in appropriation right in accordance with 85-2-307 and shall hold one or more hearings in accordance with 85-2-309 prior to its approval or denial of the proposed change in appropriation right. The department shall provide notice and may hold one or more hearings upon any other proposed change in appropriation right if it determines that the proposed change in appropriation right might adversely affect the rights of other persons.

(8) The department or the legislature, if applicable, may approve a change in appropriation right subject to the terms, conditions, restrictions, and limitations that it considers necessary to satisfy the criteria of this section, including limitations on the time for completion of the change in appropriation right. The department may extend time limits specified in the change in

appropriation right approval under the applicable criteria and procedures of 85-2-312(3).

(9) Upon actual application of water to the proposed beneficial use within the time allowed, the appropriator shall notify the department that the appropriation has been completed. The notification must contain a certified statement by a person with experience in the design, construction, or operation of appropriation works describing how the appropriation was completed.

(10) If a change in appropriation right is not completed as approved by the department or legislature or if the terms, conditions, restrictions, and limitations of the change in appropriation right approval are not complied with, the department may, after notice and opportunity for hearing, require the appropriator to show cause why the change in appropriation right approval should not be modified or revoked. If the appropriator fails to show sufficient cause, the department may modify or revoke the change in appropriation right approval.

(11) The original of a change in appropriation right approval issued by the department must be sent to the applicant, and a duplicate must be kept in the office of the department in Helena.

(12) A person holding an issued permit or change in appropriation right approval that has not been perfected may change the place of diversion, place of use, purpose of use, or place of storage by filing an application for change in appropriation right pursuant to this section.

(13) A change in appropriation right contrary to the provisions of this section is invalid. An officer, agent, agency, or employee of the state may not knowingly permit, aid, or assist in any manner an unauthorized change in appropriation right. A person or corporation may not, directly or indirectly, personally or through an agent, officer, or employee, attempt to change an appropriation right except in accordance with this section.

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

(15) (a) An appropriator may change an appropriation right for a replacement well without the prior approval of the department if:

(i) the appropriation right is for:

(A) ground water outside the boundaries of a controlled ground water area;

or

(B) ground water inside the boundaries of a controlled ground water area and if the provisions of the rule establishing the controlled ground water area do not restrict a change in appropriation right;

(ii) the change in appropriation right is to replace an existing well and the existing well will no longer be used;

(iii) the rate and volume of the appropriation from the replacement well are equal to or less than that of the well being replaced and do not exceed:

(A) 450 gallons a minute for a municipal well; or

(B) 35 gallons a minute and 10 acre-feet a year for all other wells;

(iv) the water from the replacement well is appropriated from the same aquifer as the water appropriated from the well being replaced; and

(v) a timely, correct and complete notice of replacement well is submitted to the department as provided in subsection (15)(b).

(b) (i) After completion of a replacement well and appropriation of ground water for a beneficial use, the appropriator shall file a notice of replacement well with the department on a form provided by the department.

(ii) (A) The department shall review the notice of replacement well and shall issue an authorization of a change in an appropriation right if all of the criteria in subsection (15)(a) have been met and the notice is correct and complete.

(B) If the replacement well is located on national forest system lands, the notice is not correct and complete under this subsection (15) until the appropriator has submitted proof of any written special use authorization required by federal law to occupy, use, or traverse national forest system lands for the purpose of constructing the replacement well.

(iii) The department may not issue an authorization of a change in appropriation right until a correct and complete notice of replacement well has been filed with the department. The department shall return a defective notice to the appropriator, along with a description of defects in the notice. The appropriator shall refile a corrected and completed notice of replacement well within 30 days of notification of defects or within a further time as the department may allow, not to exceed 6 months.

(iv) If a notice of replacement well is not completed within the time allowed, the appropriator shall:

(A) cease appropriation of water from the replacement well pending approval by the department; and

(B) submit an application for a change in appropriation right to the department pursuant to subsections (1) through (3).

(c) The provisions of this subsection (15) do not apply to an appropriation right abandoned under 85-2-404.

(d) For each well that is replaced under this subsection (15), the appropriator shall follow the well abandonment procedures, standards, and rules adopted by the board of water well contractors pursuant to 37-43-202.

(e) The provisions of subsections (2), (3), (9), and (10) do not apply to a change in appropriation right that meets the requirements of subsection (15)(a).

(16) (a) An appropriator may change an appropriation right without the prior approval of the department for the purpose of constructing a redundant water supply well in a public water supply system, as defined in 75-6-102, if the redundant water supply well:

(i) withdraws water from the same ground water source as the original well; and

(ii) is required by a state or federal agency.

(b) The priority date of the redundant water supply well is the same as the priority date of the original well. Only one well may be used at one time.

(c) Within 60 days of completion of a redundant water supply well, the appropriator shall file a notice of construction of the well with the department on a form provided by the department. The department may return a defective notice of construction to the appropriator for correction and completion. If the redundant water supply well is located on national forest system lands, the notice is not correct and complete under this subsection until the appropriator has submitted proof of any written special use authorization required by federal law to occupy, use, or traverse national forest system lands for the purpose of constructing the redundant water supply well.

(d) The provisions of subsections (9) and (10) do not apply to a change in appropriation right that meets the requirements of this subsection (16).

(17) The department shall accept and process an application for a change in appropriation right for instream flow to protect, maintain, or enhance streamflows pursuant to 85-2-320 and this section and to benefit the fishery resource pursuant to 85-2-436 and this section.

(18) (a) An appropriator may change an appropriation right for a replacement point of diversion without the prior approval of the department if:

(i) the existing point of diversion is inoperable due to natural causes or deteriorated infrastructure;

(ii) there are no other changes to the water right;

(iii) the capacity of the diversion is not increased;

(iv) there are no points of diversion or intervening water rights between the existing point of diversion and the replacement point of diversion or the appropriator obtains written waivers from all intervening water right holders;

(v) the replacement point of diversion is on the same surface water source and is located as close as reasonably practicable to the existing point of diversion;

(vi) the replacement point of diversion replaces an existing point of diversion and the existing point of diversion will no longer be used;

(vii) the appropriator can show that the existing point of diversion has been used in the 10 years prior to the notice for change of appropriation right for a replacement point of diversion;

(viii) the appropriator can show the change will not increase access to water availability, change the method of irrigation, if applicable, or increase the amount of water diverted, used, or consumed; and

(ix) a timely, correct and complete notice of replacement point of diversion is submitted to the department as provided in subsection (18)(b).

(b) (i) Within 60 days after completion of a replacement point of diversion, the appropriator shall file a notice of replacement point of diversion with the department on a form provided by the department.

(ii) The department shall review the notice of replacement point of diversion and shall issue an authorization of a change in an appropriation right if all of the criteria in subsection (18)(a) have been met and the notice is correct and complete. The department may inspect the diversion to confirm that the criteria under subsection (18)(a) have been met. If the department issues an authorization of a change in an appropriation right for a replacement point of diversion, the department shall prepare a notice of the authorization and provide notice of the authorization in the same manner as required in 85-2-307 for applications.

(iii) The department may not issue an authorization of a change in appropriation right until a correct and complete notice of replacement point of diversion has been filed with the department. The department shall return a defective notice to the appropriator, along with a description of defects in the notice. The appropriator shall refile a corrected and completed notice of replacement point of diversion within 30 days of notification of defects or within a further time as the department may allow, not to exceed 6 months.

(iv) If a notice of replacement point of diversion is not filed and completed within the time allowed or if the department determines the criteria under subsection (18)(a) have not been met, the appropriator shall:

(A) cease appropriation of water from the replacement point of diversion pending approval by the department; and

(B) submit an application for a change in appropriation right to the department pursuant to subsections (1) through (3).

(c) The provisions of this subsection (18) do not apply to an appropriation right abandoned under 85-2-404.

(d) The provisions of subsections (2), (3), (9), and (10) do not apply to a change in appropriation right that meets the requirements of subsection (18)(a).

(e) (i) An appropriator may file a correct and complete objection with the department alleging that the change in appropriation right for a replacement point of diversion will adversely affect the use of the existing water rights of other persons or other perfected or planned uses or developments for which a permit or certificate has been issued or for which a state water reservation has been issued under Title 85, chapter 2, part 3.

(ii) If the department determines after a contested case hearing between the appropriator and the objector that the rights of other appropriators have been or will be adversely affected, it may revoke the change or make the change subject to terms, conditions, restrictions, or limitations necessary to protect the rights of other appropriators.

(iii) The burden of proof to prove lack of adverse effect at the hearing is on the appropriator changing the point of diversion.”

**Section 12.** Section 85-2-424, MCA, is amended to read:

**“85-2-424. Filing.** (1) Except in the case of a transfer of real property served by a public service water supply, when a person presents for recording a deed or other instrument evidencing a transfer of real property, the realty transfer certificate must contain a water rights disclosure in which the transferor shall acknowledge, at or before closing or transfer of real property, whether or not any water rights are associated with the property to be transferred and whether or not any water rights will transfer with the real property.

(2) (a) If the realty transfer certificate discloses that the water rights will transfer with the property, the department’s records must be updated to reflect the purchaser of the property as the new owner of the water right based on information received from the department of revenue. The appropriate fee must be paid at closing or upon completion of the transfer of real property as provided in 85-2-426.

(b) The transferee of a water right, after receiving notice provided in subsection (2)(c), is responsible for compliance with this section.

(c) If the department receives notice from the department of revenue that a property transfer has occurred and the proper fee was not received by the department, the department shall send a notice to the transferee requesting payment of the fee. If the transferee does not pay the fee within 60 days, the department may assess a penalty against the transferee pursuant to 85-2-431.

(3) If the realty transfer certificate discloses the division of a water right among parcels, the person dividing the water right shall complete and file with the department a water right ownership update form, a map, and the required fee.

(4) If a person exempts a water right pursuant to 85-2-403, the person shall file with the department, on a form provided by the department, information describing the exempting of the water right and the appropriate fee.



(5) If a person severs a water right from appurtenant property without selling the property, the person shall file with the department, on a form provided by the department, information describing the severance and the appropriate fee.

(6) If the realty transfer certificate submitted with a deed or other instrument indicates that a water right is being severed, divided, or exempted, the clerk and recorder may not record the deed or instrument unless there is submitted with the deed or instrument a certification under penalty of false swearing, on a form provided by the department and signed by the transferor and transferee, that states either:

(a) that the documents and fee necessary to comply with this section are held in escrow, in which case the certification must also be signed by the escrow agent; or

(b) if there is no escrow, that the transferor and transferee certify that they have prepared the required documents and will send the required documents and fee to the department within ~~5-business~~ *60 business* days of recording, in which case the certification must also require the transferee to acknowledge that failure to file the appropriate documents and fee with the department will result in the department assessing the penalty in 85-2-431 against the transferee.

(7) Any written agreement to transfer land that has appurtenant water rights on record with the department must contain the following disclosure or words of a similar nature:

**“WATER RIGHT OWNERSHIP UPDATE DISCLOSURE:**

By Montana law, failure of the parties at closing or transfer of real property to pay the required fee to the Montana Department of Natural Resources and Conservation for updating water right ownership may result in the transferee of the property being subject to a penalty. Additionally, in the case of water rights being exempted, severed, or divided, the failure of the parties to comply with section 85-2-424, MCA, could result in a penalty against the transferee and rejection of the deed for recording.”

**Section 13. Repealer.** The following section of the Montana Code Annotated is repealed:

85-2-363. Process for combining decisions on ground water permit applications in closed basins.

Approved April 30, 2013

## CHAPTER NO. 336

[HB 120]

AN ACT GENERALLY REVISING ELECTION LAWS; CLARIFYING PROCEDURES FOR REGISTERING FOR, VOTING BY, AND COUNTING AN ABSENTEE BALLOT; CLARIFYING THE LATE REGISTRATION PROCESS; REQUIRING AN OATH TO BE PLACED IN THE DECLARATION FOR NOMINATION FOR A CANDIDATE IN A PRIMARY CONTEST; REVISING THE BALLOT REQUIREMENTS AND SELECTION PROCESS FOR PRECINCT COMMITTEE POSITIONS; REVISING THE PROCESS FOR COLLECTING A BALLOT FROM CERTAIN DISABLED ELECTORS; REVISING THE PROVISIONS FOR POSTING BONDS REQUIRED FOR CERTAIN RECOUNTS; ELIMINATING THE PROVISION THAT

PROHIBITS CERTAIN RELIGIOUS OFFICIALS AND CORPORATE OFFICERS FROM PARTICIPATING IN CERTAIN ELECTION ACTIVITIES; REQUIRING TIE VOTES IN PRECINCT COMMITTEE ELECTIONS TO BE DETERMINED BY THE COUNTY CENTRAL COMMITTEE; AMENDING SECTIONS 5-2-402, 13-1-101, 13-1-210, 13-2-107, 13-2-108, 13-2-112, 13-2-115, 13-2-122, 13-2-207, 13-2-220, 13-2-301, 13-2-304, 13-10-201, 13-10-203, 13-10-209, 13-10-211, 13-10-302, 13-10-404, 13-10-405, 13-10-503, 13-10-507, 13-13-112, 13-13-118, 13-13-201, 13-13-204, 13-13-211, 13-13-212, 13-13-213, 13-13-214, 13-13-225, 13-13-226, 13-13-227, 13-13-228, 13-13-229, 13-13-230, 13-13-241, 13-13-244, 13-13-245, 13-13-301, 13-13-602, 13-13-603, 13-14-112, 13-14-113, 13-15-107, 13-15-108, 13-15-201, 13-15-206, 13-15-401, 13-16-201, 13-16-211, 13-16-417, 13-17-203, 13-17-211, 13-19-102, 13-19-106, 13-19-304, 13-21-210, 13-21-212, 13-35-218, 13-37-126, AND 13-38-201, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE.

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

**Section 1.** Section 5-2-402, MCA, is amended to read:

**“5-2-402. Appointment by board of county commissioners — county central committee role — timeframes.** (1) Except as provided in subsection (5) or as otherwise provided by law, whenever a vacancy occurs in the legislature, the vacancy must be filled by appointment by the board of county commissioners or, in the event of a multicounty district, the boards of county commissioners of the counties comprising the district sitting as one appointing board.

(2) (a) Whenever a vacancy is within a single county, the board of county commissioners shall make the appointment as described in 5-2-403, 5-2-404, or 5-2-406.

(b) Whenever a vacancy is within a multicounty district, the boards of county commissioners shall sit as one appointing board. The selection of an individual to fill the vacancy must be as follows:

(i) The presiding officer of the board of county commissioners of the county in which the person resided whose vacancy is to be filled shall call a meeting for the purpose of appointing the member of the legislature and shall preside at the meeting.

(ii) Each commissioner’s vote is determined by the following formula: 100 multiplied by (A divided by B) multiplied by (1 divided by C), where:

(A) A is the total votes cast in the respective county for the person vacating the legislative seat or, if the vacating person was not elected, the votes cast for the last person to be elected for the current term;

(B) B is the total votes cast for that person in the legislative district; and

(C) C is the number of authorized commissioners on the board of the commissioner whose vote is being determined.

(iii) The person selected to fill the vacancy is the one who receives the highest number above 50 that results from the calculation in subsection (2)(b)(ii). If none of the candidates receives a number higher than 50 from that calculation, the selection board shall cast its votes again in the same manner for the persons receiving the two highest numbers. If neither vote results in a candidate receiving a number higher than 50 from the calculation provided in subsection (2)(b)(ii), then 5-2-404 applies.

(c) If a vacancy occurs in a holdover senate seat after holdover senators have been assigned to new districts under each reapportionment, the formula in subsection (2)(b)(ii) must be applied using the votes cast for the senatorial

candidates at the last election in which votes were cast for a senate candidate. Only the number of votes cast by electors residing in the new senate district for senate candidates of the party to which the person vacating the seat belonged may be counted. The secretary of state shall provide an estimate of the number of votes cast for each party by county or portion of a county. The selection process is the same as provided in subsection (2)(b)(iii).

(3) The appointment process to fill a vacant legislative seat under this section is as follows:

(a) Within 7 days of being notified of a vacancy as described in 2-16-501, the secretary of state shall notify the board of county commissioners and the *state party that is responsible for notifying the* county central committee of the county where the vacating legislator is a resident, if the legislative seat is within one county, or the boards of county commissioners and the corresponding county central committees if the legislative seat is in a multicounty district. If the legislator is an independent or belongs to a party for which there is no county central committee, the notification of county commissioners suffices.

(b) The county central committee or committees, upon receipt of notification of a vacancy, have 45 days to propose a list of prospective appointees, pursuant to 5-2-403(1). The county central committee or the county central committees, acting together, shall forward the list of names to the appointing board within the 45-day period.

(c) The appointing board shall make and confirm an appointment and notify the secretary of state within 15 days:

(i) after receiving the list of prospective appointees from the county central committee or committees;

(ii) after 45 days have expired after the notification of vacancy if the county central committee or committees have not provided a list of prospective appointees; or

(iii) after notification of a vacancy if the legislator vacating the seat is an independent.

(4) If the legislature is in session, the notification process in subsection (3)(a) must be followed within 5 days. The process described in subsection (3)(b) must take place in 5 days. The process described in subsection (3)(c) must take place in 5 days.

(5) Notwithstanding subsection (6), if a vacancy occurs prior to a primary election, 13-10-326 applies. If a vacancy occurs after a primary and prior to a general election, 13-10-327 applies.

(6) If the legislature is called into special session within 85 days of a general election, a person must be appointed to fill a legislative vacancy pursuant to subsections (1) through (4)."

**Section 2.** Section 13-1-101, MCA, is amended to read:

**"13-1-101. Definitions.** As used in this title, unless the context clearly indicates otherwise, the following definitions apply:

(1) "Active elector" means an elector whose name has not been placed on the inactive list due to failure to respond to confirmation notices pursuant to 13-2-220 or 13-19-313.

(2) "Active list" means a list of active electors maintained pursuant to 13-2-220.

(3) "Anything of value" means any goods that have a certain utility to the recipient that is real and that is ordinarily not given away free but is purchased.

(4) "Application for voter registration" means a voter registration form prescribed by the secretary of state that is completed and signed by an elector, submitted to the election administrator, and contains voter registration information subject to verification as provided by law.

(5) "Ballot" means a paper ballot counted manually or a paper ballot counted by a machine, such as an optical scan system or other technology that automatically tabulates votes cast by processing the paper ballots.

(6) "Candidate" means:

(a) an individual who has filed a declaration or petition for nomination, acceptance of nomination, or appointment as a candidate for public office as required by law;

(b) for the purposes of chapter 35, 36, or 37, an individual who has solicited or received and retained contributions, made expenditures, or given consent to an individual, organization, political party, or committee to solicit or receive and retain contributions or make expenditures on the individual's behalf to secure nomination or election to any office at any time, whether or not the office for which the individual will seek nomination or election is known when the:

(i) solicitation is made;

(ii) contribution is received and retained; or

(iii) expenditure is made; or

(c) an officeholder who is the subject of a recall election.

(7) (a) "Contribution" means:

(i) an advance, gift, loan, conveyance, deposit, payment, or distribution of money or anything of value to influence an election;

(ii) a transfer of funds between political committees;

(iii) the payment by a person other than a candidate or political committee of compensation for the personal services of another person that are rendered to a candidate or political committee.

(b) "Contribution" does not mean:

(i) services provided without compensation by individuals volunteering a portion or all of their time on behalf of a candidate or political committee or meals and lodging provided by individuals in their private residences for a candidate or other individual;

(ii) the cost of any bona fide news story, commentary, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, or other periodical publication of general circulation;

(iii) the cost of any communication by any membership organization or corporation to its members or stockholders or employees; or

(iv) filing fees paid by the candidate.

(8) "Election" means a general, regular, special, or primary election held pursuant to the requirements of state law, regardless of the time or purpose.

(9) "Election administrator" means the county clerk and recorder or the individual designated by a county governing body to be responsible for all election administration duties, except that with regard to school elections not administered by the county, the term means the school district clerk.

(10) "Elector" means an individual qualified to vote under state law.

(11) (a) "Expenditure" means a purchase, payment, distribution, loan, advance, promise, pledge, or gift of money or anything of value made for the purpose of influencing the results of an election.

(b) "Expenditure" does not mean:

(i) services, food, or lodging provided in a manner that they are not contributions under subsection (7);

(ii) payments by a candidate for a filing fee or for personal travel expenses, food, clothing, lodging, or personal necessities for the candidate and the candidate's family;

(iii) the cost of any bona fide news story, commentary, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, or other periodical publication of general circulation; or

(iv) the cost of any communication by any membership organization or corporation to its members or stockholders or employees.

(12) "Federal election" means a general or primary election in which an elector may vote for individuals for the office of president of the United States or for the United States congress.

(13) "General election" or "regular election" means an election held for the election of public officers throughout the state at times specified by law, including elections for officers of political subdivisions when the time of the election is set on the same date for all similar political subdivisions in the state. For ballot issues required by Article III, section 6, or Article XIV, section 8, of the Montana constitution to be submitted by the legislature to the electors at a general election, "general election" means an election held at the time provided in 13-1-104(1). For ballot issues required by Article XIV, section 9, of the Montana constitution to be submitted as a constitutional initiative at a regular election, regular election means an election held at the time provided in 13-1-104(1).

(14) "Inactive elector" means an individual who failed to respond to confirmation notices and whose name was placed on the inactive list pursuant to 13-2-220 or 13-19-313.

(15) "Inactive list" means a list of inactive electors maintained pursuant to 13-2-220 or 13-19-313.

(16) "Individual" means a human being.

(17) (a) "Issue" or "ballot issue" means a proposal submitted to the people at an election for their approval or rejection, including but not limited to initiatives, referenda, proposed constitutional amendments, recall questions, school levy questions, bond issue questions, or a ballot question.

(b) For the purposes of chapters 35 and 37, an issue becomes a "ballot issue" upon certification by the proper official that the legal procedure necessary for its qualification and placement upon the ballot has been completed, except that a statewide issue becomes a "ballot issue" upon preparation and transmission by the secretary of state of the form of the petition or referral to the person who submitted the proposed issue.

(18) "Legally registered elector" means an individual whose application for voter registration was accepted, processed, and verified as provided by law.

(19) "Mail ballot election" means any election that is conducted under Title 13, chapter 19, by mailing ballots to all active electors.

(20) "Person" means an individual, corporation, association, firm, partnership, cooperative, committee, club, union, or other organization or group of individuals or a candidate as defined in subsection (6).

(21) "Place of deposit" means a location designated by the election administrator pursuant to 13-19-307 for a mail ballot election conducted under Title 13, chapter 19.

(22) "Political committee" means a combination of two or more individuals or a person other than an individual who makes a contribution or expenditure:

(a) to support or oppose a candidate or a committee organized to support or oppose a candidate or a petition for nomination; or

(b) to support or oppose a ballot issue or a committee organized to support or oppose a ballot issue; or

(c) as an earmarked contribution.

(23) "Political subdivision" means a county, consolidated municipal-county government, municipality, special district, or any other unit of government, except school districts, having authority to hold an election for officers or on a ballot issue.

(24) "Polling place election" means an election primarily conducted at polling places rather than by mail under the provisions of Title 13, chapter 19.

(25) "Primary" or "primary election" means an election held throughout the state to nominate candidates for public office at times specified by law, including nominations of candidates for offices of political subdivisions when the time for nominations is set on the same date for all similar subdivisions in the state.

(26) "Provisional ballot" means a ballot cast by an elector whose identity or eligibility to vote has not been verified as provided by law.

(27) "Provisionally registered elector" means an individual whose application for voter registration was accepted but whose identity or eligibility has not yet been verified as provided by law.

(28) "Public office" means a state, county, municipal, school, or other district office that is filled by the people at an election.

(29) "Random-sample audit" means an audit involving a manual count of ballots from designated races and ballot issues in precincts selected through a random process as provided in 13-17-503.

(30) "Registrar" means the county election administrator and any regularly appointed deputy or assistant election administrator.

(31) "*Signature envelope*" means an envelope that contains a secrecy envelope and ballot and that is designed to:

(a) allow election officials, upon examination of the outside of the envelope, to determine that the ballot is being submitted by someone who is in fact a qualified elector and who has not already voted; and

(b) allow it to be used in the United States mail.

~~(31)~~(32) "Special election" means an election other than a statutorily scheduled primary or general election held at any time for any purpose provided by law. It may be held in conjunction with a statutorily scheduled election.

~~(32)~~(33) "Statewide voter registration list" means the voter registration list established and maintained pursuant to 13-2-107 and 13-2-108.

~~(33)~~(34) "Transfer form" means a form prescribed by the secretary of state that may be filled out by an elector to transfer the elector's registration when the elector's residence address has changed within the county.

~~(34)~~(35) "Valid vote" means a vote that has been counted as valid or determined to be valid as provided in 13-15-206.

~~(35)~~(36) "Voted ballot" means a ballot that is:



- (a) deposited in the ballot box at a polling place;
- (b) received at the election administrator's office; or
- (c) returned to a place of deposit.

~~(36)~~(37) "Voting system" or "system" means any machine, device, technology, or equipment used to automatically record, tabulate, or process the vote of an elector cast on a paper ballot."

**Section 3.** Section 13-1-210, MCA, is amended to read:

**"13-1-210. Standard application form for voter registration and absentee ballot requests.** (1) The secretary of state shall establish by rule a standard application form, to be used by each election administrator, that allows an individual to apply for voter registration and to request to be added to the absentee ballot list in order to receive ballots for subsequent elections.

(2) Pursuant to 13-13-212~~(4)~~(3), the absentee ballot application portion of the standard form must include substantially the following language and options:

Optional: I request an absentee ballot to be mailed to me for as long as I reside at the address listed:

- for each subsequent election in which I am eligible to vote; ~~or~~
- ~~for each subsequent federal election in which I am eligible to vote.~~

I understand that in order to continue to receive an absentee ballot, I must complete, sign, and return a confirmation form that will be mailed to me in January of each year."

**Section 4.** Section 13-2-107, MCA, is amended to read:

**"13-2-107. Statewide voter registration database system — information-sharing agreements.** (1) The secretary of state shall establish, in a uniform and nondiscriminatory manner, a single official, centralized, and interactive computerized statewide voter registration ~~database system~~ that meets the requirements of 42 U.S.C. 15483.

(2) (a) The statewide voter registration ~~database system~~ must be used as the official list of registered electors for the conduct of all elections subject to this title.

(b) The ~~database system~~ must contain the name and registration information of each registered elector.

(c) Each election administrator must be provided with immediate electronic access to the ~~database system~~.

(d) The secretary of state shall provide the technical support required to assist election administrators to enter, maintain, and access information in the statewide voter registration ~~database system~~.

(3) As provided in 42 U.S.C. 15483:

(a) the secretary of state and the attorney general shall enter into an agreement to match information in the statewide voter registration list with information in the motor vehicle licensing database to the extent required to verify voter registration information; and

(b) the attorney general shall enter into an agreement with the United States commissioner of social security for the purpose of verifying voter registration information."

**Section 5.** Section 13-2-108, MCA, is amended to read:

**“13-2-108. Rulemaking for statewide voter registration list.** (1) The secretary of state shall adopt rules to implement the provisions of 42 U.S.C. 15483 and this chapter.

(2) The rules must include but are not limited to:

(a) a list of maintenance procedures, including new data entry, updates, registration transfers, and other procedures for keeping information current and accurate;

(b) proper maintenance and use of active and inactive lists;

(c) proper maintenance and use of lists for legally registered electors and provisionally registered electors;

(d) technical security of the statewide voter registration ~~database system~~;

(e) information security with respect to keeping from general public distribution driver's license numbers, whole or partial social security numbers, and address information protected from general disclosure pursuant to 13-2-115; and

(f) quality control measures for the system and system users.

(3) The rules adopted by the secretary of state must reflect that an elector who was properly registered prior to January 1, 2003, is considered a legally registered elector.”

**Section 6.** Section 13-2-112, MCA, is amended to read:

**“13-2-112. Register of electors to be kept.** Each election administrator shall keep an official register of electors in the statewide voter registration ~~database system~~. The original signed registration form for each elector must be scanned, and the scanned copy must be retained in the statewide voter registration ~~database system~~. The original paper copy must be kept according to the state records retention schedule for such records. The information recorded in the official register of electors and the design of the registration forms must be prescribed by the secretary of state in the statewide voter registration ~~database system~~.”

**Section 7.** Section 13-2-115, MCA, is amended to read:

**“13-2-115. Certification of statewide voter registration list — local lists to be prepared.** (1) No later than 5 working days after the deadline prescribed in 13-2-301(3), election administrators shall enter all voter registration applications that were submitted within the deadline for regular registration into the statewide voter registration ~~database system~~.

(2) The secretary of state shall certify the official statewide voter registration list by utilizing the information in the statewide voter registration ~~database system~~.

(3) Each election administrator shall have printed from the certified statewide voter registration ~~database system~~ lists of all registered electors in each precinct in the county. Except as provided in subsections (6) and (7), names of electors must be listed alphabetically, with their residence address or with a mailing address if located where street numbers are not used.

(4) A copy of the list of registered electors in a precinct must be displayed at the precinct's polling place. Extra copies of the lists must be retained by the election administrator and furnished to an elector upon request.

(5) Lists of registered electors need not be printed if the election will not be held.

(6) If a law enforcement officer or reserve officer, as defined in 7-32-201, requests in writing that, for security reasons, the officer's and the officer's spouse's residential address, if the same as the officer's, not be disclosed, the secretary of state or an election administrator may not include the address on any generally available list of registered electors but may list only the electors' names.

(7) (a) Upon the request of an individual, the secretary of state or an election administrator may not include the individual's residential address on any generally available list of registered electors but may list only the elector's name if the individual:

(i) proves to the election administrator, as provided in subsection (7)(b), that the individual, or a minor in the custody of the individual, has been the victim of partner or family member assault, stalking, custodial interference, or other offense involving bodily harm or threat of bodily harm to the individual or minor; or

(ii) proves to the election administrator, as provided in subsection (7)(c), that a temporary restraining order or injunction has been issued by a judge or magistrate to restrain another person's access to the individual or minor.

(b) Proof of the victimization is conclusive upon exhibition to the election administrator of a criminal judgment, information and judgment, or affidavit of a county attorney clearly indicating the conviction and the identity of the victim.

(c) Proof of the issuance of a temporary restraining order or injunction is conclusive upon exhibition to the election administrator of the temporary restraining order or injunction."

**Section 8.** Section 13-2-122, MCA, is amended to read:

**"13-2-122. Charges for registers, elector lists, and mailing labels made available to public.** (1) Except as provided in subsection (2), upon request, the secretary of state shall furnish to any individual, for noncommercial use, available extracts and reports from the statewide voter registration ~~database system~~. Upon request, a local election administrator shall furnish to an individual, for noncommercial use, a copy of the official precinct registers, a current list of legally registered electors, mailing labels for registered electors, or other available extracts and reports. Upon delivery, the secretary of state or the local election administrator may collect a charge not to exceed the actual cost of the register, list, mailing labels, or available extracts and reports.

(2) For an elector whose address information is protected from general distribution under 13-2-115 (6) or (7), the secretary of state or a local election administrator may not include the elector's residential address on any register, list, mailing labels, or available extracts and reports but may list only the elector's name."

**Section 9.** Section 13-2-207, MCA, is amended to read:

**"13-2-207. Confirmation of registration.** (1) The election administrator shall give or mail to each elector a notice, confirming registration and giving the location of the elector's polling place. A notice sent to an elector to whom the notice is not personally given must be sent by nonforwardable, first-class mail, which must conform to postal regulations to ensure address corrections are received. ~~If the notice is returned undeliverable the application for voter registration may not be placed on the register of electors kept by the election administrator.~~

(2) ~~The~~ *If the notice confirming registration is returned as undeliverable, the election administrator shall investigate the reason for the return of any mailed notices and mail a confirmation notice to the elector. The notice must conform to postal regulations to ensure return, not forwarding, of undelivered notices.*

**Section 10.** Section 13-2-220, MCA, is amended to read:

**“13-2-220. Maintenance of active and inactive voter registration lists for elections — rules by secretary of state.** (1) The rules adopted by the secretary of state under 13-2-108 must include the following procedures, at least one of which an election administrator shall follow in every odd-numbered year:

(a) compare the entire list of registered electors against the national change of address files and provide appropriate confirmation notice to those individuals whose addresses have apparently changed;

(b) mail a nonforwardable, first-class, “return if undeliverable—address correction requested” notice to all registered electors of each jurisdiction to confirm their addresses and provide the appropriate confirmation notice to those individuals who return the notices;

(c) mail a targeted mailing to electors who failed to vote in the preceding federal general election, applicants who failed to provide required information on registration cards, and provisionally registered electors by:

(i) sending the list of nonvoters a nonforwardable notice, followed by the appropriate forwardable confirmation notice to those electors who appear to have moved from their addresses of record;

(ii) comparing the list of nonvoters against the national change of address files, followed by the appropriate confirmation notices to those electors who appear to have moved from their addresses of record;

(iii) sending forwardable confirmation notices; or

(iv) making a door-to-door canvass.

(2) An individual who submits an application for an absentee ballot for a federal general election or who completes and returns the address confirmation notice specified in 13-13-212(4)(3) during the calendar year in which a federal general election is held is not subject to the procedure in subsection (1)(c) unless the individual’s ballot for a federal general election is returned as undeliverable and the election administrator is not able to contact the elector through the most expedient means available to resolve the issue.

(3) Any notices returned as undeliverable to the election administrator or any notices to which the elector fails to respond after the election administrator uses the procedures provided in subsection (1) must be followed within 30 days by an appropriate confirmation notice that is a forwardable, first-class, postage-paid, self-addressed, return notice. If the elector fails to respond within 30 days of the final confirmation notice, the election administrator shall move the elector to the inactive list.

(4) A procedure used by an election administrator pursuant to this section must be completed at least 90 days before a primary or general election for federal office.

(5) An elector’s registration may be reactivated pursuant to 13-2-222 or may be canceled pursuant to 13-2-402.”

**Section 11.** Section 13-2-301, MCA, is amended to read:

**“13-2-301. Close of regular registration — notice — changes.** (1) The election administrator shall:

(a) close regular registrations for 30 days before any election; and

(b) publish a notice specifying the day regular registrations will close and the availability of the late registration option provided for in 13-2-304 in a newspaper of general circulation in the county at least three times in the 4 weeks preceding the close of registration or broadcast a notice on radio or television as provided in 2-3-105 through 2-3-107, using the method the election administrator believes is best suited to reach the largest number of potential electors. The provisions of this subsection (1)(b) are fulfilled upon the third publication or broadcast of the notice.

(2) Information to be included in the notice must be prescribed by the secretary of state.

(3) An application for voter registration properly executed and postmarked on or before the day regular registration is closed must be accepted as a regular registration for 3 days after regular registration is closed under subsection (1)(a).

~~(4) An individual who submits a completed registration form to the election administrator before the deadlines provided in this section is allowed to correct a mistake on the completed registration form until 5 p.m. on the 10th day following the close of regular registration, and the qualified elector is then eligible to vote in the election.~~

~~(5)(4)~~ (4) An elector who misses the deadlines provided for in this section may register to vote or change the elector's voter information and vote in the election, except as otherwise provided in 13-2-304."

**Section 12.** Section 13-2-304, MCA, is amended to read:

**"13-2-304. Late registration — late changes — nonapplicability for school elections.** (1) Except as provided in subsections (2) and (3), the following provisions apply:

(a) An elector may register or change the elector's voter registration information after the close of regular registration in 13-2-301 and vote in the election if the election administrator in the county where the elector resides receives and verifies the elector's voter registration information prior to the close of the polls on election day.

(b) Late registration is closed from noon to 5 p.m. on the day before the election.

(c) Except as provided in 13-2-514(2)(a), an elector who registers or changes the elector's voter information pursuant to this section may vote in the election only if the elector obtains the ballot from and returns it to the location designated by the county election administrator.

(2) If an elector has already been issued a ballot for the election, the elector may change the elector's voter registration information only if the original voted ballot has not been received at the county election office and if the original ballot that was issued is marked by the issuing county as void in the statewide voter registration *database system* prior to the change.

(3) The provisions of subsection (1) do not apply with respect to an elector's registration to vote in a school election held pursuant to Title 20 *unless the county election administrator is conducting the school election and an election other than a school election on the same day.*"

**Section 13.** Section 13-10-201, MCA, is amended to read:

**"13-10-201. Declaration for nomination — term limitations.** (1) Each candidate in the primary election, except nonpartisan candidates filing under the provisions of Title 13, chapter 14, shall file a declaration for nomination with the secretary of state or election administrator. Except for a candidate who files

under 13-38-201, a candidate may not file for more than one public office. Each candidate for governor shall file a joint declaration for nomination with a candidate for lieutenant governor.

(2) A declaration for nomination must be filed in the office of:

(a) the secretary of state for placement of a name on the ballot for the presidential preference primary, a congressional office, a state or district office to be voted for in more than one county, a member of the legislature, or a judge of the district court;

(b) the election administrator for a county, municipal, precinct, or district office (other than a member of the legislature or judge of the district court) to be voted for in only one county.

(3) Each candidate shall sign the declaration and send with it the required filing fee or, in the case of an indigent candidate, send with it the documents required by 13-10-203. Unless filed electronically with the secretary of state, the declaration for nomination must be acknowledged by an officer empowered to acknowledge signatures or by the officer of the office at which the filing is made.

(4) *The declaration for nomination must include an oath of the candidate that includes wording substantially as follows: "I hereby affirm that I possess, or will possess within constitutional and statutory deadlines, the qualifications prescribed by the Montana constitution and the laws of the United States and the state of Montana." The candidate affirmation included in this oath is presumed to be valid unless proven otherwise in a court of law.*

(4)(5) The declaration, when filed, is conclusive evidence that the elector is a candidate for nomination by the elector's party. For a partisan election, an elector may not file a declaration for more than one party's nomination.

(5)(6) (a) The declaration for nomination must be in the form and contain the information prescribed by the secretary of state.

(b) A person seeking nomination to the legislature shall provide the secretary of state with a street address, legal description, or road designation to indicate the person's place of residence. If a candidate for the legislature changes residence, the candidate shall, within 15 days after the change, notify the secretary of state on a form prescribed by the secretary of state.

(c) The secretary of state and election administrator shall furnish declaration for nomination forms to individuals requesting them.

(6)(7) (a) Except as provided in 13-10-211 and subsection (6)(b) (7)(b) of this section, a candidate's declaration for nomination must be filed no sooner than 135 days before the election in which the office first appears on the ballot and no later than 5 p.m., 75 days before the date of the primary election.

(b) For an election held pursuant to 13-1-104(1)(a) or 13-1-107(1) or for a political subdivision that holds an election on the date of either of those elections, a candidate's declaration for nomination must be filed no sooner than 145 days before the election in which the office first appears on the ballot and no later than 5 p.m., 85 days before the date of the primary election.

(7)(8) *A properly completed and signed declaration for nomination form may be sent by facsimile transmission if a facsimile facility is available for use by the election administrator or by the secretary of state, electronically mailed, delivered in person, or mailed to the election administrator or to the secretary of state.*

(8)(9) For the purposes of implementing Article IV, section 8, of the Montana constitution, the secretary of state shall apply the following conditions:



(a) A term of office for an official serving in the office or a candidate seeking the office is considered to begin on January 1 of the term for which the official is elected or for which the candidate seeks election and end on December 31 of the term for which the official is elected or for which the candidate seeks election.

(b) A year is considered to start on January 1 and end on the following December 31.

(c) "Current term", as used in Article IV, section 8, of the Montana constitution, has the meaning provided in 2-16-214."

**Section 14.** Section 13-10-203, MCA, is amended to read:

**"13-10-203. Indigent candidates.** If an individual is unable to pay a filing fee, the filing officer shall accept the following documents in lieu of a filing fee:

(1) from a successful write-in candidate, a statement that the candidate is unable to pay the filing fee;

(2) from a candidate for nomination, a statement that the candidate is unable to pay the filing fee and a written petition for nomination as a candidate that meets the following requirements:

(a) the petition contains the name of the office to be filled and the candidate's name and residence address;

(b) the petition contains signatures numbering 5% or more of the total vote cast for the successful candidate for the same office at the last general election;

(c) the signatures are those of electors residing within the political subdivision of the state in which the candidate petitions for nomination; and

(d) the signatures have been submitted to the appropriate election administrator at least 1 week prior to the applicable deadline in 13-10-201(6)(7) and have been certified by the appropriate election administrator by the procedure provided in 13-27-303 and 13-27-304."

**Section 15.** Section 13-10-209, MCA, is amended to read:

**"13-10-209. Arrangement and preparing of primary ballots.** (1) (a) Ballots for a primary election must be arranged and prepared in the same manner and number as provided in chapter 12 for general election ballots, except that there must be separate ballots for each political party entitled to participate. The name of the political party must appear at the top of the separate ballot for that party and need not appear ~~opposite~~ *with* each candidate's name.

(b) Nonpartisan offices and ballot issues may be prepared on separate ballots or may appear on the same ballot as partisan offices if:

(i) each section is clearly identified as separate; *and*

(ii) the nonpartisan offices and ballot issues appear on each party's ballot; *and*

~~(iii) with respect to ballot issues, written approval is obtained as provided in 13-27-502.~~

(2) ~~An~~ *Except as provided in subsection (3), an* election administrator does not need to prepare a primary ballot for a political party if:

(a) the party does not have candidates for more than half of the offices to appear on the ballot; ~~or~~ *and*

(b) no more than one candidate files for nomination by that party for any of the offices to appear on the ballot.

(3) *Subsection (2) does not apply to elections for precinct committee offices. If more than one candidate files for a precinct committee office from a party that*

*will not have a primary ballot prepared, that party shall select the candidate to fill the office.*

~~(3)~~(4) If, pursuant to subsection (2), in a primary election held under 13-1-107(1) a primary ballot for a political party is not prepared, the secretary of state shall certify that a primary election is unnecessary for that party and shall instruct the election administrator to certify the names of the candidates for that party for the general election ballot only.

~~(4)~~(5) The separate ballots for each party must have the same appearance. Each set of party ballots must bear the same number. If prepared as a separate ballot, the nonpartisan ballot may have a different appearance than the party ballots but must be numbered in the same order as the party ballots.

~~(5)~~(6) If a ballot issue is to be voted on at a primary election, it may be placed on the nonpartisan ballot or a separate ballot. A separate ballot may have a different appearance than the other ballots in the election but must be numbered in the same order.

~~(6)~~(7) Each elector must receive a set of ballots that includes the party, nonpartisan, and ballot issue choices.”

**Section 16.** Section 13-10-211, MCA, is amended to read:

**“13-10-211. Declaration of intent for write-in candidates.** (1) Except as provided in subsection (8), a person seeking to become a write-in candidate for an office in any election shall file a declaration of intent. Except for a candidate who files under 13-38-201, a candidate may not file for more than one public office. The declaration of intent must be filed with the secretary of state or election administrator, depending on where a declaration of nomination for the desired office is required to be filed under 13-10-201, or with the school district clerk for a school district office. When a county election administrator is conducting the election for a school district, the school district clerk or school district office that receives the declaration of intent shall notify the county election administrator of the filing. Except as provided in subsections (2) and (3), the declaration must be filed no later than 5 p.m. on the 10th day before the date established under 13-13-205 on which a ballot must be available for absentee voting for the election and must contain:

- (a) (i) the candidate’s first and last names;
- (ii) the candidate’s initials, if any, used instead of a first name, or first and middle name, and the candidate’s last name;
- (iii) the candidate’s nickname, if any, used instead of a first name, and the candidate’s last name; and
- (iv) a derivative or diminutive name, if any, used instead of a first name, and the candidate’s last name;
- (b) the candidate’s mailing address;
- (c) a statement declaring the candidate’s intention to be a write-in candidate;
- (d) the title of the office sought;
- (e) the date of the election;
- (f) the date of the declaration; and
- (g) the candidate’s signature.

(2) A declaration of intent may be filed after the deadline provided for in subsection (1) but no later than 5 p.m. on the day before the election if, after the deadline prescribed in subsection (1), a candidate for the office that the write-in

candidate is seeking dies or is charged with a felony offense *and if the election has not been canceled as provided by law.*

(3) A person seeking to become a write-in candidate in a mail ballot election or for a trustee position in a school board election shall file a declaration of intent no later than 5 p.m. on the 26th day before the election.

(4) The secretary of state shall notify each election administrator of the names of write-in candidates who have filed a declaration of intent with the secretary of state. Each election administrator and school district clerk shall notify the election judges in the county or district of the names of write-in candidates who have filed a declaration of intent.

(5) A *properly completed and signed* declaration of intent may be provided to the election administrator or secretary of state:

- (a) by facsimile transmission ~~if a facsimile facility is available for receipt;~~
- (b) in person; ~~or~~
- (c) by mail; *or*
- (d) *by electronic mail.*

(6) A declaration is not valid until the filing fee required pursuant to 13-10-202 is received by the secretary of state or the election administrator.

(7) A write-in candidate who files a declaration of intent for a general election may not file with a partisan, nonpartisan, or independent designation.

(8) Except as provided in 13-38-201(5), the requirements in subsection (1) do not apply if:

- (a) an election is held;
- (b) a person's name is written in on the ballot;
- (c) the person is qualified for and seeks election to the office for which the person's name was written in; and
- (d) no other candidate has filed a declaration or petition for nomination or a declaration of intent."

**Section 17.** Section 13-10-302, MCA, is amended to read:

**"13-10-302. Write-in votes for previously nominated candidates.** (1) Subject to subsection (2), if an elector casts a write-in vote for a candidate on a primary party ballot when the candidate's name also appears *or is written in* for the same office on another party's ballot, the write-in vote counts only with respect to the party on whose ballot the write-in vote was cast and the write-in votes, *if on multiple parties' ballots*, and the votes cast for the candidate on the other party's ballots may not be added together.

(2) A write-in vote must be counted as provided in 13-15-206(5)."

**Section 18.** Section 13-10-404, MCA, is amended to read:

**"13-10-404. Placement of candidate on primary ballot — methods of qualification.** Before an individual intending to qualify as a presidential candidate may qualify for placement on the ballot, the individual shall qualify by one or more of the following methods:

(1) The individual has submitted a declaration for nomination *that is signed by the candidate or an authorized election official* to the secretary of state pursuant to 13-10-201(2) and has been nominated on petitions with the verified signatures of at least 500 qualified electors. The secretary of state shall prescribe the form and content of the petition.

(2) The individual has submitted a declaration for nomination to the secretary of state pursuant to 13-10-201, and the secretary of state has

determined, by the time that declarations for nomination are to be filed, that the individual is eligible to receive payments pursuant to the federal Presidential Primary Matching Payment Account Act, 26 U.S.C. 9031, et seq.”

**Section 19.** Section 13-10-405, MCA, is amended to read:

**“13-10-405. Submission and verification of petition.** Petitions of nomination for the presidential preference primary election and the affidavits of circulation required by 13-27-302 must be presented to the election administrator of the county in which the signatures are gathered at least 1 week before the primary election filing deadline prescribed in 13-10-201(6)(b)(7)(b). A filing fee is not required. The election administrator shall verify the signatures in the manner prescribed in 13-27-303 through 13-27-308 and must forward the petitions to the secretary of state by the filing deadline prescribed in 13-10-201(6)(b)(7)(b).”

**Section 20.** Section 13-10-503, MCA, is amended to read:

**“13-10-503. Filing deadlines.** (1) A petition for nomination, ~~and the~~ affidavits of circulation required by 13-27-302, ~~accompanied by~~ *and* the required filing fee, must be filed with the same officer with whom other nominations for the office sought are filed. Petitions must be submitted, at least 1 week before the deadline for filing, to the election administrator in the county where the signer resides for verification and certification by the procedures provided in 13-27-303 through 13-27-306. ~~If there are insufficient signatures on the petition, additional signatures may be submitted before the deadline for filing.~~ If sufficient signatures are verified and certified pursuant to 13-10-502, the county election administrator shall file the petition for nomination with the same officer with whom other nominations for the office sought are filed.

(2) Except as provided in 13-10-504, each petition for nomination, ~~accompanied by~~ *and* the required filing fee, must be filed ~~by the applicable deadline established in 13-10-201(6)(a) or (6)(b) before the scheduled primary election or the filing deadline for the special or general election if a primary election is not scheduled.~~

**Section 21.** Section 13-10-507, MCA, is amended to read:

**“13-10-507. Independent candidates — association with political parties not allowed.** (1) A person seeking office as an independent candidate may not be associated with a political party for 1 year prior to the submission of the person’s nomination petition.

(2) For the purposes of subsection (1), “associated with a political party” means having run for office *in Montana* as a partisan candidate or having held ~~an~~ *a public office in Montana or a precinct committee representative office in Montana* with a political party designation.”

**Section 22.** Section 13-13-112, MCA, is amended to read:

**“13-13-112. Display of instructions for electors.** (1) Except as provided in subsection (3), instructions for electors on how to prepare their ballots or use a voting system must be posted in each voting station provided for the preparation of ballots ~~and elsewhere in the polling place.~~

(2) The instructions must be in easily read type, 18 point or larger, and explain:

- (a) how to obtain ballots for voting;
- (b) how to prepare ballots, including how to:
  - (i) cast a valid vote, including a valid vote for a write-in candidate;
  - (ii) correct a mistake; and

(iii) ensure the proper disposition of the ballot after the elector is finished voting;

(c) how to obtain a new ballot in place of one spoiled by accident; *and*

(d) how to vote provisionally pursuant to 13-13-601;

(3) *The information required in subsection (2) must also be posted at each polling place along with*

~~(e)~~ the election date, ~~and~~ the hours the polls are open; and

~~(f)~~ instructions for *mail-in registrants and* first-time voters ~~who registered by mail.~~

~~(3)~~(4) If the instructions for use of a voting system are printed on the system or are part of a ballot package given to each elector, separate instructions need not be posted in the voting station.

~~(4)~~(5) Sample ballots, clearly marked “sample” across the face, must be posted at each voting station and in conspicuous places around the polling place.”

**Section 23.** Section 13-13-118, MCA, is amended to read:

**“13-13-118. Taking ballot to disabled elector.** (1) The chief election judge may appoint two election judges who represent different political parties to take a ballot to an elector able to come to the premises where a polling place is located but unable to enter the polling place because of a disability. If election judges who represent different political parties are not available, the chief election judge shall appoint two election judges to assist the elector. The elector may request assistance in marking the ballot as provided in 13-13-119.

(2) The judges shall have the elector sign an oath form stating that the elector is entitled to vote and shall write in the precinct register by the elector’s name “voted on the premises by oath” and sign their names.

(3) When the ballot or ballots are marked and folded, the judges shall immediately take them into the polling place and give them to the judge at the ballot box. ~~The judge receiving the voted ballots shall distinctly announce that the judge has “a ballot offered by ..... (name), an elector physically unable to enter the room. Does anyone object to the reception of the ballot?” If an objection is not heard, the judge shall remove the stub and place the ballot and stub in the proper boxes.~~ Any challenge to the elector’s right to vote must be resolved as provided in Title 13, chapter 13, part 3.”

**Section 24.** Section 13-13-201, MCA, is amended to read:

**“13-13-201. Voting by absentee ballot — procedures.** (1) A legally registered elector or provisionally registered elector is entitled to vote by absentee ballot as provided for in this part.

(2) The elector may vote absentee by:

(a) marking the ballot in the manner specified;

(b) placing the marked ballot in the secrecy envelope, free of any identifying marks;

(c) placing the secrecy envelope containing one ballot for each election being held in the ~~return~~ *signature* envelope;

(d) executing the affirmation printed on the ~~return~~ *signature* envelope; and

(e) returning the ~~return~~ *signature* envelope with all appropriate enclosures by regular mail, postage paid, or by delivering it to:

(i) the election office;

(ii) a polling place within the elector’s county;

(iii) pursuant to 13-13-229, the ~~special~~ absentee election board *or an authorized election official*; or

(iv) in a mail ballot election held pursuant to Title 13, chapter 19, a designated place of deposit within the elector's county.

(3) Except as provided in 13-21-206 and 13-21-207, in order for the ballot to be counted, each elector shall return it in a manner that ensures the ballot is received prior to 8 p.m. on election day.

(4) A provisionally registered elector may also enclose in the outer ~~return~~ *signature* envelope a copy of the elector's photo identification showing the elector's name. The photo identification may be but is not limited to a valid driver's license, a school district or postsecondary education photo identification, or a tribal photo identification. If the provisionally registered elector does not enclose a photo identification, the elector may enclose a copy of a current utility bill, bank statement, paycheck, notice of confirmation of voter registration issued pursuant to 13-2-207, government check, or other government document that shows the elector's name and current address."

**Section 25.** Section 13-13-204, MCA, is amended to read:

**"13-13-204. Authority to vote in person — printing error or ballot destroyed — replacement ballot — effect of absentee elector's death.**

(1) (a) If an elector has received but not voted an absentee ballot and the absentee ballot contains printing errors or omissions, the elector may receive a replacement or corrected ballot.

(b) The death of a candidate after the printing of the ballot constitutes a printing error or omission on the ballot.

(2) ~~(a)~~ An elector may:

(a) request a replacement ballot from the election administrator pursuant to subsection (1) or if the original ballot is destroyed, spoiled, lost, or not received by the elector; *or*

~~(b) An elector whose original ballot is destroyed, spoiled, lost, or not received by the elector may appear at the appropriate polling place on election day and vote in person after being issued a provisional ballot.~~

(3) A request for a replacement ballot *submitted to the election administrator* must be made on a form prescribed by the secretary of state and ~~submitted to the election administrator~~ *must be made* in person, by regular or electronic mail, or by facsimile no later than 8 p.m. on election day.

(4) Upon receiving a request for a replacement ballot pursuant to subsection (3), the election administrator shall mark the original issued ballot as void in the statewide voter registration ~~database~~ *system* and issue a replacement regular ballot to the elector.

(5) A replacement ballot may also be issued pursuant to 13-13-245.

(6) If an elector votes by absentee ballot and the ballot has been mailed *to or otherwise returned to received by* the election administrator but the elector dies between the time of balloting and election day, the deceased elector's ballot must be counted."

**Section 26.** Section 13-13-211, MCA, is amended to read:

**"13-13-211. Time period for application.** (1) Except as provided in 13-13-222, 13-21-210, and subsection (2) of this section, an application for an absentee ballot must be made before noon on the day before the election.

(2) A qualified elector who is prevented from voting at the polls as a result of illness or health emergency occurring between 5 p.m. of the Friday preceding



the election ~~and noon~~ *and before the close of polls* on election day may request to vote by absentee ballot as provided in 13-13-212(2).

*(3) An absentee ballot cast pursuant to subsection (2) must be received prior to 8 p.m. on election day pursuant to 13-13-201."*

**Section 27.** Section 13-13-212, MCA, is amended to read:

**"13-13-212. Application for absentee ballot — special provisions — annual absentee ballot list.** (1) (a) Except as provided in subsection (1)(b), an elector may apply for an absentee ballot by using a standard application form provided by rule by the secretary of state pursuant to 13-1-210 or by making a written request, which must include the applicant's birth date and must be signed by the applicant. The request must be submitted to the election administrator of the applicant's county of residence within the time period specified in 13-13-211.

(b) A person who holds a power of attorney from an absent uniformed services elector may apply for an absentee ballot for that election on behalf of the uniformed services elector. The applicant shall provide a copy of the power of attorney authorizing the request for an absentee ballot along with the application.

(2) (a) If an elector requests an absentee ballot because of a sudden illness or health emergency, the application for an absentee ballot may be made by written request signed by the elector at the time that the ballot is delivered in person by the ~~special~~ absentee election board *or by an authorized election official* as provided for in 13-13-225.

(b) The elector may request by telephone, facsimile transmission, or other means to have a ballot and application personally delivered by the ~~special~~ absentee election board *or by an authorized election official* at the elector's place of confinement, hospitalization, or residence within the county.

(c) A request under ~~this~~ subsection (2)(a) must be received by the election administrator ~~within the time period specified in 13-13-211(2)~~ *within the time period specified in 13-13-211(2)*.

~~(3) An elector who has made a request for an absentee ballot by one of the methods provided in this section may, in the event of the death of a candidate after the primary election but before the general election, make a request for a replacement ballot. The request for a replacement ballot may be made orally to the election administrator.~~

~~(4)~~(3) (a) An elector may at any time request to be mailed an absentee ballot for each subsequent election in which the elector is eligible to vote ~~or only for each subsequent federal election in which the elector is eligible to vote for~~ as long as the elector remains qualified to vote and resides at the address provided in the initial application. The request may be made when the individual applies for voter registration using the standard application form provided for in 13-1-210.

(b) The election administrator shall annually mail a forwardable address confirmation form to each elector who has requested an absentee ballot for subsequent elections. *The address confirmation form must request the elector's driver's license number or the last four digits of the elector's social security number.* The address confirmation form must be mailed in January. The address confirmation form is for elections to be held between February 1 following the mailing through January of the succeeding year. The elector shall sign the form, indicate the address to which the absentee ballot should be sent, *provide the elector's driver's license number or the last four digits of the elector's social security number,* and return the form to the election administrator. If the

form is not completed and returned, the election administrator shall remove the elector from the annual absentee ballot list.

(c) An elector who has been removed from the annual absentee ballot list may subsequently request to be mailed an absentee ballot for each subsequent election.

~~(5)~~(4) In a mail ballot election, ballots must be sent under mail ballot procedures rather than under the absentee ballot procedures set forth in subsection (4) (3).”

**Section 28.** Section 13-13-213, MCA, is amended to read:

**“13-13-213. Transmission of application to election administrator — delivery of ballot.** (1) All absentee ballot application forms must be addressed to the appropriate *county election official office*.

(2) Except as provided in subsection (4), the elector may mail the *signed* application directly to the election administrator or deliver the application in person to the election administrator. An agent designated pursuant to 13-1-116 or a third party may collect the elector’s application and forward it to the election administrator.

(3) (a) The election administrator shall compare the signature on the application with the applicant’s signature on the registration card or the agent’s signature on the agent designation form. If convinced that the individual making the application is the same as the one whose name appears on the registration card or the agent designation form, the election administrator shall deliver the ballot to the elector in person or as otherwise provided in 13-13-214, subject to 13-13-205.

(b) If no signature is provided or the election administrator is not convinced that the individual signing the application is the same person whose name appears on the registration card or agent designation form, the election administrator shall notify the elector as provided in 13-13-245.

(4) In lieu of the requirement provided in subsection (2), an elector who requests an absentee ballot pursuant to 13-13-212(2) may return the application to the ~~special~~ absentee election board *or an authorized election official*. Upon receipt of the application, the ~~special~~ absentee election board *or authorized election official* shall examine the signatures on the application and a copy of the voting registration card or agent designation form to be provided by the election administrator. If the ~~special~~ absentee election board *believes or an authorized election official believes* that the applicant is the same person as the one whose name appears on the registration card or agent designation form, the ~~special~~ absentee election board *or authorized election official* shall provide a ballot to the elector when the ballot is available pursuant to 13-13-205.”

**Section 29.** Section 13-13-214, MCA, is amended to read:

**“13-13-214. Mailing absentee ballot to elector — delivery to person other than elector.** (1) (a) Except as provided in 13-13-213 and in subsection (1)(c) of this section, the election administrator shall mail, postage prepaid, to each legally registered elector and provisionally registered elector from whom the election administrator has received a valid absentee ballot application under 13-13-211 and 13-13-212 whatever official ballots are necessary *in a manner that conforms to postal regulations to require the return rather than forwarding of ballots*.

(b) The election administrator shall mail the ballots in a manner that conforms to the deadlines established for ballot availability in 13-13-205.

(c) The election administrator may deliver a ballot in person to an individual other than the elector if:

(i) the elector has designated the individual, either by a signed letter or by making the designation on the application form in a manner prescribed by the secretary of state or pursuant to 13-1-116;

(ii) the individual taking delivery of the ballot on behalf of the elector verifies, by signature, receipt of the ballot;

(iii) the election administrator believes that the individual receiving the ballot is the designated person; and

(iv) the designated person has not previously picked up ballots for four other electors.

(2) The election administrator shall enclose with the ballots:

(a) a secrecy envelope, free of any marks that would identify the voter; and

(b) ~~an~~ a *signature* envelope for the return of the ballots. The *signature* envelope must be self-addressed by the election administrator and an affirmation in the form prescribed by the secretary of state must be printed on the back of the *signature* envelope.

(3) The election administrator shall ensure that the ballots provided to an absentee elector are marked as provided in 13-13-116 and shall remove the stubs from the ballots, keeping the stubs in numerical order with the application for absentee ballots, if applicable, or in a precinct envelope or container for that purpose.

(4) If the ballots sent to the elector are for a primary election, the election administrator shall enclose an extra envelope marked "For Unvoted Party Ballot(s)". This envelope may not be numbered or marked in any way so that it can be identified as being used by any one elector.

(5) Instructions for voting must be enclosed with the ballots. Instructions for primary elections must include use of the envelope for unvoted ballots. The instructions must include information concerning the type or types of writing instruments that may be used to mark the absentee ballot. The instructions must include information regarding use of the secrecy envelope and use of the ~~return~~ *signature* envelope. The election administrator shall include a voter information pamphlet with the instructions if:

(a) a statewide ballot issue appears on the ballot mailed to the elector; and

(b) the elector requests a voter information pamphlet."

**Section 30.** Section 13-13-225, MCA, is amended to read:

**"13-13-225. ~~Special absentee~~ Absentee election boards — members — appointment.** (1) The election administrator ~~shall~~ *may* designate and appoint ~~a number of special~~ absentee election boards as needed *or authorize one or more election officials* to serve in various places to deliver ballots to electors who are entitled to vote by absentee ballot as provided in 13-13-229.

(2) In a partisan election, each ~~special~~ absentee election board *or the authorized election officials who are appointed* must consist of two members, one from each of the two political parties receiving the highest number of votes in the state during the last preceding general election, if possible. Board members *and authorized election officials* shall reside in the county in which they serve.

(3) A member of a ~~special~~ *an* absentee election board *or an authorized election official* may not be a candidate or a spouse, ascendant, descendant,

brother, or sister of a candidate or of a candidate's spouse or the spouse of any one of these if the candidate's name appears on a ballot in the county."

**Section 31.** Section 13-13-226, MCA, is amended to read:

**"13-13-226. Manner of selection.** The election administrator ~~shall~~ *may* make appointments to the ~~special an~~ absentee election board from lists of qualified electors prepared in substantially the same manner as provided in 13-4-102. If the list is insufficient to make all the appointments required, the election administrator may appoint any qualified registered elector from the county. The election administrator may refuse for cause to appoint or may for cause remove a member of a ~~special an~~ absentee election board."

**Section 32.** Section 13-13-227, MCA, is amended to read:

**"13-13-227. Oath of board members.** Before assuming any of the responsibilities under this part, each member of a ~~special an~~ absentee election board shall take and subscribe the official oath in the same manner as prescribed for an election judge in 13-4-105."

**Section 33.** Section 13-13-228, MCA, is amended to read:

**"13-13-228. Compensation.** (1) Each member of a ~~special an~~ absentee election board is entitled to compensation for the number of hours worked.

(2) Each member of a ~~special an~~ absentee election board is entitled to full reimbursement for actual travel expenses incurred while delivering ballots on election day.

(3) The election administrator shall pay each member the same compensation and certify amounts due in the same manner as for an election judge as provided for in 13-4-106(1)."

**Section 34.** Section 13-13-229, MCA, is amended to read:

**"13-13-229. Voting performed before special absentee election board or authorized election official.** (1) Pursuant to 13-13-212(2), the elector may request that a ~~special an~~ absentee election board or an *authorized election official* personally deliver a ballot to the elector.

(2) The manner and procedure of voting by use of an absentee ballot under this section must be the same as provided in 13-13-201, except that the elector shall hand the marked ballot in the sealed ~~return signature~~ envelope to the ~~special~~ absentee election board or *authorized election official*, and the board or *official* shall deliver the sealed ~~return signature~~ envelope to the election administrator or to the election judges of the precinct in which the elector is registered.

(3) An absentee ballot cast by a qualified elector pursuant to this section may not be rejected by the election administrator if the ballot was in the possession of the board or an *authorized election official* before the time designated for the closing of the polls.

(4) An elector who needs assistance in marking the elector's ballot because of physical incapacity or inability to read or write may receive assistance from the ~~special~~ absentee election board or *authorized election official* appointed to personally deliver the ballot. Any assistance given an elector pursuant to this section must be provided in substantially the same manner as required in 13-13-119."

**Section 35.** Section 13-13-230, MCA, is amended to read:

**"13-13-230. Authorization to increase county mill levy.** Subject to 15-10-420, a county may levy an amount necessary to finance the additional cost of administering a ~~special an~~ absentee election board program pursuant to

13-13-225 through 13-13-229. The mill levy may not be included as part of any existing mill levy or special mill levy assessed by the county. The amount of any mill levy adopted under this section must be reasonably related to the actual cost of providing services as required by 13-13-225 through 13-13-229.”

**Section 36.** Section 13-13-241, MCA, is amended to read:

**“13-13-241. Examination of absentee ballot ~~return~~ signature envelopes — deposit of absentee and unvoted ballots — rulemaking.**

(1) (a) Upon receipt of each absentee ballot signature envelope, an election administrator shall compare the signature of the elector or elector’s agent on the absentee ballot request or on the elector’s voter registration card with the signature on the ~~return~~ signature envelope.

(b) If the elector is legally registered and the signature on the ~~return~~ signature envelope matches the signature on the absentee ballot application or on the elector’s voter registration card, the election administrator or an election judge shall handle the ballot as a regular ballot.

(c) (i) If the elector is provisionally registered and the signature on the ~~return~~ signature envelope matches the signature on the absentee ballot application or on the elector’s voter registration card, the election administrator or an election judge shall open the outer ~~return~~ signature envelope and determine whether the elector’s voter identification and eligibility information, if enclosed pursuant to 13-13-201, is sufficient pursuant to rules adopted under 13-2-109 to legally register the elector.

(ii) If the voter identification and eligibility information is sufficient to legally register the elector, the ballot must be handled as a regular ballot.

(iii) If voter identification or eligibility information was not enclosed or the information enclosed is insufficient to legally register the elector, the ballot must be handled as a provisional ballot under 13-15-107.

(2) If a voted absentee ballot has not been placed in a secrecy envelope, the election administrator shall place the ballot in a secrecy envelope without examining the ballot.

(3) In a primary election, unvoted party ballots must be separated from the secrecy envelopes and handled without being removed from their enclosure envelopes. If an unvoted party ballot is not received, the election administrator shall process the voted party ballot as if the unvoted party ballot had been received.

(4) If an elector’s ballot is to be handled as a provisional ballot, the election administrator shall notify the absentee elector as provided in 13-13-245.

(5) If the signature on the absentee ballot ~~return~~ signature envelope does not match the signature on the absentee ballot request form or on the elector’s voter registration card or if there is no signature on the absentee ballot ~~return~~ signature envelope, the election administrator shall notify the elector as provided in 13-13-245.

(6) If at any point there is a question concerning the validity of a particular ballot, the question must be resolved as provided in 13-13-245.

(7) After receiving an absentee ballot secrecy envelope and if the validity of the ballot is confirmed pursuant to 13-13-245, then no sooner than 1 business day before election day, the election official may, in the presence of a poll watcher, open the secrecy envelope and place the ballot in the proper, secured ballot box until tabulation occurs on election day.

(8) The election administrator shall safely and securely keep the absentee ballots in the election administrator's office until delivered by the election administrator to the election judges.

(9) The secretary of state shall develop administrative rules to establish the process and procedures to be used during the early preparation of ballots to ensure the security of the ballots and the secrecy of the votes during the early preparation period. The rules must include but are not limited to:

- (a) the allowable distance from the observers to the judges and ballots;
- (b) the security in the observation area;
- (c) secrecy of votes during the preparation of the ballots; and
- (d) security of the secured ballot boxes in storage until tabulation procedures begin on election day."

**Section 37.** Section 13-13-244, MCA, is amended to read:

**"13-13-244. Opening of return signature envelopes after deposit.** If a return signature envelope containing an absentee ballot has been deposited unopened in the ballot box and the envelope has not been marked rejected, the return signature envelope must be processed as provided in 13-13-241."

**Section 38.** Section 13-13-245, MCA, is amended to read:

**"13-13-245. Notice to elector — opportunity to resolve questions.** (1) As soon as possible after receipt of an elector's absentee ballot application or return signature envelope, the election administrator shall give notice to the elector by the most expedient method available if the election administrator has not received or is unable to verify the elector's or agent's signature under 13-13-213 or 13-13-241. *determines that:*

- (a) *the elector's ballot is to be handled as a provisional ballot;*
- (b) *the validity of the ballot is in question; or*
- (c) *the election administrator has not received or is unable to verify the elector's or agent's signature under 13-13-213 or 13-13-241.*

(2) The election administrator shall inform the elector that, prior to 8 p.m. on election day, the elector may:

(a) by mail, facsimile, electronic means, or in person, *resolve the issue that resulted in the ballot being handled as a provisional ballot, confirm the validity of the ballot, or verify the elector's or agent's signature or provide a signature, after proof of identification, by affirming that the signature is in fact the elector's, by completing a new registration card containing the elector's current signature, or by providing a new agent designation form; or*

(b) if necessary, request and receive a replacement ballot pursuant to 13-13-204.

(3) The ballot of an elector who fails to provide information pursuant to subsection (2) must be handled as a provisional ballot pursuant to 13-15-107.

(4) (a) If a ballot is returned as undeliverable, the election administrator shall investigate the reason for the return.

(b) An elector must be provided with:

(i) the elector's undeliverable ballot upon notification by the elector of the elector's correct mailing address; or

(ii) a replacement ballot if a request has been made pursuant to 13-13-204."

**Section 39.** Section 13-13-301, MCA, is amended to read:

**"13-13-301. Challenges.** (1) An elector's right to vote may be challenged at any time by any registered elector by the challenger filling out and signing an



affidavit stating the grounds of the challenge and providing any evidence supporting the challenge to the election administrator or, on election day, to an election judge.

(2) A challenge may be made on the grounds that the elector:

(a) is of unsound mind, as determined by a court;

(b) has voted before in that election;

(c) has been convicted of a felony and is serving a sentence in a penal institution;

(d) is not registered as required by law;

(e) is not 18 years of age or older;

(f) has not been, for at least 30 days, a resident of the county in which the elector is offering to vote, except as provided in 13-2-514;

(g) is a provisionally registered elector whose status has not been changed to a legally registered voter; or

(h) does not meet another requirement provided in the constitution or by law.

(3) When a challenge has been made under this section, unless the election administrator determines *without the need for further information* that the challenge is insufficient, ~~then without the need for further information:~~

(a) prior to the close of registration under 13-2-301, the election administrator shall question the challenger and the challenged elector and may question other persons to determine whether the challenge is sufficient or insufficient to cancel the elector's registration under 13-2-402; or

(b) after the close of registration or on election day, the election administrator or, on election day, the election judge shall allow the challenged elector to cast a provisional paper ballot, which must be handled as provided in 13-15-107.

(4) (a) In response to a challenge, the challenged elector may fill out and sign an affidavit to refute the challenge and swear that the elector is eligible to vote.

(b) If the challenge was not made in the presence of the elector being challenged, the election administrator or election judge shall notify the challenged elector of who made the challenge and the grounds of the challenge and explain what information the elector may provide to respond to the challenge. The notification must be made:

(i) within 5 days of the filing of the challenge if the election is more than 5 days away; or

(ii) on or before election day if the election is less than 5 days away.

(c) The election administrator or, on election day, the election judge shall also provide to the challenged elector a copy of the challenger's affidavit and any supporting evidence provided.

(5) The secretary of state shall adopt rules to implement the provisions of this section and shall provide standardized affidavit forms for challengers and challenged electors."

**Section 40.** Section 13-13-602, MCA, is amended to read:

**"13-13-602. Fail-safe and provisional voting by mail.** (1) To ensure the election administrator has information sufficient to determine the elector's eligibility to vote, an elector voting by mail may enclose in the outer ~~return~~ *signature* envelope, together with the voted ballot in the secrecy envelope, a copy of a current and valid photo identification with the elector's name or a copy of a

current utility bill, bank statement, paycheck, notice of confirmation of voter registration issued pursuant to 13-2-207, government check, or other government document that shows the elector's name and current address or other information necessary to determine the elector's eligibility to vote.

(2) The elector's ballot must be handled as a provisional ballot under 13-15-107 if:

(a) a provisionally registered elector voting by mail does not enclose with the ballot the information described in subsection (1);

(b) the information provided under subsection (1) is invalid or insufficient to verify the elector's eligibility; or

(c) the elector's name does not appear on the precinct register."

**Section 41.** Section 13-13-603, MCA, is amended to read:

**"13-13-603. Rulemaking on provisional voting, absentee ballots, and challenged ballots.** (1) The secretary of state shall adopt rules to:

(a) implement the provisions of 13-13-114 and this part concerning verification of voter identification and eligibility;

(b) establish standards for determining the sufficiency of information provided on absentee ballot return signature envelopes pursuant to 13-13-241;

(c) implement the provisions of 13-15-107 on the handling and counting of provisional and challenged ballots, including the establishment of procedures for verifying voter registration and eligibility information with respect to the ballots.

(2) The rules may not conflict with rules established under 13-2-109."

**Section 42.** Section 13-14-112, MCA, is amended to read:

**"13-14-112. Declarations for nomination — fee — filing.** (1) Nonpartisan candidates shall file declarations for nomination as required by the primary election laws in a form prescribed by the secretary of state except as provided in 13-14-113. A candidate may not file for more than one public office.

(2) Declarations may not indicate political affiliation. The candidate may not state in the declaration any principles or measures that the candidate advocates or any slogans.

(3) Each individual filing a declaration shall pay the fee prescribed by law for the office that the individual seeks.

(4) Declarations must be filed:

(a) in the office of the secretary of state or the appropriate election administrator as provided in 13-10-201; and

(b) within the applicable filing period provided in 13-10-201~~(6)(a)~~(7)(a) or ~~(6)(b)~~ (7)(b) for the office that the individual seeks."

**Section 43.** Section 13-14-113, MCA, is amended to read:

**"13-14-113. Filing for offices without salary or fees.** (1) Candidates for nonpartisan offices for which a salary or fees are not paid shall file with the appropriate official a petition for nomination *or a declaration for nomination* containing the information and the oath of the candidate required for a declaration of nomination in a form prescribed by the secretary of state.

(2) Petitions for nomination *or declarations for nomination* must be filed within the applicable filing period provided in 13-10-201~~(6)(a)~~(7)(a) or ~~(6)(b)~~ (7)(b).

(3) A candidate may not file for more than one public office."

**Section 44.** Section 13-15-107, MCA, is amended to read:

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

(2) (a) If a legally registered elector *individual* casts a provisional ballot because the elector *individual* failed to provide sufficient identification as required pursuant to 13-13-114(1)(a), the election administrator shall compare the signature of the elector *individual* or the elector's *individual's* agent designated pursuant to 13-1-116 on the affirmation required under 13-13-601 to the signature on the elector's *individual's* voter registration card or the agent's designation form.

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

(c) If the signatures do not match and the elector *individual* or the elector's *individual's* agent fails to provide valid identification information by the deadline, the ballot must be rejected and handled as provided in 13-15-108.

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

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

(5) A provisional ballot must be removed from its provisional envelope, grouped with other ballots in a manner that allows for the secrecy of the ballot to the greatest extent possible, and counted as any other provisional ballot if the elector's *individual's* voter information is:

(a) verified before 5 p.m. on the day after the election; or

(b) postmarked by 5 p.m. on the day after election day and received and verified by 3 p.m. on the sixth day after the election.

(6) Provisional ballots that are not resolved by the end of election day may not be counted until after 3 p.m. on the sixth day after the election.”

**Section 45.** Section 13-15-108, MCA, is amended to read:

**“13-15-108. Rejected ballots — handling provided by rule.** (1) All rejected absentee ballots, the absentee ballot applications, and all absentee ballot return signature envelopes must be handled and marked as provided under rules adopted by the secretary of state.

(2) After being handled and marked as provided in this section, all rejected ballots must be placed in a package or container in which the voted ballots are to be placed and the package or container must be sealed, dated, and marked as provided under rules adopted by the secretary of state. After a package or

container is sealed pursuant to this subsection ~~(3)~~ (2), a package or container may not be opened without a court order.”

**Section 46.** Section 13-15-201, MCA, is amended to read:

**“13-15-201. Preparation for count — absentee ballot count procedures.** (1) Subject to 13-10-311, to prepare for a count of ballots, the counting board or, if appointed, the absentee counting board shall take ballots out of the box to determine whether each ballot is single.

(2) The board shall count all ballots to ensure that the total number of ballots corresponds with the total number of names in the pollbook.

(3) If the board cannot reconcile the total number of ballots with the pollbook, the board shall submit to the election administrator a written report stating how many ballots were missing or in excess and any reason of which they are aware for the discrepancy. Each judge on the board shall sign the report.

(4) A ballot that is not marked as official is void and may not be counted unless all judges on the board agree that the marking is missing because of an error by election officials, in which case the ballot must be marked “unmarked by error” on the back and must be initialed by all judges.

(5) If two or more ballots are folded or stuck together to look like a single ballot, they must be laid aside until the count is complete. The counting board shall compare the count with the pollbooks, and if a majority believes that the ballots folded together were ~~voted~~ *marked* by one elector, the ballots must be rejected and handled as provided in 13-15-108, otherwise they must be counted.

(6) Only valid absentee ballots may be counted in an election conducted under this chapter.

(7) For the purpose of this chapter, a ~~voted~~ *marked* absentee ballot is valid only if:

(a) the elector’s signature on the affirmation on the ~~return~~ *signature* envelope is verified pursuant to 13-13-241; and

(b) it is received before 8 p.m. on election day, except as provided in 13-21-206 and 13-21-207.

(8) (a) A ballot is invalid if:

(i) problems with the ballot have not been resolved pursuant to 13-13-245;

(ii) any identifying marks are placed on the ballot by the elector, *which must result in the immediate rejection of the ballot without notice to the elector*; or

(iii) except as provided in subsection (8)(b), more than one ballot is enclosed in a single ~~return~~ *signature* or secrecy envelope.

(b) The provisions of subsection (8)(a)(iii) do not apply if:

(i) there are multiple elections being held at the same time and the envelope contains only one ballot for each election; or

(ii) the ~~return~~ *signature* envelope contains ballots from the same household, each ballot is in its own secrecy envelope, and the ~~return~~ *signature* envelope contains a valid signature for each elector who has returned a ballot.”

**Section 47.** Section 13-15-206, MCA, is amended to read:

**“13-15-206. Counting votes — uniformity — rulemaking — definitions.** (1) When conducting vote counts as provided by law, a counting board, absentee ballot counting board, or recount board shall count and determine the validity of each vote in a uniform manner as provided in this section.

(2) A manual count or recount of votes must be conducted as follows:

(a) One election judge on the board shall read the ballot while the two other judges on the board shall each record on an official tally sheet the number of valid votes cast for each individual or ballot issue. Write-in votes must be counted in accordance with subsection (5) and rules adopted pursuant to subsection (7). If a vote has not been cast according to instructions, the vote must be considered questionable and the entire ballot must be set aside and votes on the ballot must be handled as provided in subsection (4).

(b) (i) After the vote count is complete, the tally sheets of the two judges recording the votes must be compared.

(ii) If the two tallies match, the judges shall record in the ~~pollbook~~ *official results records*:

(A) the names of all individuals who received votes;

(B) the offices for which individuals received votes;

(C) the total votes received by each individual as shown by the tally sheets; and

(D) the total votes received for or against each ballot issue, if any.

(iii) If the tallies do not match, the count must be conducted again as provided in this subsection (2) until the two tallies match.

(3) (a) When a voting system is counting votes:

(i) if a vote is recognized and counted by the system, it is a valid vote;

(ii) if a vote is not recognized and counted by the system, it is not a valid vote;

(iii) write-in votes must be counted in accordance with rules adopted pursuant to subsection (7).

(b) If the voting system cannot process the ballot because of the ballot's condition or if the voting system registers an ~~unvoted~~ *unmarked* ballot or an overvote, which must be considered a questionable vote, the entire ballot must be set aside and the votes on the ballot must be counted as provided in subsection (4).

(c) If an election administrator or counting board has reason to believe that a voting system is not functioning correctly, the election administrator shall follow the procedures prescribed in 13-15-209.

(d) After all valid votes have been counted and totaled, the judges shall record in the ~~pollbook~~ *official results records* the information specified in subsection (2)(b)(ii).

(4) (a) (i) Before being counted, each questionable vote on a ballot set aside under subsection (2)(a) or (3)(b) must be reviewed by the counting board. The counting board shall evaluate each questionable vote according to rules adopted by the secretary of state.

(ii) If a majority of the counting board members agree that under the rules the voter's intent can be clearly determined, the vote is valid and must be counted according to the voter's intent.

(iii) If a majority of the counting board members do not agree that the voter's intent can be clearly determined under the rules, the vote is not valid and may not be counted.

(b) If a ballot was set aside under subsection (3)(b) because it could not be processed by the voting system due to the ballot's condition, the counting board shall transfer all valid votes to a new ballot that can be processed by the voting system.

(5) A write-in vote may be counted *only* if:

(a) (i) the write-in vote identifies an individual by a designation filed pursuant to 13-10-211(1)(a); or

(ii) pursuant to 13-10-211(8), a declaration of nomination was not filed and the write-in vote identifies an individual who is qualified for the office; and

(b) the oval, box, or other designated voting area on the ballot is marked.

(6) A vote is not valid and may not be counted if the elector's choice cannot be determined as provided in this section.

(7) The secretary of state shall adopt rules defining a valid vote and a valid write-in vote for each type of ballot and for each type of voting system used in the state. The rules must provide a sufficient guarantee that all votes are treated equally among jurisdictions using similar ballot types and voting systems.

(8) Local election administrators shall adopt policies to govern local processes that are consistent with the provisions of this title and that provide for:

(a) the security of the counting process against fraud;

(b) the place and time and public notice of each count or recount;

(c) public observance of each count or recount, including observance by representatives authorized under 13-16-411;

(d) the recording of objections to determinations on the validity of an individual vote or to the entire counting process; and

(e) the keeping of a public record of count or recount proceedings.

(9) For purposes of this section, "overvote" means an elector's vote that has been interpreted by the voting system as an elector casting more votes than allowable for a particular office or ballot issue."

**Section 48.** Section 13-15-401, MCA, is amended to read:

**"13-15-401. Governing body as board of county canvassers.** (1) The governing body of a county or consolidated local government is ex officio a board of county canvassers and shall meet as the board of county canvassers at the usual meeting place of the governing body within ~~3 to~~ 14 days after each election, at a time determined by the board, to canvass the returns.

(2) If one or more of the members of the governing body cannot attend the meeting, the member's place must be filled by one or more county officers chosen by the remaining members of the governing body so that the board of county canvassers' membership equals the membership of the governing body.

(3) The governing body of any political subdivision in the county that participated in the election may join with the governing body of the county or consolidated local government in canvassing the votes cast at the election.

(4) The election administrator is secretary of the board of county canvassers and shall keep minutes of the meeting of the board and file them in the official records of the administrator's office."

**Section 49.** Section 13-16-201, MCA, is amended to read:

**"13-16-201. Conditions under which recount to be conducted.** (1) A recount must be conducted if:

(a) a candidate for a precinct office or for a county, municipal, or district office voted for in only one county, other than a legislator or a judge of the district court, is defeated by a margin not exceeding 1/4 of 1% of the total votes cast or by a margin not exceeding 10 votes, whichever is greater, and the defeated candidate, within 5 days after the official canvass, files with the election administrator a verified petition stating that the candidate believes that a



recount will change the result and that a recount of the votes for the office or nomination should be conducted;

(b) a candidate for a congressional office, a state or district office voted on in more than one county, the legislature, or judge of the district court is defeated by a margin not exceeding 1/4 of 1% of the total votes cast for all candidates for the same position and the defeated candidate, within 5 days after the official canvass, files a petition with the secretary of state as set forth in subsection (1)(a). The secretary of state shall immediately notify ~~by certified mail~~ each election administrator whose county includes any precincts that voted for the office, and a recount must be conducted in those precincts.

(c) a question submitted to the vote of the people of a county, municipality, or district within a county is decided by a margin not exceeding 1/4 of 1% of the total votes cast for and against the question and a petition as set forth in subsection (1)(a) is filed with the election administrator. This petition must be signed by not less than 10 electors of the jurisdiction and must be filed within 5 days after the official canvass.

(d) a question submitted to the vote of the people of the state is decided by a margin not exceeding 1/4 of 1% of the total votes cast for and against the question and a petition as set forth in subsection (1)(a) is filed with the secretary of state. This petition must be signed by not less than 100 electors of the state, representing at least five counties of the state, and must be filed within 5 days after the official canvass.

(e) a question submitted to the vote of the people of a multicounty district is decided by a margin not exceeding 1/4 of 1% of the total votes cast for and against the question and a petition as set forth in subsection (1)(a) is filed with the secretary of state. This petition must be signed by not less than 25 electors of the district, representing at least two counties, and must be filed within 5 days after the official canvass.

(f) a canvassing board petitions for a recount as provided in 13-15-403.

(2) If the election is a school election, the petition is filed with the filing officer with whom the declarations for nomination for school district office were filed or with whom the school ballot issue was filed.

(3) When a recount is required under subsection (1)(b), (1)(d), or (1)(e), the secretary of state shall immediately notify each election administrator of the filing of the petition, and a recount must be conducted in all precincts in each affected county.”

**Section 50.** Section 13-16-211, MCA, is amended to read:

**“13-16-211. Recounts allowed if bond posted to cover all costs.** (1) If a candidate for a public office is defeated by a margin exceeding 1/4 of 1% but not exceeding 1/2 of 1% of the total votes cast for all candidates for the same position, the candidate may, within 5 days after the official canvass, file with the officer with whom the candidate’s declaration or petition for nomination was filed a petition stating that the candidate believes a recount will change the result of the election.

(2) The unsuccessful candidate shall post a bond with the ~~clerk and recorder~~ *election administrator* of the county in which the candidate resides. The bond must be in an amount set by the ~~clerk and recorder~~ *election administrator* sufficient to cover all costs of the recount incurred by each county in which a recount is sought, ~~including loss of time of regular employees caused by absence from their regular duties~~ *which may include the following:*

(a) *compensation for the county recount board, the election administrator, and any additional personnel needed to participate in the recount; and*

(b) *necessary supplies and travel related to the recount.*

(3) Upon the filing of a petition and posting of a bond under this section, the ~~board of county canvassers~~ *county recount board, as designated in 13-16-101*, in each county affected shall meet and recount the ballots specified in the petition.”

**Section 51.** Section 13-16-417, MCA, is amended to read:

**“13-16-417. Sealing ballots and voting systems.** (1) When a recount of paper ballots ~~that was conducted using a voting system~~ is finished, each ballot must again be sealed in the same package or envelope in the presence of the election administrator and the county recount board and must be delivered to the election administrator for custody.

~~(2) All voting systems must be secured as provided in rules adopted under 13-17-211.~~

~~(3)~~(2) All other materials used in the recount that are required to be sealed must be resealed in the same manner and delivered to the election administrator for custody.”

**Section 52.** Section 13-17-203, MCA, is amended to read:

**“13-17-203. Publication of information concerning voting systems.**

(1) Not more than 10 or less than 2 days before an election at which a voting system will be used *by voters*, the election administrator shall broadcast on radio or television, as provided in 2-3-105 through 2-3-107, or publish in a newspaper of general circulation in the county:

(a) a diagram showing the voting system *to be used by voters* and a sample of the ballot layout (in newspaper only);

(b) a statement of the locations where voting systems *to be used by voters* are on public exhibition; and

(c) instructions on how to vote.

(2) The election administrator shall select the method of notification that the election administrator believes is best suited to reach the largest number of potential electors.”

**Section 53.** Section 13-17-211, MCA, is amended to read:

**“13-17-211. Uniform procedures for using voting systems.** (1) For each voting system approved under 13-17-101, the secretary of state shall adopt rules specifying the procedures to be uniformly applied in elections conducted with the voting system.

(2) The rules must, at a minimum, specify procedures that address the following:

(a) performance testing and certification under 13-17-212;

(b) how electors ensure the proper disposition of a ballot pursuant to 13-13-117(2);

(c) the procedures to be followed if the comparison under 13-15-206(2)(b) reveals discrepancies;

(d) how to operate and test the system during counts; and

(e) the security measures necessary to secure the voting system before, during, and after an election, ~~including security following a recount under 13-16-417.~~”

**Section 54.** Section 13-19-102, MCA, is amended to read:

**“13-19-102. Definitions.** As used in this chapter, the following definitions apply:

(1) “Ballot” means the ballot or set of ballots that is to be returned by a specified election day.

(2) “Election day” is the date established by law on which a particular election would be held if that election were being conducted by means other than a mail ballot election.

(3) “Political subdivision” means a political subdivision of the state, including a school district.

(4) “Secrecy envelope” means an envelope used to contain the elector’s ballot and that is designed to conceal the elector’s ballot and to prevent that elector’s ballot from being distinguished from the ballots of other electors.

~~(5) “Signature envelope” means an envelope that contains a secrecy envelope and ballot and that is designed to:~~

~~(a) allow election officials, upon examination of the outside of the envelope, to determine that the ballot is being submitted by someone who is in fact a qualified elector and who has not already voted; and~~

~~(b) allow it to be used in the United States mail.”~~

**Section 55.** Section 13-19-106, MCA, is amended to read:

**“13-19-106. General requirements for mail ballot election.** A mail ballot election must be conducted substantially as follows:

(1) Subject to 13-12-202, official mail ballots must be prepared and all other initial procedures followed as provided by law, except that mail ballots must be paper ballots and are not required to have stubs.

(2) An official ballot must be mailed to every qualified elector of the political subdivision conducting the election.

(3) Each signature envelope must contain a form that is the same as the form for absentee ballot ~~return~~ *signature* envelopes and that is prescribed by the secretary of state for the elector to verify the accuracy of the elector’s address or notify the election administrator of the elector’s correct mailing address and to return the corrected address with the voted ballot in the manner provided by 13-19-306.

(4) The elector shall mark the ballot and place it in a secrecy envelope.

(5) (a) The elector shall then place the secrecy envelope containing the elector’s ballot in a signature envelope and mail it or deliver it in person to a place of deposit designated by the election administrator.

(b) Except as provided in 13-21-206 and 13-21-207, the voted ballot must be received before 8 p.m. on election day.

(6) Election officials shall first qualify the voted ballot by examining the signature envelope to determine whether it is submitted by a qualified elector who has not previously voted in the election.

(7) If the voted ballot qualifies and is otherwise valid, officials shall then open the signature envelope and remove the secrecy envelope, which must be deposited unopened in an official ballot box.

(8) Except as provided in 13-19-312, after the close of voting on election day, voted ballots must be counted and canvassed as provided in Title 13, chapter 15.”

**Section 56.** Section 13-19-304, MCA, is amended to read:

**“13-19-304. Voting by nonregistered electors.** (1) For any election being conducted under this chapter by a political subdivision that allows individuals to vote who are not registered electors, the individual may vote by appearing in person at the election administrator’s office or by providing materials by mail, facsimile, or electronic means and demonstrating that the individual possesses the qualifications required for voting.

(2) An individual complying with subsection (1) before official ballots are available may provide a card to the election administrator containing the signature of the individual or the individual’s agent designated pursuant to 13-1-116 and the address to which the ballot is to be mailed. The signature provided must be used for verification when the mail ballot is returned.

(3) An individual complying with subsection (1) after official ballots are available and before ~~the close of the polls 8 p.m.~~ on election day must be permitted to vote at that time.”

**Section 57.** Section 13-21-210, MCA, is amended to read:

**“13-21-210. Application for absentee ballots.** (1) (a) A United States elector may apply for a regular absentee ballot as follows:

(i) by making a written request, which must include the elector’s birth date and signature;

(ii) by properly completing, signing, and returning to the election administrator the federal post card application;

(iii) by making an electronic request that includes the elector’s birth date and affirmation of the voter’s eligibility to vote under the Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. 1973ff, et seq.; or

(iv) by submitting to the election administrator the standard application form provided for in 13-1-210 when registering to vote.

(b) A person who holds a power of attorney from an absent uniformed services elector may apply for an absentee ballot for that election on behalf of the uniformed services elector. The applicant shall provide a copy of the power of attorney authorizing the request for an absentee ballot along with the application.

(2) An application for a regular absentee ballot must be received by the appropriate county election administrator by the time specified in 13-2-304 for late registration.

(3) An application under this section is valid for all federal, state, and local elections in the calendar year in which the application is made unless an elector requests to be mailed an absentee ballot for each subsequent election in which the elector is eligible to vote ~~or only for each subsequent federal election in which the elector is eligible to vote~~ for as long as the elector remains eligible to vote and resides at the address provided in the initial application.

(4) If an elector fails to provide the address confirmation required by 13-13-212, the elector must be removed from the annual absentee ballot list. An elector who is removed from the annual absentee ballot list will continue to receive absentee ballots during the period covered in the elector’s initial application under this section.

(5) The elector’s county election administrator shall provide the elector with a regular absentee ballot for the elections described in subsection (3) as soon as the ballots are printed, but not later than 45 days before either a federal primary election, federal general election, or federal special election.”

**Section 58.** Section 13-21-212, MCA, is amended to read:

**“13-21-212. Mailing ballots to United States elector.** Ballots mailed to a United States elector must be handled as prescribed in 13-13-214, except that both the envelope in which a ballot is mailed to the elector and the ~~return~~ *signature* envelope for the ballot must have printed across its face the information and graphics and be of the color prescribed by the secretary of state consistent with the regulations established by the federal election commission, the U.S. postal service, or other federal agency.”

**Section 59.** Section 13-35-218, MCA, is amended to read:

**“13-35-218. Coercion or undue influence of voters.** (1) A person, directly or indirectly, individually or through any other person, in order to induce or compel a person to vote or refrain from voting for any candidate, the ticket of any political party, or any ballot issue before the people, may not:

(a) use or threaten to use any force, coercion, violence, restraint, or undue influence against any person; or

(b) inflict or threaten to inflict, individually or with any other person, any temporal or spiritual injury, damage, harm, or loss upon or against any person.

~~(2) A person who is a minister, preacher, priest, or other church officer or who is an officer of any corporation or organization, religious or otherwise, may not, other than by public speech or print, urge, persuade, or command any voter to vote or refrain from voting for or against any candidate, political party ticket, or ballot issue submitted to the people because of the person's religious duty or the interest of any corporation, church, or other organization.~~

~~(3)~~(2) A person may not, by abduction, duress, or any fraudulent contrivance, impede or prevent the free exercise of the franchise by any voter at any election or compel, induce, or prevail upon any elector to give or to refrain from giving the elector's vote at any election.

~~(4)~~(3) A person may not, in any manner, interfere with a voter lawfully exercising the right to vote at an election in order to prevent the election from being fairly held and lawfully conducted.

~~(5)~~(4) A person on election day may not obstruct the doors or entries of any polling place or engage in any solicitation of a voter within the room where votes are being cast or elsewhere in any manner that in any way interferes with the election process or obstructs the access of voters to or from the polling place.”

**Section 60.** Section 13-37-126, MCA, is amended to read:

**“13-37-126. Names not to appear on ballot.** (1) The name of a candidate may not appear on the official ballot for an election if the candidate or a treasurer for a candidate fails to file any statement or report as required by this chapter.

(2) A vacancy on an official ballot under this section may be filled in the manner provided by law, but not by the name of the same candidate.

(3) (a) In carrying out the mandate of this section, the commissioner shall, by a written statement, notify the secretary of state or the election administrator that a candidate or a candidate's treasurer has not complied with the provisions of this chapter, as described in subsection (1), and that a candidate's name may not appear on the official ballot.

(b) The commissioner shall provide the notification:

(i) within 8 calendar days after the ~~close of the~~ *earliest* certification deadline provided in 13-10-208(1) for primary elections held pursuant to 13-1-107(1); or

(ii) by the earliest date specified under 13-10-208(2) for the county election administrator to certify the ballot for primary elections held pursuant to 13-1-107(2) or (3); and

(iii) by no later than 7 days before the ballot certification deadline provided in 13-12-201 for general elections.”

**Section 61.** Section 13-38-201, MCA, is amended to read:

**“13-38-201. Election of committee representatives at primary — vacancies — tie votes.** (1) Except as provided in subsection (4), each political party shall elect at each primary election one person of each sex to serve as committee representatives for each election precinct. The committee representatives must be residents and registered voters of the precinct.

(2) An elector may be placed in nomination for precinct committee representative by a declaration of nomination, signed by the elector, notarized, and filed in the office of the county election administrator within the time for filing declarations naming candidates for nomination at the regular biennial primary election.

(3) Except as provided in subsection (4), the names of candidates for precinct committee representative of each political party must appear on the party ticket in the same manner as other candidates and are voted for in the same manner as other candidates.

(4) If the number of candidates nominated for a party’s precinct committee representatives is less than or equal to the number of positions to be elected, the election administrator may give notice that a party’s precinct committee election will not be held in that precinct.

(5) If a party precinct committee election is not held pursuant to subsection (4), the election administrator shall declare elected by acclamation the candidate who filed for the position or who filed a declaration of intent to be a write-in candidate. The election administrator shall issue a certificate of election to the designated party.

(6) Write-in votes for precinct committee representatives may be counted as specified in 13-15-206(5) only if the individual whose name is written in has filed a declaration of intent as a write-in candidate by the deadline prescribed in 13-10-211(1).

(7) *In the case of a tie vote for a precinct committee representative position, the county central committee shall determine a winner.*

(7)(8) Pursuant to 13-38-101, a vacancy in a precinct committee representative position must be filled by the party governing body as provided in its rules.”

**Section 62. Directions to code commissioner.** (1) Whenever the phrase “statewide voter registration database” or the word “database” meaning the statewide voter registration database appears in the Montana Code Annotated or in legislation enacted during the 63rd legislative session, the code commissioner shall change the phrase to “statewide voter registration system” and the word to “system”.

(2) Whenever the words “return envelope” appear in Title 13 of the Montana Code Annotated or in legislation enacted in Title 13 during the 63rd legislative session, the code commissioner shall change the words to “signature envelope”.

**Section 63. Coordination instruction.** If both House Bill No. 126 and [this act] are passed and approved and if both contain sections amending 13-10-209, then the sections amending 13-10-209 are void and 13-10-209 must be amended as follows:



**“13-10-209. Arrangement and preparing of primary ballots.** (1) (a) Ballots for a primary election must be arranged and prepared in the same manner and number as provided in chapter 12 for general election ballots, except that there must be separate ballots for each political party entitled to participate. The name of the political party must appear at the top of the separate ballot for that party and need not appear ~~opposite~~ *with* each candidate’s name.

(b) Nonpartisan offices and ballot issues may be prepared on separate ballots or may appear on the same ballot as partisan offices if:

(i) each section is clearly identified as separate; *and*

(ii) the nonpartisan offices and ballot issues appear on each party’s ballot; *and*

(iii) ~~with respect to ballot issues, written approval is obtained as provided in ballot issues are prepared in accordance with 13-27-502.~~

(2) ~~An~~ *Except as provided in subsection (3), an* election administrator does not need to prepare a primary ballot for a political party if:

(a) the party does not have candidates for more than half of the offices to appear on the ballot; ~~or~~ *and*

(b) no more than one candidate files for nomination by that party for any of the offices to appear on the ballot.

*(3) Subsection (2) does not apply to elections for precinct committee offices. If more than one candidate files for a precinct committee office from a party that will not have a primary ballot prepared, that party shall select the candidate to fill the office.*

~~(3)~~(4) If, pursuant to subsection (2), in a primary election held under 13-1-107(1) a primary ballot for a political party is not prepared, the secretary of state shall certify that a primary election is unnecessary for that party and shall instruct the election administrator to certify the names of the candidates for that party for the general election ballot only.

~~(4)~~(5) The separate ballots for each party must have the same appearance. Each set of party ballots must bear the same number. If prepared as a separate ballot, the nonpartisan ballot may have a different appearance than the party ballots but must be numbered in the same order as the party ballots.

~~(5)~~(6) If a ballot issue is to be voted on at a primary election, it may be placed on the nonpartisan ballot or a separate ballot. A separate ballot may have a different appearance than the other ballots in the election but must be numbered in the same order.

~~(6)~~(7) Each elector must receive a set of ballots that includes the party, nonpartisan, and ballot issue choices.”

**Section 64. Coordination instruction.** If either House Bill No. 30 or Senate Bill No. 405, or both, and [this act] are passed and approved, then [section 12 of this act] amending 13-2-304 is void.

**Section 65. Effective date.** [This act] is effective January 1, 2014.

Approved April 30, 2013

**CHAPTER NO. 337**

[HB 131]

AN ACT AUTHORIZING THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES TO SHARE LIMITED INFORMATION ABOUT AN INVESTIGATION INTO A REPORT OF CHILD ABUSE OR NEGLECT WITH A MANDATORY REPORTER WHO MADE A REQUIRED REPORT OF ALLEGED CHILD ABUSE OR NEGLECT OR INDIVIDUALS DESIGNATED BY THE MANDATORY REPORTER; AND AMENDING SECTIONS 41-3-201 AND 41-3-205, MCA.

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

**Section 1.** Section 41-3-201, MCA, is amended to read:

**“41-3-201. Reports.** (1) When the professionals and officials listed in subsection (2) know or have reasonable cause to suspect, as a result of information they receive in their professional or official capacity, that a child is abused or neglected by anyone regardless of whether the person suspected of causing the abuse or neglect is a parent or other person responsible for the child’s welfare, they shall report the matter promptly to the department of public health and human services.

(2) Professionals and officials required to report are:

(a) a physician, resident, intern, or member of a hospital’s staff engaged in the admission, examination, care, or treatment of persons;

(b) a nurse, osteopath, chiropractor, podiatrist, medical examiner, coroner, dentist, optometrist, or any other health or mental health professional;

(c) religious healers;

(d) school teachers, other school officials, and employees who work during regular school hours;

(e) a social worker, operator or employee of any registered or licensed day-care or substitute care facility, staff of a resource and referral grant program organized under 52-2-711 or of a child and adult food care program, or an operator or employee of a child-care facility;

(f) a foster care, residential, or institutional worker;

(g) a peace officer or other law enforcement official;

(h) a member of the clergy, as defined in 15-6-201(2)(b);

(i) a guardian ad litem or a court-appointed advocate who is authorized to investigate a report of alleged abuse or neglect; or

(j) an employee of an entity that contracts with the department to provide direct services to children.

(3) A professional listed in subsection (2)(a) or (2)(b) involved in the delivery or care of an infant shall report to the department any infant known to the professional to be affected by a dangerous drug, as defined in 50-32-101.

(4) Any person may make a report under this section if the person knows or has reasonable cause to suspect that a child is abused or neglected.

(5) (a) *When a professional or official required to report under subsection (2) makes a report, the department may share information with:*

(i) *that professional or official; or*

(ii) *other individuals with whom the professional or official works in an official capacity if the individuals are part of a team that responds to matters involving the child or the person about whom the report was made and the*

*professional or official has asked that the information be shared with the individuals.*

*(b) The department may provide information in accordance with 41-3-202(8) [as amended by Ch. 61, L. 2013] and also share information about the investigation, limited to its outcome and any subsequent action that will be taken on behalf of the child who is the subject of the report.*

*(c) Individuals who receive information pursuant to this subsection (5) shall maintain the confidentiality of the information as required by 41-3-205.*

~~(5)~~(6) (a) Except as provided in subsection ~~(5)(b) or (5)(c)~~ (6)(b) or (6)(c), a person listed in subsection (2) may not refuse to make a report as required in this section on the grounds of a physician-patient or similar privilege.

(b) A member of the clergy or a priest is not required to make a report under this section if:

(i) the knowledge or suspicion of the abuse or neglect came from a statement or confession made to the member of the clergy or the priest in that person's capacity as a member of the clergy or as a priest;

(ii) the statement was intended to be a part of a confidential communication between the member of the clergy or the priest and a member of the church or congregation; and

(iii) the person who made the statement or confession does not consent to the disclosure by the member of the clergy or the priest.

(c) A member of the clergy or a priest is not required to make a report under this section if the communication is required to be confidential by canon law, church doctrine, or established church practice.

~~(6)~~(7) The reports referred to under this section must contain:

(a) the names and addresses of the child and the child's parents or other persons responsible for the child's care;

(b) to the extent known, the child's age and the nature and extent of the child's injuries, including any evidence of previous injuries;

(c) any other information that the maker of the report believes might be helpful in establishing the cause of the injuries or showing the willful neglect and the identity of person or persons responsible for the injury or neglect; and

(d) the facts that led the person reporting to believe that the child has suffered injury or injuries or willful neglect, within the meaning of this chapter."

**Section 2.** Section 41-3-205, MCA, is amended to read:

**"41-3-205. Confidentiality — disclosure exceptions.** (1) The case records of the department and its local affiliate, the local office of public assistance, the county attorney, and the court concerning actions taken under this chapter and all records concerning reports of child abuse and neglect must be kept confidential except as provided by this section. Except as provided in subsections (7) and (8), a person who purposely or knowingly permits or encourages the unauthorized dissemination of the contents of case records is guilty of a misdemeanor.

(2) Records may be disclosed to a court for in camera inspection if relevant to an issue before it. The court may permit public disclosure if it finds disclosure to be necessary for the fair resolution of an issue before it.

(3) Records, including case notes, correspondence, evaluations, videotapes, and interviews, unless otherwise protected by this section or unless disclosure of the records is determined to be detrimental to the child or harmful to another

person who is a subject of information contained in the records, may be disclosed to the following persons or entities in this state and any other state or country:

(a) a department, agency, or organization, including a federal agency, military enclave, or Indian tribal organization, that is legally authorized to receive, inspect, or investigate reports of child abuse or neglect and that otherwise meets the disclosure criteria contained in this section;

(b) a licensed youth care facility or a licensed child-placing agency that is providing services to the family or child who is the subject of a report in the records or to a person authorized by the department to receive relevant information for the purpose of determining the best interests of a child with respect to an adoptive placement;

(c) a health or mental health professional who is treating the family or child who is the subject of a report in the records;

(d) a parent, *grandparent, aunt, uncle, brother, sister*, guardian, *mandatory reporter provided for in 41-3-201(2) and (5)*, or person designated by a parent or guardian of the child who is the subject of a report in the records or other person responsible for the child's welfare, without disclosure of the identity of any person who reported or provided information on the alleged child abuse or neglect incident contained in the records;

(e) a child named in the records who was allegedly abused or neglected or the child's legal guardian or legal representative, including the child's guardian ad litem or attorney or a special advocate appointed by the court to represent a child in a pending case;

(f) the state protection and advocacy program as authorized by 42 U.S.C. 15043(a)(2);

(g) approved foster and adoptive parents who are or may be providing care for a child;

(h) a person about whom a report has been made and that person's attorney, with respect to the relevant records pertaining to that person only and without disclosing the identity of the reporter or any other person whose safety may be endangered;

(i) an agency, including a probation or parole agency, that is legally responsible for the supervision of an alleged perpetrator of child abuse or neglect;

(j) a person, agency, or organization that is engaged in a bona fide research or evaluation project and that is authorized by the department to conduct the research or evaluation;

(k) the members of an interdisciplinary child protective team authorized under 41-3-108 or of a family group decisionmaking meeting for the purposes of assessing the needs of the child and family, formulating a treatment plan, and monitoring the plan;

(l) the coroner or medical examiner when determining the cause of death of a child;

(m) a child fatality review team recognized by the department;

(n) a department or agency investigating an applicant for a license or registration that is required to operate a youth care facility, day-care facility, or child-placing agency;

(o) a person or entity who is carrying out background, employment-related, or volunteer-related screening of current or prospective employees or volunteers who have or may have unsupervised contact with children through employment

or volunteer activities. A request for information under this subsection (3)(o) must be made in writing. Disclosure under this subsection (3)(o) is limited to information that indicates a risk to children, persons with developmental disabilities, or older persons posed by the person about whom the information is sought, as determined by the department.

(p) the news media, a member of the United States congress, or a state legislator, if disclosure is limited to confirmation of factual information regarding how the case was handled and if disclosure does not violate the privacy rights of the child or the child's parent or guardian, as determined by the department;

(q) an employee of the department or other state agency if disclosure of the records is necessary for administration of programs designed to benefit the child;

(r) an agency of an Indian tribe, a qualified expert witness, or the relatives of an Indian child if disclosure of the records is necessary to meet requirements of the federal Indian Child Welfare Act;

(s) a juvenile probation officer who is working in an official capacity with the child who is the subject of a report in the records;

(t) a county attorney, peace officer, or attorney who is hired by or represents the department if disclosure is necessary for the investigation, defense, or prosecution of a case involving child abuse or neglect;

(u) a foster care review committee established under 41-3-115 or, when applicable, a citizen review board established under Title 41, chapter 3, part 10;

(v) a school employee participating in an interview of a child by a social worker, county attorney, or peace officer, as provided in 41-3-202;

(w) a member of a county interdisciplinary child information team formed under the provisions of 52-2-211;

(x) members of a local interagency staffing group provided for in 52-2-203;

(y) a member of a youth placement committee formed under the provisions of 41-5-121; ~~or~~

(z) a principal of a school or other employee of the school district authorized by the trustees of the district to receive the information with respect to a student of the district who is a client of the department; *or*

(4) A school or school district may disclose, without consent, personally identifiable information from the education records of a pupil to the department, the court, a review board, and the child's assigned attorney, guardian ad litem, or special advocate.

(5) Information that identifies a person as a participant in or recipient of substance abuse treatment services may be disclosed only as allowed by federal substance abuse confidentiality laws, including the consent provisions of the law.

(6) The confidentiality provisions of this section must be construed to allow a court of this state to share information with other courts of this state or of another state when necessary to expedite the interstate placement of children.

(7) A person who is authorized to receive records under this section shall maintain the confidentiality of the records and may not disclose information in the records to anyone other than the persons described in subsection (3)(a). However, this subsection may not be construed to compel a family member to keep the proceedings confidential.

(8) A news organization or its employee, including a freelance writer or reporter, is not liable for reporting facts or statements made by an immediate family member under subsection (7) if the news organization, employee, writer, or reporter maintains the confidentiality of the child who is the subject of the proceeding.

(9) This section is not intended to affect the confidentiality of criminal court records, records of law enforcement agencies, or medical records covered by state or federal disclosure limitations.

(10) Copies of records, evaluations, reports, or other evidence obtained or generated pursuant to this section that are provided to the parent, the guardian, or the parent or guardian's attorney must be provided without cost."

Approved April 30, 2013

## CHAPTER NO. 338

[HB 147]

AN ACT REVISING PENALTIES FOR FAILURE TO OBTAIN A LANDOWNER'S PERMISSION FOR HUNTING; AND AMENDING SECTION 87-6-415, MCA.

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

**Section 1.** Section 87-6-415, MCA, is amended to read:

**"87-6-415. Failure to obtain landowner's permission for hunting.** (1) A resident or nonresident shall obtain permission of the landowner, the lessee, or their agents before taking or attempting to take nongame wildlife, ~~or predatory animals or predatory animals, game animals, or wolves while~~ hunting on private property.

(2) ~~Except as provided in subsection (3), a~~ A person who violates this section shall, upon conviction for a first offense, be fined ~~an amount not to exceed \$25~~ \$135.

(3) A person convicted of a ~~violation of this section for second offense of~~ hunting a ~~big game animal~~ on private property without obtaining permission of the landowner *within 5 years* shall be fined not less than \$50 ~~or more than \$1,000 or be imprisoned in the county detention center for not more than 6 months, or both \$500 or more than \$1,000.~~

(4) In addition, the person, upon conviction *under subsection (3)* or forfeiture of bond or bail,:

(a) may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for ~~a period of time set by the court~~ a period of time set by the court; and

(b) *may be ordered to make restitution for property damage resulting from the violation in an amount and manner to be set by the court. The court shall determine the manner and amount of restitution after full consideration of the convicted person's ability to pay the restitution. Upon good cause shown by the convicted person, the court may modify any previous order specifying the amount and manner of restitution. Full payment of the amount of restitution ordered must be made prior to the release of state jurisdiction over the person convicted."*

Approved April 30, 2013



**CHAPTER NO. 339**

[HB 206]

AN ACT INCREASING FEES IN JUSTICE'S COURT AND SMALL CLAIMS COURT; AMENDING SECTIONS 25-31-112 AND 25-35-608, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE.

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

**Section 1.** Section 25-31-112, MCA, is amended to read:

**"25-31-112. Fees.** The following is the schedule of fees ~~which that~~, except as provided in 25-35-605, ~~shall must~~ be paid in every civil action in a justice's court:

(1) ~~\$25 when complaint is filed, to be paid by the plaintiff; when a complaint is filed, the following fee to be paid by the plaintiff:~~

(a) \$30 beginning July 1, 2013;

(b) \$35 beginning July 1, 2014; and

(c) \$40 beginning July 1, 2015;

(2) ~~\$10~~ \$20 when the defendant appears, to be paid by the defendant;

(3) ~~\$10~~ \$20 to be paid by the prevailing party when judgment is rendered. *In cases in which judgment is entered by default, no charge except the fee provided in subsection (1) for the filing of the complaint may be made for any services, including issuing and return of execution. In cases where judgment is entered by default, no charge except the \$25 for the filing of the complaint shall be made for any services, including issuing and return of execution.*

(4) ~~\$10~~ \$20 for all services in an action ~~where in which~~ judgment is rendered by confession;

(5) ~~\$10~~ \$20 for filing a notice of appeal and transcript on appeal, justifying and approving an undertaking on appeal, and transmitting papers to the district court with a certificate."

**Section 2.** Section 25-35-608, MCA, is amended to read:

**"25-35-608. Fees.** (1) The clerk of the justice's court shall collect a fee of:

(a) ~~\$10~~ \$20 from the plaintiff upon the filing of the sworn complaint; and

(b) \$5 ~~\$10~~ from the defendant upon the defendant's appearance and contesting of the complaint or execution of a counterclaim.

(2) The laws relating to paupers' affidavits apply to actions before the small claims court."

**Section 3. Effective date.** [This act] is effective July 1, 2013.

**Section 4. Applicability.** [This act] applies to proceedings begun on or after [the effective date of this act].

Approved April 30, 2013

**CHAPTER NO. 340**

[HB 254]

AN ACT REQUIRING A DISCLAIMER ON ELECTION MATERIALS DISTRIBUTED BY A POLITICAL COMMITTEE THAT CLAIMS TO BE EXEMPT FROM DISCLOSING THE NAMES OF CONTRIBUTORS.

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

**Section 1. Disclaimer on election materials funded by anonymous donors.** If a political committee claims to be exempt from disclosing the name of

a person making a contribution to the political committee, the committee shall clearly and conspicuously include in all communications advocating the success or defeat of a candidate, political party, or ballot issue through any broadcasting station, newspaper, magazine, outdoor advertising facility, direct mailing, poster, handbill, bumper sticker, internet website, or other form of general political advertising or issue advocacy the following disclaimer: "This communication is funded by anonymous sources. The voter should determine the veracity of its content."

**Section 2. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 13, chapter 35, part 2, and the provisions of Title 13, chapter 35, part 2, apply to [section 1].

Approved April 30, 2013

## CHAPTER NO. 341

[HB 274]

AN ACT REVISING LAWS RELATED TO THE LICENSING OF OUTFITTERS AND GUIDES; ELIMINATING THE PROFESSIONAL GUIDE LICENSE; REVISING POWERS AND DUTIES OF THE BOARD OF OUTFITTERS; REVISING REPORTING REQUIREMENTS; REVISING QUALIFICATIONS AND APPLICATION AND EXAM REQUIREMENTS; CLARIFYING THE LIMIT ON ONE LICENSE PER INDIVIDUAL; REVISING PENALTIES; REVISING RULEMAKING AUTHORITY; AMENDING SECTIONS 37-47-101, 37-47-201, 37-47-301, 37-47-302, 37-47-303, 37-47-304, 37-47-305, 37-47-306, 37-47-307, 37-47-310, 37-47-311, 37-47-341, 37-47-343, 37-47-401, 37-47-402, 37-47-403, 37-47-404, AND 87-6-702, MCA; AND REPEALING SECTIONS 37-47-103, 37-47-316, AND 37-47-318, MCA.

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

**Section 1.** Section 37-47-101, MCA, is amended to read:

**"37-47-101. Definitions.** As used in this chapter, unless the context requires otherwise, the following definitions apply:

(1) "Accompany" means to go with or be together with a participant as an escort, companion, or other service provider, with an actual physical presence in the area where the activity is being conducted and within sight or sound of the participant at some time during the furnishing of service.

~~(2) "Base of operations" means the primary physical location where an outfitter receives mail and telephone calls, conducts regular daily business, and bases livestock, equipment, and staff during the hunting season.~~

~~(3)~~(2) "Board" means the board of outfitters provided for in 2-15-1773.

~~(4) "Camp" means each individual facility or group of facilities that an outfitter uses to lodge a client for a client's trip or uses to lodge a client in the operating area designated in the outfitter's operations plan, including a motel, campground, bed and breakfast, lodge, tent camp, cabin, camper, trailer, or house.~~

(3) "*Business entity*" means any version of a proprietorship, partnership, corporation, or limited liability company.

~~(5)~~(4) "Consideration" means something of value given or done in exchange for something of value given or done by another.

~~(6)~~(5) "Department" means the department of labor and industry provided for in Title 2, chapter 15, part 17.

~~(7)~~(6) "Guide" means a person who is employed by or who has contracted independently with a licensed outfitter and who accompanies a participant during outdoor recreational activities that are directly related to activities for which the outfitter is licensed.

~~(8)~~(7) "License year" means the period indicated on the face of the license for which the license is valid.

~~(9)~~(8) "Net client hunter use" or "NCHU" means the ~~most actual number of~~ clients *authorized to be served* by an outfitter in any NCHU license category in any license year, as documented by verifiable client logs or other documents maintained by the board pursuant to 37-47-201 on private and state land and on any federal land where an outfitter's use of the federal land is not limited by some means other than NCHU.

~~(10)~~ "Nonresident" means a person other than a resident.

~~(11)~~(9) "Outfitter" means any person, except a person providing services on real property that the person owns for the primary pursuit of bona fide agricultural interests, who for consideration provides any saddle or pack animal, facilities, camping equipment, vehicle, watercraft, or other conveyance, or personal service for any person to hunt, trap, capture, take, kill, or pursue any game, including fish, and who accompanies that person, either part or all of the way, on an expedition for any of these purposes or supervises a licensed guide or professional guide in accompanying that person.

~~(12)~~(10) "Participant" means a person using the services offered by a licensed outfitter.

~~(13)~~ "Professional guide" means a guide who meets experience, training, and testing qualifications for designation as a professional guide, as set by board rule.

~~(14)~~ "Resident" means a person who qualifies for a resident Montana hunting or fishing license under 87-2-102."

**Section 2.** Section 37-47-201, MCA, is amended to read:

**"37-47-201. Powers and duties of board relating to outfitters, guides, and professional guides.** The board shall:

(1) cooperate with the federal government in matters of mutual concern regarding the business of outfitting and guiding in Montana;

(2) enforce the provisions of this chapter and rules adopted pursuant to this chapter;

(3) establish outfitter standards, ~~guide standards,~~ and professional guide standards;

(4) adopt:

(a) rules to administer and enforce this chapter, including rules prescribing all requisite qualifications for licensure as an outfitter, ~~guide,~~ or professional guide. Qualifications for outfitters ~~must~~ *may* include training, testing, experience in activities similar to the service to be provided, *and* knowledge of rules of governmental bodies pertaining to outfitting ~~and condition and type of gear and equipment, and the filing of an operations plan.~~

(b) any reasonable rules, not in conflict with this chapter, necessary for safeguarding the public health, safety, and welfare, including evidence of qualification and licensure under this chapter for any person practicing or offering to practice as an outfitter, ~~guide,~~ or professional guide;

(c) rules specifying *components and* standards for review and approval of ~~proposed new operations plans involving hunting use. Approval is not required~~

when part or all of an existing operations plan is transferred from one licensed outfitter to another licensed outfitter.;

~~(d) rules establishing outfitter reporting requirements. The reports must be filed annually and report actual leased acreage actively used by clients during that year and actual leased acres unused by clients during that year, plus any other information designated by the board and developed in collaboration with the department of fish, wildlife, and parks or the review committee established in 87-1-269 that is considered necessary to evaluate the effectiveness of the hunter management and hunting access enhancement programs. The reports must be filed annually and report client names, outfitters and guides providing client services and the license numbers of those outfitters and guides, dates of client services, and private land acreage where licensed outfitters are authorized by the landowner to operate, including exclusive arrangements and lease agreements.~~

(5) hold hearings and proceedings to suspend or revoke licenses of outfitters, guides, and professional guides for due cause; and

~~(6) maintain records of actual clients served by all Montana outfitters that fulfill the requirements of subsection (4)(d);~~

~~(7)(6) maintain records of net client hunter use."~~

**Section 3.** Section 37-47-301, MCA, is amended to read:

**"37-47-301. License required — services performed — standards.** (1)

A person may not act as an outfitter, ~~guide, or professional guide~~ or advertise or otherwise represent to the public that the person is an outfitter, ~~guide, or professional guide~~ without first securing a license in accordance with the provisions of this part.

(2) Whenever an outfitter is engaged by a participant, the outfitter shall keep ~~and submit~~ and submit records as required by the board.

(3) Outfitters, and guides, ~~professional guides,~~ and other employees of an outfitter may not shoot, kill, or take big game animals for or in competition with those employing them while acting as outfitters, guides, ~~professional guides,~~ or employees of an outfitter.

(4) Outfitters utilizing lands under the control of the United States government shall obtain the proper permits required by the government office responsible for the area in which the outfitter intends to operate and shall comply with ~~environmental protection standards~~ all applicable rules and regulations established for these lands.

(5) Outfitters may not willfully and substantially misrepresent their facilities, prices, equipment, services, or hunting or fishing opportunities.

(6) Outfitters and their *contractors*, employees, agents, and representatives shall take every reasonable measure to provide ~~their~~ the outfitter's advertised services to their clients.

(7) An outfitter may not hire or retain a guide ~~or professional guide~~ who does not hold a current license as provided under this part."

**Section 4.** Section 37-47-302, MCA, is amended to read:

**"37-47-302. Outfitter's qualifications.** An applicant for an outfitter's license or renewal of a license must meet the following qualifications:

(1) be 18 years of age or older, be physically capable and mentally competent to perform the duties of an outfitter, and meet experience, training, and testing requirements as prescribed by board rule; and

(2) own, hold under written lease, or contract for or represent a ~~company, corporation, or partnership~~ *business entity* who owns, holds under written lease, or contracts for the equipment and facilities that are necessary to provide the services advertised, contracted for, or agreed upon between the outfitter and the outfitter's clients. ~~(a) All equipment and facilities are subject to inspection at all reasonable times and places by the board or its designated agent); and~~

~~(3) have demonstrated a respect for and compliance with the laws of any state or of the United States and all rules promulgated under those laws related to fish and game, conservation of natural resources, and preservation of the natural ecosystem without pollution of the ecosystem."~~

**Section 5.** Section 37-47-303, MCA, is amended to read:

**"37-47-303. Guide's and professional guide's qualifications.** (1) An applicant for a guide's or professional guide's license must meet the following qualifications:

~~(a)(1) be 18 years of age or older and be physically capable and mentally competent to perform the duties of a guide or professional guide;~~

~~(b)(2) be endorsed and recommended by an outfitter with a valid license, unless otherwise qualified under guide or professional guide standards established by the board pursuant to 37-47-201(4); and~~

~~(c) have been issued a valid wildlife conservation license.~~

~~(2) In addition to the requirements listed in subsection (1), an applicant for licensure as a professional guide must meet additional experience requirements, to be set by board rule, and may be required to show proof of training or pass a qualifying examination when required by board rule; and~~

~~(3) have been issued a valid wildlife conservation license."~~

**Section 6.** Section 37-47-304, MCA, is amended to read:

**"37-47-304. Application.** (1) Each applicant for an outfitter's, guide's, or professional guide's license shall apply for a license on a form furnished by the department.

(2) The application for an outfitter's license forms the basis for the outfitter's operations plan and must include:

(a) the applicant's full name, residence, address, conservation license number, driver's license number, birth date, physical description, *conservation license number*, and telephone number;

(b) the address of the applicant's principal place of business in the state of Montana;

(c) the amount and kind of property and equipment owned and used in the outfitting business of the applicant;

~~(d) the experience of the applicant, including:~~

~~(i)(b) the applicant's years of experience as an outfitter, guide, or professional guide; and~~

~~(ii) the applicant's knowledge of areas in which the applicant has operated and intends to operate; and~~

~~(iii) the applicant's ability to cope with weather conditions and terrain;~~

~~(e) a signed statement of the licensed outfitter for each guide and professional guide to be employed or retained as an independent contractor, stating that the guide or professional guide is to be employed by the outfitter and stating that the outfitter recommends the guide or professional guide for licensure;~~

(c) *components of the outfitter's operations plan as required by board rule, which may include:*

~~(f)(i)~~ an affidavit by the outfitter to the board that the *amount and kind of equipment listed on the application is in fact that is* owned, leased, or contracted for by the applicant; ~~is in good operating condition, and is~~ sufficient and satisfactory for the services advertised or contemplated to be performed by the applicant; *and*

~~(g)~~ a statement of the maximum number of participants to be accompanied at any one time;

~~(h)~~ the written approval of the appropriate agency or landowner on whose lands the applicant intends to provide services or establish hunting camps; and

(i) the boundaries of the proposed operation, stating when applicable:

(i) the name and portion of river;

(ii) the county of location;

(iii) the legal owner of the property;

(iv) the name of the ranch;

~~(v)~~ the proposed service, including the type of game sought;

~~(vi)~~ the name of the agency granting use authority; and

~~(vii)~~ other means of identifying boundaries as established by board rule.

*(ii) a description of any land, water body, or portion of a water body that will be utilized by the applicant while providing services.*

(3) An application for an outfitter's license must be in the name of an individual person only. An application involving ~~corporations, proprietorships, or partnerships~~ a *business entity* must be made by one individual person who qualifies under the provisions of this part. A license issued pursuant to this part must be in the name of that person. Any revocation or suspension of a license is binding upon the individual person and the ~~corporation, proprietorship, or partnership~~ *business entity* for the use and benefit of which the license was originally issued.

(4) Application must be made to and filed with the board.

(5) Only one application for an outfitter's license may be made in any license year. If an application is denied, subsequent applications by the same applicant for the license year involved are void, except as provided in 37-47-308."

**Section 7.** Section 37-47-305, MCA, is amended to read:

**"37-47-305. Outfitter's examination.** Each applicant for an outfitter's license, after meeting the experience and training specifications and other qualifications set by this chapter or rules adopted pursuant to this chapter, is entitled to take and must pass a standard examination administered by the board or its agent. The examination must require general and sufficient knowledge displaying and indicating ability to perform the services contemplated with efficiency and with safety to the health and welfare of participants. The examination must test the applicant's knowledge of subjects that apply to the type of license applied for and may include the following subjects:

(1) federal and state fish and game laws and regulations;

~~(2)~~ practical woodsmanship;

~~(3)~~ general knowledge of big game;

~~(4)~~ field preparation of trophies;

~~(5)~~ care of game meat;



- ~~(6) use of outfitter's gear as listed on the application;~~
- ~~(7) knowledge of area and terrain;~~
- ~~(8) knowledge of firearms;~~
- (9)(2) federal and state regulations as applicable to outfitting;
- ~~(10) first aid;~~
- (11)(3) boat safety; *and*
- (12)(4) water safety;
- ~~(13) care and safety of livestock."~~

**Section 8.** Section 37-47-306, MCA, is amended to read:

**"37-47-306. Fees.** (1) The board shall establish fees commensurate with costs as provided in 37-1-134.

(2) Applications must be accompanied by a license fee as specified by board rule.

~~(3) If a nonresident license applicant resides in a state that requires residents of the state of Montana to pay in excess of the amount established by the board for a similar license, then the fee for the nonresident outfitter's, guide's, or professional guide's license must be the same amount as the higher fee charged in the state where the nonresident license applicant resides. A nonresident hunting outfitter is subject to the same rules and regulations that apply to a resident hunting outfitter.~~

(4)(3) The license fees must be deposited in the state special revenue fund and must be used by the board to investigate the applicant, to enforce this part, and for administrative costs, subject to 37-1-101(6)."

**Section 9.** Section 37-47-307, MCA, is amended to read:

**"37-47-307. Investigation of applicant — issuance or denial of license.** (1) The department shall investigate each applicant for an outfitter's, guide's, or professional guide's license. The board shall determine the applicant's qualifications.

(2) The board may deny or refuse to issue any new license or to renew any previous license if the applicant does not meet the qualifications stated in this chapter or rules adopted pursuant to this chapter. In the event that any application for a license is denied or refused, the board shall immediately notify the applicant, setting forth in the notice the grounds upon which the denial or refusal is based.

(3) A licensee in good standing is entitled to a new license for the ensuing license year upon complying with the provisions of this chapter or rules adopted pursuant to this chapter and upon completing an application for license renewal on a form provided by the board.

(4) This section may not be interpreted to conflict with 37-1-138."

**Section 10.** Section 37-47-310, MCA, is amended to read:

**"37-47-310. Transfer or amendment of outfitter's license — transfer of river-use days to new owner of fishing outfitter business.** (1) An outfitter's license may not be transferred.

(2) An individual person may, upon proper showing, have that person's outfitter's license amended to indicate that the license is being held for the use and benefit of a named ~~proprietorship, partnership, or corporation~~ *business entity*.

(3) Subject to approval by the board, a person designated by the family of an outfitter who is deceased or incapacitated due to physical or mental disease or

injury or who is unable to carry out the responsibilities of an outfitter due to the outfitter's status as an active member of the military may continue to provide outfitting services for the outfitter's unexpired license year, or until the family sells the outfitting business, until the designee obtains an outfitter license.

(4) When a fishing outfitter's business is sold or transferred in its entirety, any river-use days that have been allocated to that fishing outfitter through the fishing outfitter's historic use of or activities on restricted-use streams are transferable to the new owner of the fishing outfitter's business. Upon the sale or transfer of a fishing outfitter's business, the outfitter who sells or transfers the business shall notify the new owner that the use of any transferred river-use days is subject to change pursuant to rules adopted by the fish, wildlife, and parks commission and that a property right does not attach to the transferred river-use days."

**Section 11.** Section 37-47-311, MCA, is amended to read:

**"37-47-311. Limit one license.** (1) An individual may not hold more than one outfitter's license either for the individual's own benefit or for the use and benefit of a ~~partnership, limited liability partnership, limited liability company, or corporation~~ *business entity*. However, the name of a ~~partnership, limited liability partnership, limited liability company, or corporation~~ *business entity* may appear on more than one current outfitter's license.

(2) *Subsection (1) does not prevent a licensee from:*

(a) *owning or operating more than one business entity under one license; and*  
or

(b) *filing within more than one ~~operation~~ operations plan filed with the board.*"

**Section 12.** Section 37-47-341, MCA, is amended to read:

**"37-47-341. Grounds for denial, suspension, or revocation of license.** A license or right to apply for and hold a license issued under this part may be denied, suspended, or revoked or other disciplinary conditions may be applied upon any of the following grounds:

(1) having ceased to meet all of the qualifications for holding a license, as required under this chapter and rules adopted pursuant to this chapter;

(2) fraud or deception in procuring a license;

(3) fraudulent, untruthful, or misleading advertising;

(4) having pleaded guilty to or been adjudged by a court guilty of a felony, including a case in which the sentence is suspended or imposition of the sentence is deferred, unless civil rights have been restored pursuant to law;

(5) one conviction or bond forfeiture ~~as to a violation~~ *for a violation* of the fish and game or outfitting laws or regulations of any state, or the United States, *or other jurisdictions*;

(6) a substantial breach of a contract with a participant provided that the breach is established as a matter of final judgment in a court of law;

(7) the willful employment of or contracting with an unlicensed guide ~~or professional guide~~ by an outfitter;

(8) negligence or misconduct while acting as an outfitter, ~~guide,~~ or ~~professional~~ guide that causes an accident or injury to the person or property of a participant;

(9) misconduct as defined by board rule; or

(10) any violation of this chapter or a rule adopted pursuant to this chapter."

**Section 13.** Section 37-47-343, MCA, is amended to read:

**“37-47-343. Appeal procedure.** A person who feels aggrieved by a final order of the board denying issuance of a license or suspending or revoking a license as an outfitter, ~~guide,~~ or ~~professional~~ guide may petition for judicial review as provided in Title 2, chapter 4, part 7.”

**Section 14.** Section 37-47-401, MCA, is amended to read:

**“37-47-401. Purpose.** It is recognized that some activities conducted by outfitters, ~~guides,~~ and ~~professional~~ guides within the scope of their authorized services are inherently hazardous to participants regardless of all feasible safety measures that may be taken. It is the purpose of this part to define those areas of responsibility and affirmative acts or omissions for which outfitters, ~~guides,~~ and ~~professional~~ guides are liable for loss, damage, or injury and those risks for which the participant expressly assumes or is considered to have voluntarily assumed the risk of loss or damage.”

**Section 15.** Section 37-47-402, MCA, is amended to read:

**“37-47-402. Duties of outfitters, guides, and professional guides.** An outfitter, ~~guide,~~ or ~~professional~~ guide offering professional services in this state shall:

(1) act as would a reasonably prudent member of the profession while engaging in providing the services authorized to be performed by a licensed member of the profession;

(2) comply with all standards adopted by board rule.”

**Section 16.** Section 37-47-403, MCA, is amended to read:

**“37-47-403. Duties of participants.** (1) A participant shall:

(a) act as would a reasonably prudent person when engaging in the activities offered by a licensed outfitter, ~~guide,~~ or ~~professional~~ guide in this state;

(b) receive permission from the outfitter, ~~guide,~~ or ~~professional~~ guide prior to embarking on any self-initiated activity and inform the outfitter, ~~guide,~~ or ~~professional~~ guide of the participant’s plans and intentions upon receiving permission to engage in the self-initiated activity.

(2) A participant may not:

(a) interfere with the running or operation of an outfitter’s, ~~guide’s,~~ or ~~professional~~ guide’s activities when those activities conform to the standards of care set forth in 37-47-402;

(b) use the outfitter’s, ~~guide’s,~~ or ~~professional~~ guide’s equipment, facilities, or services unless the participant has requested and received permission from the outfitter, ~~guide,~~ or ~~professional~~ guide;

(c) knowingly, purposely, or negligently engage in any type of conduct that contributes to or causes injury to the participant or any other person.”

**Section 17.** Section 37-47-404, MCA, is amended to read:

**“37-47-404. Responsibility for violations of law.** (1) A person accompanying a hunting or fishing party as an outfitter, ~~guide,~~ or ~~professional~~ guide is equally responsible with any person or party engaging the person as an outfitter for any violation of fish and game laws unless the violation is reported to a peace officer by the outfitter, ~~guide,~~ or ~~professional~~ guide and the outfitter, ~~guide,~~ or ~~professional~~ guide was not an active participant. An outfitter, ~~guide,~~ or ~~professional~~ guide who willfully fails or refuses to report any violation of fish and game laws is liable for the penalties provided in this chapter. If a guide or ~~professional~~ guide violates the laws or applicable regulations relating to fish and game, outfitting, or guiding with actual or implied knowledge of an outfitter

engaging the guide ~~or professional guide~~, the outfitter is legally responsible for the violation for all purposes under the laws or regulations if the outfitter fails to report the violation to the proper authority.

(2) An outfitter, ~~guide, or professional guide~~ shall report any violation or suspected violation of fish and game laws that the outfitter, ~~guide, or professional guide~~ knows ~~or reasonably should have known~~ has been committed by the employees, *contractors*, agents, representatives, clients, or participants in the outfitting or guiding activity. The violation or suspected violation must be reported to a peace officer at the earliest possible opportunity.

(3) A person may not hire or retain an outfitter unless the outfitter is currently licensed in accordance with the laws of the state of Montana. A person may not use the services of a guide ~~or professional guide~~ and a guide ~~or professional guide~~ may not offer services unless the services are obtained through an endorsing outfitter.”

**Section 18.** Section 87-6-702, MCA, is amended to read:

**“87-6-702. Outfitting without a license.** (1) (a) A person may not purposely or knowingly engage in outfitting while not licensed pursuant to Title 37, chapter 47, or purposely or knowingly violate a licensing rule adopted under Title 37, chapter 47.

(b) A person convicted of a violation of subsection (1)(a) is punishable by a fine of not less than \$200 or more than \$1,000 or imprisonment in the county jail for up to 1 year, or both. In addition, the person shall forfeit any current hunting, fishing, or trapping license or permit issued by this state and the privilege to hunt, fish, or trap in this state for a period set by the court. A sentencing court that imposes a period of license revocation shall consider the provisions of subsection (3).

(2) (a) A person or entity that represents to any other person, any entity, or the public that the person or entity is an outfitter and who commits the offense of outfitting without a license, as described in subsection (1)(a), for any portion of 5 or more days for consideration within 1 calendar year for any person or for consideration valued in excess of \$5,000 is punishable by a fine of not more than \$50,000 or imprisonment in the state prison for up to 5 years, or both.

(b) A person convicted of a violation of subsection (2)(a) shall forfeit any current hunting, fishing, or trapping license or permit issued by this state and the privilege to hunt, fish, or trap in this state for a minimum of 5 years. A sentencing court that imposes a period of license revocation shall consider the provisions of subsection (3).

(3) A sentencing court that imposes a period of license revocation pursuant to subsection (1)(b) or (2)(b) shall consider and may impose any of the following conditions during the period of revocation:

(a) prohibiting the offender from:

(i) participating in any hunting, fishing, or trapping endeavor as a hunter, angler, trapper, scout, guide, observer, or assistant;

(ii) brokering or participating in any lease of property for hunting, fishing, or trapping, either personally or through an agent or representative;

(iii) participating in any seminar or show that is designed to promote hunting, fishing, or trapping;

(iv) purchasing or possessing any hunting, fishing, or trapping permits; and

(b) imposing any other reasonable condition or restriction that is related to the crime committed or that is considered necessary for the rehabilitation of the offender or for the protection of the citizens or wildlife of this state.

(4) A person convicted of a violation of this section shall reimburse the full amount of any fees received to the person to whom illegal outfitting services were provided.

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

(a) “Consideration” means remuneration given in exchange for outfitting services supplied based on a business relationship between parties, but not including reimbursement for shared trip expenses.

(b) (i) “Outfitting” means providing hunting or fishing services for consideration, including any saddle or pack animal, facilities, camping equipment, personal service, or vehicle, watercraft, or other conveyance for any person to hunt, fish, trap, capture, take, kill, or pursue any game, including fish. The term includes accompanying that person, either part or all of the way, on an expedition for any of these purposes or supervision of a licensed guide ~~or professional guide~~ in accompanying that person.

(ii) The term does not include:

(A) *services provided by packers, wranglers, cooks, or other parties under the direct employment of the outfitter; or*

(B) *the provision of the services listed in subsection (5)(b)(i) by a person on real property that the person owns for the primary pursuit of bona fide agricultural interests.”*

**Section 19. Repealer.** The following sections of the Montana Code Annotated are repealed:

37-47-103. Publication of license information.

37-47-316. Transfer of net client hunter use upon transfer of operations plan.

37-47-318. Fees in addition to annual license fee — allocation.

Approved April 30, 2013

## CHAPTER NO. 342

[HB 359]

AN ACT PROVIDING THAT AN ADMINISTRATIVE OR JUDICIAL ORDER MAY BE ADMISSIBLE IN A CIVIL ACTION REGARDING REMEDIAL ACTIONS RELATED TO HAZARDOUS WASTE FACILITIES; AND AMENDING SECTIONS 75-10-706 AND 75-10-711, MCA.

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

**Section 1.** Section 75-10-706, MCA, is amended to read:

**“75-10-706. Purpose — intent.** (1) The purposes of this part are to:

(a) protect the public health and welfare of all Montana citizens against the dangers arising from releases of hazardous or deleterious substances;

(b) encourage private parties to clean up sites within the state at which releases of hazardous or deleterious substances have occurred, resulting in adverse impacts on the health and welfare of the citizens of the state and on the state’s natural, environmental, and biological systems; and

(c) provide for funding to study, plan, and undertake the rehabilitation, removal, and cleanup of sites within the state at which no voluntary action has been taken.

(2) The legislature, mindful of its constitutional obligations under Article II, section 3, and Article IX of the Montana constitution, has enacted the Comprehensive Environmental Cleanup and Responsibility Act. It is the legislature's intent that the requirements of this part provide adequate remedies for the protection of the environmental life support system from degradation and provide adequate remedies to prevent unreasonable depletion and degradation of natural resources.

~~(3) A person who is not subject to an administrative or judicial order may not conduct any remedial action at any facility that is subject to an administrative or judicial order issued pursuant to this part without the written permission of the department. Remedial action performed in accordance with this part is intended to provide for the protection of the environmental life support system from degradation and to prevent unreasonable depletion and degradation of natural resources."~~

**Section 2.** Section 75-10-711, MCA, is amended to read:

**"75-10-711. Remedial action — orders — penalties — judicial proceedings.** (1) The department may take remedial action whenever:

(a) there has been a release or there is a substantial threat of a release into the environment that may present an imminent and substantial endangerment to the public health, welfare, or safety or the environment; and

(b) none of the persons who are liable or potentially liable under 75-10-715(1) and who have been given the opportunity by letter to properly and expeditiously perform the appropriate remedial action will properly and expeditiously perform the appropriate remedial action. Any person liable under 75-10-715(1) shall take immediate action to contain, remove, and abate the release.

(2) Whenever the department is authorized to act pursuant to subsection (1) or has reason to believe that a release has occurred or is about to occur, the department may undertake remedial action in the form of any investigation, monitoring, survey, testing, or other information gathering as authorized by 75-10-707 that is necessary and appropriate to identify the existence, nature, origin, and extent of the release or the threat of release and the extent and imminence of the danger to the public health, safety, or welfare or the environment.

(3) Except as provided in 75-10-712, the department is authorized to draw upon the fund to take action under subsection (1) if it has made diligent good faith efforts to determine the identity of the person or persons liable for the release or threatened release and:

(a) is unable to determine the identity of the liable person or persons in a manner consistent with the need to take timely remedial action; or

(b) a person or persons determined by the department to be liable or potentially liable under 75-10-715(1) have been informed in writing of the department's determination and have been requested by the department to take appropriate remedial action but are unable or unwilling to take action in a timely manner; and

(c) the written notice informs the person that if subsequently found liable pursuant to 75-10-715(1), the person may be required to reimburse the fund for



the state's remedial action costs and may be subject to penalties pursuant to this part.

(4) Whenever the department is authorized to act pursuant to subsection (1), it may issue to any person liable under 75-10-715(1) cease and desist, remedial, or other orders as may be necessary or appropriate to protect the public health, safety, or welfare or the environment.

(5) (a) A person who violates or fails or refuses to comply with an order issued under 75-10-707 or this section may, in an action brought to enforce the order, be assessed a civil penalty of not more than \$10,000 for each day in which a violation occurs or a failure or refusal to comply continues. In determining the amount of any penalty assessed, the court may take into account:

(i) the nature, circumstances, extent, and gravity of the noncompliance;

(ii) with respect to the person liable under 75-10-715(1):

(A) the person's ability to pay;

(B) any prior history of violations;

(C) the degree of culpability; and

(D) the economic benefit or savings, if any, resulting from the noncompliance; and

(iii) any other matters as justice may require.

(b) Civil penalties collected under subsection (5)(a) must be deposited into the environmental quality protection fund established in 75-10-704.

(6) A court has jurisdiction to review an order issued under 75-10-707 or this section only in the following actions:

(a) an action under 75-10-715 to recover remedial action costs or penalties or for contribution;

(b) an action to enforce an order issued under 75-10-707 or this section;

(c) an action to recover a civil penalty for violation of or failure to comply with an order issued under 75-10-707 or this section; or

(d) an action by a person to whom an order has been issued to determine the validity of the order, only if the person has been in compliance and continues in compliance with the order pending a decision of the court.

(7) In considering objections raised in a judicial action regarding orders issued under this part, the court shall uphold and enforce an order issued by the department unless the objecting party can demonstrate, on the administrative record, that the department's decision to issue the order was arbitrary and capricious or otherwise not in accordance with law.

(8) Instead of issuing a notification or an order under this section, the department may bring an action for legal or equitable relief in the district court of the county where the release or threatened release occurred or in the first judicial district as may be necessary to abate any imminent and substantial endangerment to the public health, safety, or welfare or the environment resulting from the release or threatened release.

*(9) A person who is not subject to an administrative or judicial order may not conduct any remedial action at any facility that is subject to an administrative or judicial order issued pursuant to this part without the written permission of the department. If a state or federal administrative or judicial order is issued relative to a facility, the order and any remedial activity conducted pursuant to the order may be admissible in a civil action pertaining to the facility or property adjacent to or allegedly impacted by the facility provided that the reviewing court in its discretion determines the order to be relevant and more probative than*

*prejudicial. Admission of this evidence does not make the department a necessary party to the action. Remedial action performed in accordance with this part is intended to provide for the protection of the environmental life support system from degradation and to prevent unreasonable depletion and degradation of natural resources.*

(9)(10) The department may take remedial action pursuant to subsection (1) at a site that is regulated under the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, Public Law 96-510, if the department determines that remedial action is necessary to carry out the purposes of this part.”

Approved April 30, 2013

## CHAPTER NO. 343

[HB 385]

AN ACT GENERALLY REVISING LAWS RELATING TO A TENANT ENGAGING IN OR KNOWINGLY ALLOWING ANY PERSON TO ENGAGE IN ANY ACTIVITY ON RENTAL PREMISES THAT CREATES A REASONABLE POTENTIAL THAT THE PREMISES MAY BE DAMAGED OR DESTROYED OR THAT NEIGHBORING TENANTS MAY BE INJURED; AND AMENDING SECTIONS 70-24-303, 70-24-321, 70-24-422, AND 70-24-427, MCA.

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

**Section 1.** Section 70-24-303, MCA, is amended to read:

**“70-24-303. Landlord to maintain premises — agreement that tenant perform duties — limitation of landlord’s liability for failure of smoke detector or carbon monoxide detector.** (1) A landlord:

(a) shall comply with the requirements of applicable building and housing codes materially affecting health and safety in effect at the time of original construction in all dwelling units where construction is completed after July 1, 1977;

(b) may not knowingly allow any tenant or other person to engage in any activity on the premises that creates a reasonable potential that the premises may be damaged or destroyed or that neighboring tenants may be injured by any of the following:

~~(i) criminal production or manufacture of dangerous drugs, as prohibited by 45-9-110;~~

~~(ii) operation of an unlawful clandestine laboratory, as prohibited by 45-9-132; or~~

~~(iii) gang-related activities, as prohibited by Title 45, chapter 8, part 4;~~

(c) shall make repairs and do whatever is necessary to put and keep the premises in a fit and habitable condition;

(d) shall keep all common areas of the premises in a clean and safe condition;

(e) shall maintain in good and safe working order and condition all electrical, plumbing, sanitary, heating, ventilating, air-conditioning, and other facilities and appliances, including elevators, supplied or required to be supplied by the landlord;

(f) shall, unless otherwise provided in a rental agreement, provide and maintain appropriate receptacles and conveniences for the removal of ashes,

garbage, rubbish, and other waste incidental to the occupancy of the dwelling unit and arrange for their removal;

(g) shall supply running water and reasonable amounts of hot water at all times and reasonable heat between October 1 and May 1, except if the building that includes the dwelling unit is not required by law to be equipped for that purpose or the dwelling unit is so constructed that heat or hot water is generated by an installation within the exclusive control of the tenant; and

(h) shall install in each dwelling unit under the landlord's control an approved carbon monoxide detector, in accordance with rules adopted by the department of labor and industry, and an approved smoke detector, in accordance with rules adopted by the department of justice. Upon commencement of a rental agreement, the landlord shall verify that the carbon monoxide detector and the smoke detector in the dwelling unit are in good working order. The tenant shall maintain the carbon monoxide detector and the smoke detector in good working order during the tenant's rental period. For the purposes of this subsection, an approved carbon monoxide detector, as defined in 70-20-113, and an approved smoke detector, as defined in 70-20-113, bear a label or other identification issued by an approved testing agency having a service for inspection of materials and workmanship at the factory during fabrication and assembly.

(2) If the duty imposed by subsection (1)(a) is greater than a duty imposed by subsections (1)(b) through (1)(h), a landlord's duty must be determined by reference to subsection (1)(a).

(3) A landlord and tenant of a one-, two-, or three-family residence may agree in writing that the tenant perform the landlord's duties specified in subsections (1)(f) and (1)(g) and specified repairs, maintenance tasks, alteration, and remodeling but only if the transaction is entered into in good faith and not for the purpose of evading the obligations of the landlord.

(4) A landlord and tenant of a one-, two-, or three-family residence may agree that the tenant is to perform specified repairs, maintenance tasks, alterations, or remodeling only if:

(a) the agreement of the parties is entered into in good faith and not for the purpose of evading the obligations of the landlord and is set forth in a separate writing signed by the parties and supported by adequate consideration;

(b) the work is not necessary to cure noncompliance with subsection (1)(a); and

(c) the agreement does not diminish the obligation of the landlord to other tenants in the premises.

(5) The landlord is not liable for damages caused as a result of the failure of the carbon monoxide detector or the smoke detector required under subsection (1)(h)."

**Section 2.** Section 70-24-321, MCA, is amended to read:

**"70-24-321. Tenant to maintain dwelling unit.** (1) A tenant shall:

(a) comply with all obligations primarily imposed upon tenants by applicable provisions of building and housing codes materially affecting health and safety;

(b) keep that part of the premises that the tenant occupies and uses as reasonably clean and safe as the condition of the premises permits;

(c) dispose from the dwelling unit all ashes, garbage, rubbish, and other waste in a clean and safe manner;

(d) keep all plumbing fixtures in the dwelling unit or used by the tenant as clean as their condition permits;

(e) use in a reasonable manner all electrical, plumbing, sanitary, heating, ventilating, air-conditioning, and other facilities and appliances, including elevators, in the premises;

(f) conduct oneself and require other persons on the premises with the tenant's consent to conduct themselves in a manner, that will not disturb the tenant's neighbors' peaceful enjoyment of the premises; and

(g) use the parts of the premises, including the living room, bedroom, kitchen, bathroom, and dining room, in a reasonable manner, considering the purposes for which they were designed and intended. This section does not preclude the right of the tenant to operate a limited business or cottage industry on the premises, subject to state and local laws, if the landlord has consented in writing. The landlord may not unreasonably withhold consent if the limited business or cottage industry is operated within reasonable rules of the landlord.

(2) A tenant may not destroy, deface, damage, impair, or remove any part of the premises or permit any person to do so.

(3) A tenant may not engage or knowingly allow any person to engage in any activity on the premises that creates a reasonable potential that the premises may be damaged or destroyed or that neighboring tenants may be injured by any of the following:

~~(a) criminal production or manufacture of dangerous drugs, as prohibited by 45-9-110;~~

~~(b) operation of an unlawful clandestine laboratory, as prohibited by 45-9-132; or~~

~~(c) gang-related activities, as prohibited by Title 45, chapter 8, part 4, including but not limited to any of the following activities:~~

~~(a) criminal production or manufacture of dangerous drugs as prohibited by 45-9-110;~~

~~(b) operation of an unlawful clandestine laboratory as prohibited by 45-9-132;~~

~~(c) gang-related activities as prohibited by Title 45, chapter 8, part 4;~~

~~(d) unlawful possession of a firearm, explosive, or hazardous or toxic substance; or~~

~~(e) any activity that is otherwise prohibited by law."~~

**Section 3.** Section 70-24-422, MCA, is amended to read:

**"70-24-422. Noncompliance of tenant generally — landlord's right of termination — damages — injunction.** (1) Except as provided in this chapter, if there is a noncompliance by the tenant with the rental agreement or a noncompliance with 70-24-321, the landlord may deliver a written notice to the tenant pursuant to 70-24-108 specifying the acts and omissions constituting the noncompliance and that the rental agreement will terminate upon a date specified in the notice not less than the minimum number of days after receipt of the notice provided for in this section. The rental agreement terminates as provided in the notice, subject to the following:

(a) If the noncompliance is remediable by repairs, the payment of damages, or otherwise and the tenant adequately remedies the noncompliance before the date specified in the notice, the rental agreement does not terminate.

(b) If the noncompliance involves an unauthorized pet, the notice period is 3 days.

(c) If the noncompliance involves unauthorized persons residing in the rental unit, the notice period is 3 days.

(d) If the noncompliance is not listed in subsection (1)(b) or (1)(c), the notice period is 14 days.

(e) If substantially the same act or omission that constituted a prior noncompliance of which notice was given recurs within 6 months, the landlord may terminate the rental agreement upon at least 5 days' written notice specifying the noncompliance and the date of the termination of the rental agreement.

(2) If rent is unpaid when due and the tenant fails to pay rent within 3 days after written notice by the landlord of nonpayment and the landlord's intention to terminate the rental agreement if the rent is not paid within that period, the landlord may terminate the rental agreement.

(3) If the tenant destroys, defaces, damages, impairs, or removes any part of the premises in violation of 70-24-321(2), the landlord may terminate the rental agreement upon giving 3 days' written notice specifying the noncompliance under the provisions of 70-24-321(2).

(4) If the tenant creates a reasonable potential that the premises may be damaged or destroyed or that neighboring tenants may be injured, ~~as evidenced by the tenant being arrested for or charged with an act that violates the provisions in violation of 70-24-321(3),~~ the landlord may terminate the rental agreement upon giving ~~3 days' 3 days'~~ written notice specifying the violation and noncompliance under the provisions of 70-24-321(3).

~~(5)(5)~~ Except as provided in this chapter, the landlord may recover actual damages and obtain injunctive relief for any noncompliance by the tenant with the rental agreement or 70-24-321. Except as provided in subsection ~~(6) (6)~~, if the tenant's noncompliance is purposeful, the landlord may recover treble damages.

~~(6)(6)~~ Treble damages may not be recovered for the tenant's early termination of the tenancy.

~~(7)(7)~~ The landlord is not bound by this section in the event that the landlord elects to use the 30-day notice for termination of tenancy as provided in 70-24-441."

**Section 4.** Section 70-24-427, MCA, is amended to read:

**"70-24-427. Landlord's remedies after termination — action for possession.** (1) If the rental agreement is terminated, the landlord has a claim for possession and for rent and a separate claim for actual damages for any breach of the rental agreement.

(2) An action filed pursuant to subsection (1) in a court must be heard within ~~20~~ 14 days after the tenant's appearance or the answer date stated in the summons, ~~except that if the rental agreement is terminated because of noncompliance under 70-24-321(3), the action must be heard within 5 business days after the tenant's appearance or the answer date stated in the summons, except that if the rental agreement is terminated because of noncompliance under 70-24-321(3), the action must be heard within 5 business days after the tenant's appearance or the answer date stated in the summons.~~ If the action is appealed to the district court, the hearing must be held within ~~20~~ 14 days after the case is transmitted to the district court, ~~except that if the rental agreement is terminated because of noncompliance under 70-24-321(3), the hearing must be held within 5 business days after the case is transmitted to the district court, except that if the rental agreement is terminated because of noncompliance under~~

*70-24-321(3), the hearing must be held within 5 business days after the case is transmitted to the district court.*

(3) The landlord and tenant may stipulate to a continuance of the hearing beyond the time limit in subsection (2) without the necessity of an undertaking.

(4) In a landlord's action for possession filed pursuant to subsection (1), the court shall rule on the action within 5 5 days after the hearing."

Approved April 30, 2013

## CHAPTER NO. 344

[HB 403]

AN ACT REVISING FEES COLLECTED BY DISTRICT COURT CLERKS; ESTABLISHING FEES FOR PROVIDING COPIES BY FACSIMILE, E-MAIL, OR OTHER ELECTRONIC MEANS; ESTABLISHING FEES FOR FILING A PLEADING BY FACSIMILE OR E-MAIL; AMENDING SECTIONS 7-4-2516, 25-1-201, 25-10-404, AND 25-10-405, MCA; AND PROVIDING AN EFFECTIVE DATE.

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

**Section 1.** Section 7-4-2516, MCA, is amended to read:

**"7-4-2516. Fees not required in certain cases.** No fees must be charged the state, any county, or any subdivision thereof, any public officer acting therefor, or in habeas corpus proceedings for official services rendered, and all such services must be performed without the payment of fees, *except the fees under 25-1-201(1)(d) and (1)(r).*"

**Section 2.** Section 25-1-201, MCA, is amended to read:

**"25-1-201. Fees of clerk of district court.** (1) The clerk of district court shall collect the following fees:

(a) at the commencement of each action or proceeding, except a petition for dissolution of marriage, from the plaintiff or petitioner, \$90; for filing a complaint in intervention, from the intervenor, \$80; for filing a petition for dissolution of marriage, \$170; for filing a petition for legal separation, \$150; and for filing a petition for a contested amendment of a final parenting plan, \$120;

(b) from each defendant or respondent, on appearance, \$60;

(c) on the entry of judgment, from the prevailing party, \$45;

(d) (i) except as provided in subsection (1)(d)(ii), for preparing copies of papers on file in the clerk's office *in all criminal and civil proceedings*, \$1 a page for the first 10 pages of each file, for each request, and 50 cents for each additional page;

(ii) for a copy of a marriage license, \$5, and for a copy of a dissolution decree, \$10;

(iii) *for providing copies of papers on file in the clerk's office by facsimile, e-mail, or other electronic means in all criminal and civil proceedings, 25 cents per page;*

(e) for each certificate, with seal, \$2;

(f) for oath and jurat, with seal, \$1;

(g) for a search of court records, \$2 for each name for each year searched, for a period of up to 7 years, and an additional \$1 for each name for any additional year searched;



(h) for filing and docketing a transcript of judgment or transcript of the docket from all other courts, the fee for entry of judgment provided for in subsection (1)(c);

(i) for issuing an execution or order of sale on a foreclosure of a lien, \$5;

(j) for transmission of records or files or transfer of a case to another court, \$5;

(k) for filing and entering papers received by transfer from other courts, \$10;

(l) for issuing a marriage license, \$53;

(m) on the filing of an application for informal, formal, or supervised probate or for the appointment of a personal representative or the filing of a petition for the appointment of a guardian or conservator, from the applicant or petitioner, \$70, which includes the fee for filing a will for probate;

(n) on the filing of the items required in 72-4-303 by a domiciliary foreign personal representative of the estate of a nonresident decedent, \$55;

(o) for filing a declaration of marriage without solemnization, \$53;

(p) for filing a motion for substitution of a judge, \$100;

(q) for filing a petition for adoption, \$75-;

(r) *for filing a pleading by facsimile or e-mail in all criminal and civil proceedings, 50 cents per page.*

(2) Except as provided in subsections (3) and (5) through (7), fees collected by the clerk of district court must be deposited in the state general fund as specified by the supreme court administrator.

(3) (a) Of the fee for filing a petition for dissolution of marriage, \$5 must be deposited in the children's trust fund account established in 52-7-102, \$19 must be deposited in the civil legal assistance for indigent victims of domestic violence account established in 3-2-714, and \$30 must be deposited in the partner and family member assault intervention and treatment fund established in 40-15-110.

(b) Of the fee for filing a petition for legal separation, \$5 must be deposited in the children's trust fund account established in 52-7-102 and \$30 must be deposited in the partner and family member assault intervention and treatment fund established in 40-15-110.

(4) If the moving party files a statement signed by the nonmoving party agreeing not to contest an amendment of a final parenting plan at the time the petition for amendment is filed, the clerk of district court may not collect from the moving party the fee for filing a petition for a contested amendment of a parenting plan under subsection (1)(a).

(5) Of the fee for filing an action or proceeding, except a petition for dissolution of marriage, \$9 must be deposited in the civil legal assistance for indigent victims of domestic violence account established in 3-2-714.

(6) The fees collected under subsections (1)(d), (1)(g), ~~and (1)(j)~~, and (1)(r) must be deposited in the county district court fund. If a district court fund does not exist, the fees must be deposited in the county general fund to be used for district court operations.

(7) Of the fee for issuance of a marriage license and the fee for filing a declaration of marriage without solemnization, \$13 must be deposited in the domestic violence intervention account established by 44-4-310 and \$10 must be deposited in the county district court fund. If a district court fund does not exist, the fees must be deposited in the county general fund to be used for district court operations.

(8) Any filing fees, fines, penalties, or awards collected by the district court or district court clerk not otherwise specifically allocated must be deposited in the state general fund.”

**Section 3.** Section 25-10-404, MCA, is amended to read:

**“25-10-404. Poor persons not required to prepay fees — definition.**

(1) Except as provided in subsections (3) and (6), a person may request a waiver of fees by filing an affidavit, supported by a financial statement, stating that the person has a good cause of action or defense and is unable to pay the costs or procure security to secure the cause of action or defense. Except as provided in subsections (2) and (6), upon issuance of an order of the court or administrative tribunal approving a request for waiver of fees, the person may commence and prosecute or defend an action in any of the courts and administrative tribunals of this state and the officers of the courts and administrative tribunals shall issue and serve all writs and perform all services in the action without demanding or receiving their fees in advance, *except the fees under 25-1-201(1)(d) and (1)(r).*

(2) If a judge or presiding officer of an administrative tribunal is not available to approve a request for a waiver of fees prior to filing a pleading, the pleading must be filed subject to subsequent approval. If the request is subsequently denied, the fees must be paid before the case may proceed further.

(3) A person represented by an entity that provides free legal services to indigent persons is not required to file the financial statement required by subsection (1).

(4) The department of justice shall, by rule, prescribe the form of the financial statement required by subsection (1) for use in determining indigence. The form may require the disclosure of income and assets, including but not limited to the ownership of real and personal property, cash, and savings.

(5) A prisoner in the legal custody of the department of corrections who files a complaint or appeals a judgment in a civil action or proceeding without prepaying the required fees or security shall, in addition to filing the affidavit required in subsection (1), submit a certified copy of the prisoner’s trust fund account statement, obtained from the facility in which the prisoner is confined, for the 6-month period immediately preceding any filing.

(6) If an indigent prisoner in the legal custody of the department of corrections files a civil complaint or an appeal from a civil judgment, the prisoner shall pay the total cost of the filing fee. If a prisoner is unable to pay the total filing fee, the court shall order the prisoner to make partial payments of any fees required by law when funds exist. The court shall consider the indigence policy of the department when determining whether funds exist.

(7) A prisoner may not be prohibited from filing a civil complaint or appealing a civil judgment or criminal conviction because of lack of assets or money to pay the initial partial filing fee. The court shall dismiss an action if the prisoner fails to pay either the partial or full amount of the filing fee as ordered by the court.

(8) As used in this section, “prisoner” means a person who is convicted of, sentenced for, or adjudicated delinquent for violations of criminal law or the terms and conditions of parole, probation, or a diversionary program and who is subject to incarceration, detention, or admission to any facility.”

**Section 4.** Section 25-10-405, MCA, is amended to read:

**“25-10-405. Governmental entities not required to prepay fees — exceptions.** The state, a county, a municipality, or any subdivision thereof or

any officer when prosecuting or defending an action on behalf of the state, a county, a municipality, or a subdivision thereof is not required to pay or deposit any fee or amount to or with any officer during the prosecution or defense of an action, except the fee under 25-1-201(1)(p) for filing a motion for substitution of a judge, *the fee under 25-1-201(1)(r) for filing a pleading by facsimile or e-mail*, and all fees for photocopies, postage and handling, certifications, authentications, and record searches.”

**Section 5. Effective date.** [This act] is effective July 1, 2013.

Approved April 30, 2013

## CHAPTER NO. 345

[HB 431]

AN ACT REVISING NEGOTIATION REQUIREMENTS FOR SURFACE OWNER DAMAGE AND DISRUPTION COMPENSATION FROM OIL AND GAS DEVELOPERS OR OPERATORS; AND AMENDING SECTIONS 82-10-502 AND 82-10-504, MCA.

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

**Section 1.** Section 82-10-502, MCA, is amended to read:

**“82-10-502. Definitions.** As used in this part, the following definitions apply:

(1) “Agricultural production” means the production of any growing grass, crops, or trees attached to the surface of the land or farm animals with commercial value.

(2) “*Lost land value*” means the value of the highest and best reasonably available use of the land directly utilized by oil and gas operations and production, other than uses appurtenant to the mineral estate.

(2)(3) “Oil and gas developer or operator” means the person who acquires the oil and gas lease for the purpose of extracting oil and gas.

(3)(4) “Oil and gas estate” means an estate in or ownership of all or part of the oil and gas underlying a specified tract of land.

(4)(5) “Oil and gas operations” means the exploration for or drilling of an oil and gas well that requires entry upon the surface estate and is begun subsequent to June 1, 1981, and the production operations directly related to the exploration or drilling.

(6) “*Reasonably available use*” means the present use or a future use for which a permit, if necessary, has been issued under applicable law.

(5)(7) “Surface owner” means the person who holds record title to or has a purchaser’s interest in the surface of the land.”

**Section 2.** Section 82-10-504, MCA, is amended to read:

**“82-10-504. Surface damage and disruption payments — dispute resolution — penalty for late payment.** (1) (a) The surface owner and the oil and gas developer or operator shall attempt to negotiate *in good faith* an agreement on damages. The oil and gas developer or operator shall pay the surface owner a sum of money or other compensation equal to the amount of damages sustained by the surface owner for loss of agricultural production and income, lost land value, and lost value of improvements caused by oil and gas operations.

(b) The amount of damages may be determined by any formula mutually agreeable between the surface owner and the oil and gas developer or operator. When determining damages, consideration must be given to the period of time during which the loss occurs.

(c) At any time during the negotiation, at the request of either party and upon mutual agreement, the surface owner and the oil and gas developer or operator may enter into a dispute resolution process, including mediation.

(d) The surface owner may elect to receive annual damage payments over a period of time, except that the surface owner must be compensated by a single sum payment for harm caused by exploration only.

(e) The payments contemplated by *under* this subsection (1) may cover only land directly affected by oil and gas operations and production. Payments under this subsection (1) are intended to compensate the surface owner for damage and disruption. A person may not reserve or assign damage and disruption compensation apart from the surface estate except to a tenant of the surface estate.

(2) An oil and gas developer or operator who fails to timely pay an installment under any annual damage agreement negotiated with a surface owner is liable for payment to the surface owner of twice the amount of the unpaid installment if the installment payment is not paid within 60 days of receipt of notice of failure to pay from the surface owner.”

Approved April 30, 2013

## CHAPTER NO. 346

[HB 444]

AN ACT GENERALLY REVISING STATE LAND LAWS RELATED TO ACCESS; PROVIDING A TAX CREDIT FOR QUALIFIED ACCESS TO STATE LANDS; CREATING THE UNLOCKING STATE LANDS PROGRAM; DEFINING PARCELS NOT PREVIOUSLY DEEMED LEGALLY ACCESSIBLE; PROVIDING CRITERIA FOR PROGRAM PARTICIPATION; PROVIDING RULEMAKING AUTHORITY; AND PROVIDING A DELAYED EFFECTIVE DATE, AN APPLICABILITY DATE, AND A TERMINATION DATE.

WHEREAS, the Legislature wishes to increase access by the public to publicly owned, state lands; and

WHEREAS, increasing access to public lands will provide additional opportunities for activities such as hunting, fishing, wildlife viewing, and other recreational opportunities as determined by the commission; and

WHEREAS, the unlocking state lands program will provide incentives for participating landowners to increase public access to state lands.

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

**Section 1. Credit for unlocking state lands program.** (1) A taxpayer is allowed a credit against the taxes imposed by Title 15, chapter 30 or 31, in the amount of \$500 for each qualified access to state land, as defined in 77-1-101, that is provided. The maximum credit that a taxpayer may claim in a year under this section is \$2,000.

(2) If the amount of the credit exceeds the taxpayer's liability under Title 15, chapter 30 or 31, the amount of the excess must be refunded to the taxpayer. The credit may be claimed even if the claimant has no taxable income.

(3) For purposes of this section, “qualified access to state land” means an access established through a taxpayer’s property to a parcel of state land for recreational use and certified by the department of fish, wildlife, and parks pursuant to [section 2].

(4) If the property through which access is provided is owned by multiple taxpayers, the taxpayers may claim a proportionate share of the \$500 credit based on their respective ownership interests in that property.

(5) If qualified access to the same parcel of state land is provided through separate properties owned by different taxpayers, the taxpayer for each property may claim a \$500 credit.

**Section 2. Unlocking state lands program — purpose — commission rulemaking authority.** (1) The legislature finds that increasing access to public lands will provide additional opportunities for activities such as hunting, fishing, wildlife viewing, and other recreational activities as determined by the commission.

(2) The department may establish and administer a voluntary program to encourage access through private land to parcels not previously deemed legally accessible to be known as the unlocking state lands program.

(3) Private land is not eligible for the unlocking state lands program if outfitting or commercial hunting restricts public hunting opportunities on that land.

(4) If the parcel not previously deemed legally accessible is leased state land under Title 77, chapter 1, only the lessee with a qualified access to that state land under [section 1] is eligible for the unlocking state lands program.

(5) (a) A contract for participation in the unlocking state lands program is established through a cooperative agreement between the landowner and the department that guarantees reasonable access to state land through the landowner’s private land. This contract serves as certification that the landowner is providing qualified access to state land and is eligible for the tax credit identified in [section 1]. The contract must include a certification number for identification purposes. The department shall provide a copy of the contract to the landowner and notify the department of revenue of the certification number.

(b) Contracts may be established with landowners who, prior to [the effective date of this act], provided access to state land that was otherwise not legally accessible under subsection (9). Landowners who establish contracts under this subsection (5)(b) are eligible to receive the tax credit identified in [section 1].

(6) The commission shall develop rules for establishing contracts under this section regarding:

- (a) duration of access;
- (b) types of qualified access; and
- (c) reasonable landowner-imposed limitations.

(7) The department shall provide public notice of any available qualified access to state land established through the unlocking state lands program.

(8) Recreational users of access established by the unlocking state lands program shall remain in the prescribed access route as defined by the contract in subsection (5).

(9) For purposes of this section, “parcels not previously deemed legally accessible” means state land that cannot be accessed by:

- (a) public road, right-of-way, or easement;
- (b) public waters;
- (c) adjacent federal, state, county, or municipal land that is open to public use; or
- (d) adjacent private land because that landowner has not granted permission to cross.

**Section 3. Codification instruction.** (1) [Section 1] is intended to be codified as an integral part of Title 15, chapter 30, part 23, and the provisions of Title 15, chapter 30, part 23, apply to [section 1].

(2) [Section 2] is intended to be codified as an integral part of Title 87, chapter 1, part 2, and the provisions of Title 87, chapter 1, part 2, apply to [section 2].

**Section 4. Effective date.** [This act] is effective January 1, 2014.

**Section 5. Applicability.** [This act] applies to tax years beginning after December 31, 2013.

**Section 6. Termination.** [This act] terminates December 31, 2018.

Approved April 30, 2013

## CHAPTER NO. 347

[HB 457]

AN ACT GENERALLY REVISING RECOUNT BOARD LAWS; CREATING A SCHOOL RECOUNT BOARD FOR SCHOOL DISTRICT ELECTIONS; PROVIDING DEFINITIONS; PROVIDING PROCEDURES FOR SCHOOL RECOUNT BOARDS; CLARIFYING FUNDING FOR SCHOOL DISTRICT RECOUNTS; AMENDING SECTIONS 13-1-101, 13-16-101, 13-16-201, 13-16-203, 13-16-204, 13-16-205, 13-16-301, 13-16-417, 13-16-418, AND 13-16-420, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

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

**Section 1. School recount board — duties — composition.** (1) There is a school recount board. If a school election requires a recount pursuant to 13-16-201, the school recount board shall perform the recount following the procedures for a recount board as provided in Title 13, chapter 16.

(2) (a) The school recount board must consist of three members of the board of trustees of the school district for which the school election took place.

(b) If there are more than three members of the board of trustees, the presiding officer of the board of trustees shall appoint three trustees to serve as school recount board members. If the presiding officer of the board of trustees is a candidate for an office or nomination for which votes are to be recounted, another trustee chosen by majority vote shall serve as the presiding officer for purposes of appointing the school recount board members.

(c) If one or more of the trustees appointed to the school recount board cannot serve or cannot attend when the school recount board meets, the presiding officer shall appoint one or more remaining trustees to serve. If there is an insufficient number of trustees to serve on the school recount board, the presiding officer may appoint the school district clerk or the clerk's designee or the county superintendent or the superintendent's designee to serve as the remaining member or members.



(d) A candidate for an office or nomination for which votes are to be recounted may not be a member of the school recount board.

(e) The school district clerk is secretary of the school recount board, and the board may appoint school district employees or hire any additional clerks as needed.

**Section 2.** Section 13-1-101, MCA, is amended to read:

**“13-1-101. Definitions.** As used in this title, unless the context clearly indicates otherwise, the following definitions apply:

(1) “Active elector” means an elector whose name has not been placed on the inactive list due to failure to respond to confirmation notices pursuant to 13-2-220 or 13-19-313.

(2) “Active list” means a list of active electors maintained pursuant to 13-2-220.

(3) “Anything of value” means any goods that have a certain utility to the recipient that is real and that is ordinarily not given away free but is purchased.

(4) “Application for voter registration” means a voter registration form prescribed by the secretary of state that is completed and signed by an elector, submitted to the election administrator, and contains voter registration information subject to verification as provided by law.

(5) “Ballot” means a paper ballot counted manually or a paper ballot counted by a machine, such as an optical scan system or other technology that automatically tabulates votes cast by processing the paper ballots.

(6) “Candidate” means:

(a) an individual who has filed a declaration or petition for nomination, acceptance of nomination, or appointment as a candidate for public office as required by law;

(b) for the purposes of chapter 35, 36, or 37, an individual who has solicited or received and retained contributions, made expenditures, or given consent to an individual, organization, political party, or committee to solicit or receive and retain contributions or make expenditures on the individual’s behalf to secure nomination or election to any office at any time, whether or not the office for which the individual will seek nomination or election is known when the:

- (i) solicitation is made;
- (ii) contribution is received and retained; or
- (iii) expenditure is made; or

(c) an officeholder who is the subject of a recall election.

(7) (a) “Contribution” means:

(i) an advance, gift, loan, conveyance, deposit, payment, or distribution of money or anything of value to influence an election;

(ii) a transfer of funds between political committees;

(iii) the payment by a person other than a candidate or political committee of compensation for the personal services of another person that are rendered to a candidate or political committee.

(b) “Contribution” does not mean:

(i) services provided without compensation by individuals volunteering a portion or all of their time on behalf of a candidate or political committee or meals and lodging provided by individuals in their private residences for a candidate or other individual;

(ii) the cost of any bona fide news story, commentary, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, or other periodical publication of general circulation;

(iii) the cost of any communication by any membership organization or corporation to its members or stockholders or employees; or

(iv) filing fees paid by the candidate.

(8) "Election" means a general, regular, special, or primary election held pursuant to the requirements of state law, regardless of the time or purpose.

(9) "Election administrator" means the county clerk and recorder or the individual designated by a county governing body to be responsible for all election administration duties, except that with regard to school elections not administered by the county, the term means the school district clerk.

(10) "Elector" means an individual qualified to vote under state law.

(11) (a) "Expenditure" means a purchase, payment, distribution, loan, advance, promise, pledge, or gift of money or anything of value made for the purpose of influencing the results of an election.

(b) "Expenditure" does not mean:

(i) services, food, or lodging provided in a manner that they are not contributions under subsection (7);

(ii) payments by a candidate for a filing fee or for personal travel expenses, food, clothing, lodging, or personal necessities for the candidate and the candidate's family;

(iii) the cost of any bona fide news story, commentary, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, or other periodical publication of general circulation; or

(iv) the cost of any communication by any membership organization or corporation to its members or stockholders or employees.

(12) "Federal election" means a general or primary election in which an elector may vote for individuals for the office of president of the United States or for the United States congress.

(13) "General election" or "regular election" means an election held for the election of public officers throughout the state at times specified by law, including elections for officers of political subdivisions when the time of the election is set on the same date for all similar political subdivisions in the state. For ballot issues required by Article III, section 6, or Article XIV, section 8, of the Montana constitution to be submitted by the legislature to the electors at a general election, "general election" means an election held at the time provided in 13-1-104(1). For ballot issues required by Article XIV, section 9, of the Montana constitution to be submitted as a constitutional initiative at a regular election, regular election means an election held at the time provided in 13-1-104(1).

(14) "Inactive elector" means an individual who failed to respond to confirmation notices and whose name was placed on the inactive list pursuant to 13-2-220 or 13-19-313.

(15) "Inactive list" means a list of inactive electors maintained pursuant to 13-2-220 or 13-19-313.

(16) "Individual" means a human being.

(17) (a) "Issue" or "ballot issue" means a proposal submitted to the people at an election for their approval or rejection, including but not limited to

initiatives, referenda, proposed constitutional amendments, recall questions, school levy questions, bond issue questions, or a ballot question.

(b) For the purposes of chapters 35 and 37, an issue becomes a “ballot issue” upon certification by the proper official that the legal procedure necessary for its qualification and placement upon the ballot has been completed, except that a statewide issue becomes a “ballot issue” upon preparation and transmission by the secretary of state of the form of the petition or referral to the person who submitted the proposed issue.

(18) “Legally registered elector” means an individual whose application for voter registration was accepted, processed, and verified as provided by law.

(19) “Mail ballot election” means any election that is conducted under Title 13, chapter 19, by mailing ballots to all active electors.

(20) “Person” means an individual, corporation, association, firm, partnership, cooperative, committee, club, union, or other organization or group of individuals or a candidate as defined in subsection (6).

(21) “Place of deposit” means a location designated by the election administrator pursuant to 13-19-307 for a mail ballot election conducted under Title 13, chapter 19.

(22) “Political committee” means a combination of two or more individuals or a person other than an individual who makes a contribution or expenditure:

(a) to support or oppose a candidate or a committee organized to support or oppose a candidate or a petition for nomination; or

(b) to support or oppose a ballot issue or a committee organized to support or oppose a ballot issue; or

(c) as an earmarked contribution.

(23) “Political subdivision” means a county, consolidated municipal-county government, municipality, special district, or any other unit of government, except school districts, having authority to hold an election for officers or on a ballot issue.

(24) “Polling place election” means an election primarily conducted at polling places rather than by mail under the provisions of Title 13, chapter 19.

(25) “Primary” or “primary election” means an election held throughout the state to nominate candidates for public office at times specified by law, including nominations of candidates for offices of political subdivisions when the time for nominations is set on the same date for all similar subdivisions in the state.

(26) “Provisional ballot” means a ballot cast by an elector whose identity or eligibility to vote has not been verified as provided by law.

(27) “Provisionally registered elector” means an individual whose application for voter registration was accepted but whose identity or eligibility has not yet been verified as provided by law.

(28) “Public office” means a state, county, municipal, school, or other district office that is filled by the people at an election.

(29) “Random-sample audit” means an audit involving a manual count of ballots from designated races and ballot issues in precincts selected through a random process as provided in 13-17-503.

(30) “Registrar” means the county election administrator and any regularly appointed deputy or assistant election administrator.

(31) “School election” has the meaning provided in 20-20-101.

(32) "School election filing officer" means the filing officer with whom the declarations for nomination for school district office were filed or with whom the school ballot issue was filed.

(33) "School recount board" means the board authorized pursuant to [section 1] to perform recount duties in school elections.

(31)(34) "Special election" means an election other than a statutorily scheduled primary or general election held at any time for any purpose provided by law. It may be held in conjunction with a statutorily scheduled election.

(32)(35) "Statewide voter registration list" means the voter registration list established and maintained pursuant to 13-2-107 and 13-2-108.

(33)(36) "Transfer form" means a form prescribed by the secretary of state that may be filled out by an elector to transfer the elector's registration when the elector's residence address has changed within the county.

(34)(37) "Valid vote" means a vote that has been counted as valid or determined to be valid as provided in 13-15-206.

(35)(38) "Voted ballot" means a ballot that is:

- (a) deposited in the ballot box at a polling place;
- (b) received at the election administrator's office; or
- (c) returned to a place of deposit.

(36)(39) "Voting system" or "system" means any machine, device, technology, or equipment used to automatically record, tabulate, or process the vote of an elector cast on a paper ballot."

**Section 3.** Section 13-16-101, MCA, is amended to read:

**"13-16-101. County governing body as county recount board.** (1) The county recount board must consist of three members.

(2) Three members of the governing body must be appointed by the presiding officer if there are more than three members of the governing body.

(3) If three members of the governing body cannot attend when the board meets, any vacant position must be filled by one or more county officers chosen by the remaining members of the governing body.

(4) If a member of the recount board is a candidate for an office or nomination for which votes are to be recounted, the member must be disqualified.

(5) The election administrator is secretary of the recount board, and the board may hire any additional clerks as needed.

(6) The board may appoint county employees or hire clerks to assist as needed.

(7) *If the recount is for a school election, the school recount board as provided in [section 1] shall perform recount board duties.*"

**Section 4.** Section 13-16-201, MCA, is amended to read:

**"13-16-201. Conditions under which recount to be conducted.** (1) A recount must be conducted if:

(a) a candidate for a precinct office or for a county, municipal, or district office voted for in only one county, other than a legislator or a judge of the district court, is defeated by a margin not exceeding 1/4 of 1% of the total votes cast or by a margin not exceeding 10 votes, whichever is greater, and the defeated candidate, within 5 days after the official canvass, files with the election administrator a verified petition stating that the candidate believes that a recount will change the result and that a recount of the votes for the office or nomination should be conducted;

(b) a candidate for a congressional office, a state or district office voted on in more than one county, the legislature, or judge of the district court is defeated by a margin not exceeding 1/4 of 1% of the total votes cast for all candidates for the same position and the defeated candidate, within 5 days after the official canvass, files a petition with the secretary of state as set forth in subsection (1)(a). The secretary of state shall immediately notify by certified mail each election administrator whose county includes any precincts that voted for the office, and a recount must be conducted in those precincts.

(c) a question submitted to the vote of the people of a county, municipality, or district within a county is decided by a margin not exceeding 1/4 of 1% of the total votes cast for and against the question and a petition as set forth in subsection (1)(a) is filed with the election administrator. This petition must be signed by not less than 10 electors of the jurisdiction and must be filed within 5 days after the official canvass.

(d) a question submitted to the vote of the people of the state is decided by a margin not exceeding 1/4 of 1% of the total votes cast for and against the question and a petition as set forth in subsection (1)(a) is filed with the secretary of state. This petition must be signed by not less than 100 electors of the state, representing at least five counties of the state, and must be filed within 5 days after the official canvass.

(e) a question submitted to the vote of the people of a multicounty district is decided by a margin not exceeding 1/4 of 1% of the total votes cast for and against the question and a petition as set forth in subsection (1)(a) is filed with the secretary of state. This petition must be signed by not less than 25 electors of the district, representing at least two counties, and must be filed within 5 days after the official canvass.

(f) a canvassing board petitions for a recount as provided in 13-15-403.

(2) If the election is a school election, the petition is filed with the *school election* filing officer ~~with whom the declarations for nomination for school district office were filed or with whom the school ballot issue was filed.~~

(3) When a recount is required under subsection (1)(b), (1)(d), or (1)(e), the secretary of state shall immediately notify each election administrator of the filing of the petition, and a recount must be conducted in all precincts in each affected county.”

**Section 5.** Section 13-16-203, MCA, is amended to read:

**“13-16-203. Recount for tie votes.** (1) When a tie has been certified to the election administrator, as provided in 13-15-405(4), or the secretary of state, the administrator or the secretary of state shall proceed as if a petition for a recount has been filed. If a tie exists after the recount, the tie must be resolved as provided by law.

(2) *In the event of a tie in a school election, the board of trustees shall proceed as if a petition for a recount has been filed pursuant to 13-16-204(1)(b). If a tie exists after the recount, the tie must be resolved pursuant to 20-20-418 or as otherwise provided by law.*”

**Section 6.** Section 13-16-204, MCA, is amended to read:

**“13-16-204. Meeting of recount board when recount requested.** (1) (a) Immediately upon receiving a petition for a recount or a notice from the secretary of state that a petition has been filed as provided in 13-16-201, the election administrator shall notify the members of the county recount board.

(b) *Upon receipt of a petition for a school election recount as provided in 13-16-201(2), the school election filing officer shall notify the members of the school recount board.*

(2) The board shall convene at the usual meeting place of the governing body without undue delay but not later than 5 days after receiving notice from the election administrator *or school election filing officer.*”

**Section 7.** Section 13-16-205, MCA, is amended to read:

**“13-16-205. Expenses of recount.** ~~The~~ (1) *Except as provided in subsection (2), the expense of the recount provided for in 13-16-201 is a county charge. Recount expenses of the secretary of state and board of state canvassers are a state charge.*

(2) *If the recount is for a school election, the expense of the recount is a school district charge as provided in 20-20-107(1).*”

**Section 8.** Section 13-16-301, MCA, is amended to read:

**“13-16-301. Application and court order for recount.** (1) (a) Within 5 days after the canvass of election returns, an unsuccessful candidate for any public office at an election may apply to the district court of the county where the election was held for an order directing the *appropriate county or school* recount board to make a recount of the votes cast in any or all of the precincts *or the school district polling places*. If the election was held in more than one county, the application must be made to the district court of the county where the candidate resides.

(b) Within 5 days after the canvass of election returns, an elector who was eligible to vote on the issue and who believes that there are grounds for a recount of the votes cast for and against a ballot issue may apply to the district court of the county where the elector resides for an order directing the *appropriate county or school* recount board to make a recount of the votes cast in any or all of the precincts *or the school district polling places*.

(2) The application must specify the grounds for a recount, and it must be verified by the applicant that the matters contained in it are true to the best of the applicant’s knowledge, information, and belief.

(3) Within 5 days after filing of the application, the judge shall hear the application and determine its sufficiency.

(4) If the judge finds there is probable cause to believe that the votes cast for the applicant or the ballot issue were not correctly counted, the judge shall order the *appropriate county or school* recount board to assemble within 5 days after the order is issued at a time and place fixed by the order. The board shall meet and recount the ballots as specified in the order.”

**Section 9.** Section 13-16-417, MCA, is amended to read:

**“13-16-417. Sealing ballots and voting systems.** (1) When a recount of paper ballots that was conducted using a voting system is finished, each ballot must again be sealed in the same package or envelope in the presence of the election administrator and the *appropriate county or school* recount board and must be delivered to the election administrator for custody.

(2) All voting systems must be secured as provided in rules adopted under 13-17-211.

(3) All other materials used in the recount that are required to be sealed must be resealed in the same manner and delivered to the election administrator for custody.”

**Section 10.** Section 13-16-418, MCA, is amended to read:



**“13-16-418. Certification after recount.** (1) (a) Immediately after the recount, the county recount board shall certify the result.

(2)(b) At least two members of the board shall sign the certificate, and it must be attested to under seal by the election administrator.

(3)(c) The certificate must set forth in substance the proceedings of the board and the appearance of any candidates or representatives. The certificate must adequately designate:

(a)(i) each precinct recounted;

(b)(ii) the vote of each precinct according to the official canvass previously made;

(c)(iii) the nomination, position, or question involved; and

(d)(iv) the correct vote of each precinct as determined by the recount.

(4)(d) When the certificate relates to a recount for a congressional office, a state or district office voted on in more than one county, a legislative office, or an office of judge of the district court or a ballot issue voted on in more than one county, the certificate must be made in duplicate. One copy must be transmitted immediately to the secretary of state by certified mail.

(5)(e) (a)(i) If the recount relates to a county, municipal, or district office voted for in only one county, other than that of a legislator or a judge of the district court, or a precinct office or a ballot issue voted on in only one county, the county recount board shall immediately recanvass the returns as corrected by the certificate showing the result of the recount and make a corrected abstract of the votes.

(b)(ii) If the corrected abstract shows no change in the result, no further action is needed.

(c)(iii) If there is a change in the result, a new certificate of election or nomination must be issued to each candidate found to be elected or nominated and the first certificate is void. The individual receiving the second certificate must be elected or nominated to the office.

(2) (a) *In the event of a school election recount, immediately after the recount, the school recount board shall certify the result. At least two members of the recount board shall sign the certificate, and it must be attested to under seal by the school election administrator.*

(b) *The certificate must adequately designate:*

(i) *the vote of the district according to the official canvass previously made;*

(ii) *the position or question involved; and*

(iii) *the correct vote of the district as determined by the recount.*

(c) *The school recount board shall immediately recanvass the returns as corrected by the certificate showing the result of the recount and make a corrected abstract of the votes. If the corrected abstract shows no change in the result, no further action is needed. If there is a change in the result, a new certificate of election must be issued to each candidate found to be elected and the first certificate is void. The individual receiving the second certificate must be elected to the office.”*

**Section 11.** Section 13-16-420, MCA, is amended to read:

**“13-16-420. Misplaced or missing ballots.** If during a recount the appropriate county or school recount board discovers that ballots are misplaced or missing, it may petition the election administrator to inspect all sealed paper ballots within the county precincts or school district polling places to find the misplaced or missing ballots. Upon receiving the petition, the election

administrator shall inspect the sealed ballots to find the misplaced or missing ballots. Upon completion of the recount, the misplaced or missing ballots must be placed ~~in their~~ *with the proper precinct or school district polling place ballots* and sealed with ~~the remaining ballots them.~~

**Section 12. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 20, chapter 20, part 4, and the provisions of Title 20, chapter 20, part 4, apply to [section 1].

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

Approved April 30, 2013

## CHAPTER NO. 348

[HB 494]

AN ACT REQUIRING THE DEPARTMENT OF TRANSPORTATION TO PERFORM AN INSPECTION WITHIN 30 DAYS OF A CONTRACTOR'S REQUEST FOR AN INSPECTION; REQUIRING THE DEPARTMENT TO NOTIFY CONTRACTORS OF DEFICIENCIES; REQUIRING FINAL PAYMENT FOR CONTRACTS TO BE MADE WITHIN 90 DAYS AFTER THE DEPARTMENT'S FINAL ACCEPTANCE; AND AMENDING SECTION 60-2-115, MCA.

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

**Section 1.** Section 60-2-115, MCA, is amended to read:

**“60-2-115. Contract let by commission — time for final payment of contract price — interest.** (1) ~~The commission~~ *Subject to subsections (2) through (4), the department* shall comply with the 30-day time period for payment of contracts as provided in 18-2-306 for all contracts let by the commission in accordance with this part.

(2) *For the final payment on a contract, the department shall, within 30 days after a request by the contractor for final acceptance, perform an inspection of the project and notify the contractor of whether the department has granted or refused final acceptance.*

(3) *If the department notifies the contractor that the department has granted final acceptance, the department shall make the final payment of the contract price specified in the contract to the other party to the contract within 90 days after the notice.*

(4) (a) *If the department notifies the contractor that the department has refused final acceptance, the department shall include with the notice a list of all deficiencies that must be cured before the department will grant final acceptance.*

(b) *After the contractor has cured all of the deficiencies, the contractor shall request final acceptance by the department. Within 30 days after the contractor's request, the department shall perform an inspection of all of the cured deficiencies.*

(c) *If the department notifies the contractor of its final acceptance, the department shall make the final payment as provided in subsection (3).*

(d) *If the department notifies the contractor that the department has refused final acceptance, the department shall:*

(i) *notify the contractor of any remaining deficiencies; and*

(ii) *grant final acceptance, subject to any remedy provided under the provisions of Title 28, chapter 2.*

(5) *When the department grants final acceptance, the department shall immediately consider the contract complete and close the contract.*

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

(a) *“Final acceptance” means the department’s acceptance of the construction, maintenance, or public works project upon certification by the architect, project engineer, or other representative of the department of final completion of the project.*

(b) *“Final completion” means that the project has been completed in accordance with the terms and conditions of the contract documents and all warranties have expired.”*

**Section 2. Saving clause.** [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

Approved April 30, 2013

## CHAPTER NO. 349

[HB 545]

AN ACT ALLOWING EMPLOYERS TO PAY THE TOTAL COST OF THEIR QUALIFYING EMPLOYEES' INDIVIDUAL DISABILITY COVERAGE IN CERTAIN INSTANCES; DEFINING “QUALIFYING EMPLOYEE”; CLARIFYING THAT AN EMPLOYER'S PAYMENT OF THE COST OF INDIVIDUAL DISABILITY COVERAGE FOR ITS QUALIFYING EMPLOYEES IS EXCLUDED FROM THE DEFINITION OF “ADJUSTED GROSS INCOME” FOR INDIVIDUAL INCOME TAX PURPOSES; PROVIDING THAT THE SMALL EMPLOYER HEALTH INSURANCE AVAILABILITY ACT DOES NOT APPLY TO DISABILITY COVERAGE PROVIDED BY SMALL EMPLOYERS FOR QUALIFYING EMPLOYEES; AMENDING SECTIONS 15-30-2110 AND 33-22-1804, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE.

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

**Section 1. Employer payment of employee individual disability coverage.** (1) The provisions of Title 33 may not be construed as prohibiting an employer from paying a portion of or the entire cost of individual disability coverage for or on behalf of each of the employer's qualifying employees in any case in which a qualifying employee elects individual disability coverage because:

(a) the employer does not otherwise offer or provide its qualifying employees with group health plan coverage; or

(b) the employer offers or provides its qualifying employees with group health plan coverage but the cost to the qualifying employee of the coverage exceeds 9.5% of the qualifying employee's household income.

(2) An employer's contribution to coverage for its qualifying employees who elect disability coverage pursuant to subsection (1) must be made:

(a) at a uniform percentage of the cost of the health plan offered by the employer; or

(b) at a uniform set dollar amount regardless of whether an employer offers no health plan or a health plan with one or more benefit options.

(3) For purposes of this section, “qualifying employee” means an employee who is employed by the employer for at least 30 hours per week.

**Section 2.** Section 15-30-2110, MCA, is amended to read:

**“15-30-2110. Adjusted gross income.** (1) Subject to subsection (13), adjusted gross income is the taxpayer’s federal adjusted gross income as defined in section 62 of the Internal Revenue Code, 26 U.S.C. 62, and in addition includes the following:

(a) (i) interest received on obligations of another state or territory or county, municipality, district, or other political subdivision of another state, except to the extent that the interest is exempt from taxation by Montana under federal law;

(ii) exempt-interest dividends as defined in section 852(b)(5) of the Internal Revenue Code, 26 U.S.C. 852(b)(5), that are attributable to the interest referred to in subsection (1)(a)(i);

(b) refunds received of federal income tax, to the extent that the deduction of the tax resulted in a reduction of Montana income tax liability;

(c) that portion of a shareholder’s income under subchapter S. of Chapter 1 of the Internal Revenue Code that has been reduced by any federal taxes paid by the subchapter S. corporation on the income;

(d) depreciation or amortization taken on a title plant as defined in 33-25-105;

(e) the recovery during the tax year of an amount deducted in any prior tax year to the extent that the amount recovered reduced the taxpayer’s Montana income tax in the year deducted;

(f) if the state taxable distribution of an estate or trust is greater than the federal taxable distribution of the same estate or trust, the difference between the state taxable distribution and the federal taxable distribution of the same estate or trust for the same tax period; and

(g) except for exempt-interest dividends described in subsection (2)(a)(ii), for tax years commencing after December 31, 2002, the amount of any dividend to the extent that the dividend is not included in federal adjusted gross income.

(2) Notwithstanding the provisions of the Internal Revenue Code, adjusted gross income does not include the following, which are exempt from taxation under this chapter:

(a) (i) all interest income from obligations of the United States government, the state of Montana, or a county, municipality, district, or other political subdivision of the state and any other interest income that is exempt from taxation by Montana under federal law;

(ii) exempt-interest dividends as defined in section 852(b)(5) of the Internal Revenue Code, 26 U.S.C. 852(b)(5), that are attributable to the interest referred to in subsection (2)(a)(i);

(b) interest income earned by a taxpayer who is 65 years of age or older in a tax year up to and including \$800 for a taxpayer filing a separate return and \$1,600 for each joint return;

(c) (i) except as provided in subsection (2)(c)(ii), the first \$3,600 of all pension and annuity income received as defined in 15-30-2101;

(ii) for pension and annuity income described under subsection (2)(c)(i), as follows:

(A) each taxpayer filing singly, head of household, or married filing separately shall reduce the total amount of the exclusion provided in subsection (2)(c)(i) by \$2 for every \$1 of federal adjusted gross income in excess of \$30,000 as shown on the taxpayer’s return;

(B) in the case of married taxpayers filing jointly, if both taxpayers are receiving pension or annuity income or if only one taxpayer is receiving pension or annuity income, the exclusion claimed as provided in subsection (2)(c)(i) must be reduced by \$2 for every \$1 of federal adjusted gross income in excess of \$30,000 as shown on their joint return;

(d) all Montana income tax refunds or tax refund credits;

(e) gain required to be recognized by a liquidating corporation under 15-31-113(1)(a)(ii);

(f) all tips or gratuities that are covered by section 3402(k) or service charges that are covered by section 3401 of the Internal Revenue Code of 1954, 26 U.S.C. 3402(k) or 3401, as amended and applicable on January 1, 1983, received by a person for services rendered to patrons of premises licensed to provide food, beverage, or lodging;

(g) all benefits received under the workers' compensation laws;

(h) all health insurance premiums paid by an employer for an employee if attributed as income to the employee under federal law, *including premiums paid by the employer for an employee pursuant to [section 1]*;

(i) all money received because of a settlement agreement or judgment in a lawsuit brought against a manufacturer or distributor of "agent orange" for damages resulting from exposure to "agent orange";

(j) principal and income in a medical care savings account established in accordance with 15-61-201 or withdrawn from an account for eligible medical expenses, as defined in 15-61-102, of the taxpayer or a dependent of the taxpayer or for the long-term care of the taxpayer or a dependent of the taxpayer;

(k) principal and income in a first-time home buyer savings account established in accordance with 15-63-201 or withdrawn from an account for eligible costs, as provided in 15-63-202(7), for the first-time purchase of a single-family residence;

(l) contributions withdrawn from a family education savings account or earnings withdrawn from a family education savings account for qualified higher education expenses, as defined in 15-62-103, of a designated beneficiary;

(m) the recovery during the tax year of any amount deducted in any prior tax year to the extent that the recovered amount did not reduce the taxpayer's Montana income tax in the year deducted;

(n) if the federal taxable distribution of an estate or trust is greater than the state taxable distribution of the same estate or trust, the difference between the federal taxable distribution and the state taxable distribution of the same estate or trust for the same tax period;

(o) deposits, not exceeding the amount set forth in 15-30-3003, deposited in a Montana farm and ranch risk management account, as provided in 15-30-3001 through 15-30-3005, in any tax year for which a deduction is not provided for federal income tax purposes;

(p) income of a dependent child that is included in the taxpayer's federal adjusted gross income pursuant to the Internal Revenue Code. The child is required to file a Montana personal income tax return if the child and taxpayer meet the filing requirements in 15-30-2602.

(q) principal and income deposited in a health care expense trust account, as defined in 2-18-1303, or withdrawn from the account for payment of qualified health care expenses as defined in 2-18-1303;

(r) that part of the refundable credit provided in 33-22-2006 that reduces Montana tax below zero; and

(s) the amount of the gain recognized from the sale or exchange of a mobile home park as provided in 15-31-163.

(3) A shareholder of a DISC that is exempt from the corporation license tax under 15-31-102(1)(l) shall include in the shareholder's adjusted gross income the earnings and profits of the DISC in the same manner as provided by section 995 of the Internal Revenue Code, 26 U.S.C. 995, for all periods for which the DISC election is effective.

(4) A taxpayer who, in determining federal adjusted gross income, has reduced the taxpayer's business deductions by an amount for wages and salaries for which a federal tax credit was elected under sections 38 and 51(a) of the Internal Revenue Code, 26 U.S.C. 38 and 51(a), is allowed to deduct the amount of the wages and salaries paid regardless of the credit taken. The deduction must be made in the year that the wages and salaries were used to compute the credit. In the case of a partnership or small business corporation, the deduction must be made to determine the amount of income or loss of the partnership or small business corporation.

(5) Married taxpayers filing a joint federal return who are required to include part of their social security benefits or part of their tier 1 railroad retirement benefits in federal adjusted gross income may split the federal base used in calculation of federal taxable social security benefits or federal taxable tier 1 railroad retirement benefits when they file separate Montana income tax returns. The federal base must be split equally on the Montana return.

(6) Married taxpayers filing a joint federal return who are allowed a capital loss deduction under section 1211 of the Internal Revenue Code, 26 U.S.C. 1211, and who file separate Montana income tax returns may claim the same amount of the capital loss deduction that is allowed on the federal return. If the allowable capital loss is clearly attributable to one spouse, the loss must be shown on that spouse's return; otherwise, the loss must be split equally on each return.

(7) In the case of passive and rental income losses, married taxpayers filing a joint federal return and who file separate Montana income tax returns are not required to recompute allowable passive losses according to the federal passive activity rules for married taxpayers filing separately under section 469 of the Internal Revenue Code, 26 U.S.C. 469. If the allowable passive loss is clearly attributable to one spouse, the loss must be shown on that spouse's return; otherwise, the loss must be split equally on each return.

(8) Married taxpayers filing a joint federal return in which one or both of the taxpayers are allowed a deduction for an individual retirement contribution under section 219 of the Internal Revenue Code, 26 U.S.C. 219, and who file separate Montana income tax returns may claim the same amount of the deduction that is allowed on the federal return. The deduction must be attributed to the spouse who made the contribution.

(9) (a) Married taxpayers filing a joint federal return who are allowed a deduction for interest paid for a qualified education loan under section 221 of the Internal Revenue Code, 26 U.S.C. 221, and who file separate Montana income tax returns may claim the same amount of the deduction that is allowed on the federal return. The deduction may be split equally on each return or in proportion to each taxpayer's share of federal adjusted gross income.



(b) Married taxpayers filing a joint federal return who are allowed a deduction for qualified tuition and related expenses under section 222 of the Internal Revenue Code, 26 U.S.C. 222, and who file separate Montana income tax returns may claim the same amount of the deduction that is allowed on the federal return. The deduction may be split equally on each return or in proportion to each taxpayer's share of federal adjusted gross income.

(10) A taxpayer receiving retirement disability benefits who has not attained 65 years of age by the end of the tax year and who has retired as permanently and totally disabled may exclude from adjusted gross income up to \$100 a week received as wages or payments in lieu of wages for a period during which the employee is absent from work due to the disability. If the adjusted gross income before this exclusion exceeds \$15,000, the excess reduces the exclusion by an equal amount. This limitation affects the amount of exclusion, but not the taxpayer's eligibility for the exclusion. If eligible, married individuals shall apply the exclusion separately, but the limitation for income exceeding \$15,000 is determined with respect to the spouses on their combined adjusted gross income. For the purpose of this subsection, "permanently and totally disabled" means unable to engage in any substantial gainful activity by reason of any medically determined physical or mental impairment lasting or expected to last at least 12 months.

(11) An individual who contributes to one or more accounts established under the Montana family education savings program may reduce adjusted gross income by the lesser of \$3,000 or the amount of the contribution. In the case of married taxpayers, each spouse is entitled to a reduction, not in excess of \$3,000, for the spouses' contributions to the accounts. Spouses may jointly elect to treat half of the total contributions made by the spouses as being made by each spouse. The reduction in adjusted gross income under this subsection applies only with respect to contributions to an account of which the account owner, as defined in 15-62-103, is the taxpayer, the taxpayer's spouse, or the taxpayer's child or stepchild if the taxpayer's child or stepchild is a Montana resident. The provisions of subsection (1)(e) do not apply with respect to withdrawals of contributions that reduced adjusted gross income.

(12) (a) A taxpayer may exclude the amount of the loan payment received pursuant to subsection (12)(a)(iv), not to exceed \$5,000, from the taxpayer's adjusted gross income if the taxpayer:

(i) is a health care professional licensed in Montana as provided in Title 37;

(ii) is serving a significant portion of a designated geographic area, special population, or facility population in a federally designated health professional shortage area, a medically underserved area or population, or a federal nursing shortage county as determined by the secretary of health and human services or by the governor;

(iii) has had a student loan incurred as a result of health-related education; and

(iv) has received a loan payment during the tax year made on the taxpayer's behalf by a loan repayment program described in subsection (12)(b) as an incentive to practice in Montana.

(b) For the purposes of subsection (12)(a), a loan repayment program includes a federal, state, or qualified private program. A qualified private loan repayment program includes a licensed health care facility, as defined in 50-5-101, that makes student loan payments on behalf of the person who is employed by the facility as a licensed health care professional.

(13) Notwithstanding the provisions of subsection (1), adjusted gross income does not include 40% of capital gains on the sale or exchange of capital assets before December 31, 1986, as capital gains are determined under subchapter P. of Chapter 1 of the Internal Revenue Code as it read on December 31, 1986.

(14) By November 1 of each year, the department shall multiply the amount of pension and annuity income contained in subsection (2)(c)(i) and the federal adjusted gross income amounts in subsection (2)(c)(ii) by the inflation factor for that tax year, but using the year 2009 consumer price index, and rounding the results to the nearest \$10. The resulting amounts are effective for that tax year and must be used as the basis for the exemption determined under subsection (2)(c). (Subsection (2)(f) terminates on occurrence of contingency—sec. 3, Ch. 634, L. 1983; subsection (2)(o) terminates on occurrence of contingency—sec. 9, Ch. 262, L. 2001.)”

**Section 3.** Section 33-22-1804, MCA, is amended to read:

**“33-22-1804. Applicability and scope.** (1) This part applies to a health benefit plan marketed through a small employer that provides coverage to the employees of a small employer in this state if any of the following conditions are met:

(a) a portion of the premium or benefits is paid by or on behalf of the small employer;

(b) an eligible employee or dependent is reimbursed, whether through wage adjustments or otherwise, by or on behalf of the small employer for any portion of the premium;

(c) the health benefit plan is treated by the employer or any of the eligible employees or dependents as part of a plan or program for the purposes of section 106, 125, or 162 of the Internal Revenue Code, except a plan or program that is funded entirely by contributions from the employees; or

(d) all of the premium is paid by the employee who obtains coverage through the employer’s group health benefit plan.

(2) This part does not apply to an individual health benefit plan for which the entire premium is paid by an employee through payroll deduction or other means.

(3) Unless prohibited by a written opinion from a federal agency, by final regulations implementing Public Law 104-191, or by a ruling by a court of competent jurisdiction, this part does not apply to an individual health benefit plan if the eligible employee or dependent is directly or indirectly reimbursed, whether through wage adjustments or otherwise, by or on behalf of the small employer for any portion of the premium. However, this part does apply to an individual health benefit plan if the employer making the direct or indirect reimbursement for any portion of the premium has had in place an employer-sponsored group health benefit plan in the 12 months preceding the reimbursement.

(4) *This part does not apply to an individual health benefit plan for which the premium is paid by a small employer pursuant to [section 1].”*

**Section 4. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 33, and the provisions of Title 33 apply to [section 1].

**Section 5. Effective date.** [This act] is effective January 1, 2014.

Approved April 30, 2013

**CHAPTER NO. 350**

[HB 555]

AN ACT GENERALLY REVISING MEDIATION LAWS; CLARIFYING THE CIRCUMSTANCES IN WHICH A COURT MAY ORDER MEDIATION TO RESOLVE AMENDED PARENTING PLAN DISPUTES; REQUIRING PARTIES TO PROVIDE INFORMED CONSENT BEFORE A COURT CAN AUTHORIZE MEDIATION WHEN THE COURT SUSPECTS PHYSICAL, SEXUAL, OR EMOTIONAL ABUSE; REQUIRING A MEDIATOR TRAINED IN MEDIATING DOMESTIC VIOLENCE CASES TO CONDUCT MEDIATIONS IN CERTAIN CASES; DEFINING "INFORMED CONSENT"; ALLOWING PERSONS WHO ARE NOT ATTORNEYS TO BE PRESENT DURING CERTAIN MEDIATIONS; ALLOWING MEDIATIONS TO BE CONDUCTED BY MEDIATORS WHO ARE TRAINED IN MEDIATING DOMESTIC VIOLENCE CASES; AND AMENDING SECTIONS 40-4-219, 40-4-301, 40-4-302, AND 40-4-307, MCA.

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

**Section 1.** Section 40-4-219, MCA, is amended to read:

**"40-4-219. Amendment of parenting plan — mediation.** (1) The court may in its discretion amend a prior parenting plan if it finds, upon the basis of facts that have arisen since the prior plan or that were unknown to the court at the time of entry of the prior plan, that a change has occurred in the circumstances of the child and that the amendment is necessary to serve the best interest of the child. In determining the child's best interest under this section, the court may, in addition to the criteria in 40-4-212, also consider whether:

- (a) the parents agree to the amendment;
  - (b) the child has been integrated into the family of the petitioner with consent of the parents;
  - (c) the child is 14 years of age or older and desires the amendment;
  - (d) one parent has willfully and consistently:
    - (i) refused to allow the child to have any contact with the other parent; or
    - (ii) attempted to frustrate or deny contact with the child by the other parent;
- or
- (e) one parent has changed or intends to change the child's residence in a manner that significantly affects the child's contact with the other parent.

(2) A court may modify a de facto parenting arrangement in accordance with the factors set forth in 40-4-212.

(3) The court shall presume a parent is not acting in the child's best interest if the parent does any of the acts specified in subsection (1)(d) or (8).

(4) The court may amend the prior parenting plan based on subsection (1)(e) to provide a new residential schedule for parental contact with the child and to apportion transportation costs between the parents.

(5) Attorney fees and costs must be assessed against a party seeking frivolous or repeated amendment if the court finds that the amendment action is vexatious and constitutes harassment.

(6) A parenting plan may be amended upon the death of one parent pursuant to 40-4-221.

(7) As used in this section, "prior parenting plan" means a parenting determination contained in a judicial decree or order made in a parenting

proceeding. In proceedings for amendment under this section, a proposed amended parenting plan must be filed and served with the motion for amendment and with the response to the motion for amendment. Preference must be given to carrying out the parenting plan.

(8) (a) If a parent or other person residing in that parent's household has been convicted of any of the crimes listed in subsection (8)(b), the other parent or any other person who has been granted rights to the child pursuant to court order may file an objection to the current parenting order with the court. The parent or other person having rights to the child pursuant to court order shall give notice to the other parent of the objection as provided by the Montana Rules of Civil Procedure, and the other parent has 20 days from the notice to respond. If the parent who receives notice of objection fails to respond within 20 days, the parenting rights of that parent are suspended until further order of the court. If that parent responds and objects, a hearing must be held within 30 days of the response.

(b) This subsection (8) applies to the following crimes:

- (i) deliberate homicide, as described in 45-5-102;
- (ii) mitigated deliberate homicide, as described in 45-5-103;
- (iii) sexual assault, as described in 45-5-502;
- (iv) sexual intercourse without consent, as described in 45-5-503;
- (v) deviate sexual conduct with an animal, as described in 45-2-101 and prohibited under 45-5-505;
- (vi) incest, as described in 45-5-507;
- (vii) aggravated promotion of prostitution of a child, as described in 45-5-603(1)(b);
- (viii) endangering the welfare of children, as described in 45-5-622;
- (ix) partner or family member assault of the type described in 45-5-206(1)(a);
- (x) sexual abuse of children, as described in 45-5-625.

(9) Except in cases of physical, *sexual*, or *emotional* abuse or threat of physical, *sexual*, or *emotional* abuse by one parent against the other parent or the child; or when a parent has been convicted of a crime enumerated in subsection (8)(b), the court may, in its discretion, order the parties to participate in a dispute resolution process to assist in resolving any conflicts between the parties regarding amendment of the parenting plan. The dispute resolution process may include counseling or mediation by a specified person or agency, and court action.

(10) (a) Except as provided in subsection (10)(b), a court-ordered or de facto modification of a parenting plan based in whole or in part on military service orders of a parent is temporary and reverts to the previous parenting plan at the end of the military service. If a motion for an amendment of a parenting plan is filed after a parent returns from military service, the court may not consider a parent's absence due to that military service in its determination of the best interest of the child.

(b) A parent who has performed or is performing military service, as defined in 10-1-1003, may consent to a temporary or permanent modification of a parenting plan:

- (i) for the duration of the military service; or
- (ii) that continues past the end of the military service."

**Section 2.** Section 40-4-301, MCA, is amended to read:

**“40-4-301. Family law mediation — exception.** (1) The district court may at any time consider the advisability of requiring the parties to a proceeding under this chapter to participate in the mediation of the case. Any party may request the court to order mediation. If the parties agree to mediation, the court may require the attendance of the parties or the representatives of the parties with authority to settle the case at the mediation sessions.

(2) *The Unless each of the parties provides written, informed consent, the court may not authorize or permit continuation of mediated negotiations if the court has reason to suspect that one of the parties or a child of a party has been physically, sexually, or emotionally abused by the other party. A mediation conducted under this subsection may be conducted by a mediator who is trained in mediating domestic violence cases.*

(3) The court shall appoint a mediator from the list maintained pursuant to 40-4-306. By agreement of all parties, mediators not on the list may be appointed.

(4) The court may adopt rules to implement this part.

(5) *For purposes of this section, “informed consent” means an educated, competent, and voluntary choice to enter into mediation.*”

**Section 3.** Section 40-4-302, MCA, is amended to read:

**“40-4-302. Mediation proceeding — tolling of statute of limitations.**

(1) The purpose of a mediation proceeding is to reduce the acrimony that may exist between the parties and to develop an agreement that is supportive of the best interests of a child involved in the proceeding.

(2) The mediator shall attempt to effect a settlement of the parenting, child support, parental contact with the child, maintenance, or property settlement dispute. The mediator may not use coercive measures to effect the settlement. The mediator may recommend that a party obtain assistance from other resources in the community.

(3) Subject to 40-4-301(1) *and except in cases involving domestic violence, the mediator may exclude attorneys from the mediation sessions. The parties’ attorneys may confer with the mediator prior to the mediation session and may review and approve any agreement. In cases involving domestic violence, a victim may elect to have advocates and support persons who are not attorneys present during the mediation.*

(4) An applicable statute of limitations is tolled as to the participants during the period of mediation. The tolling commences on the date the parties agree in writing to participate in the mediation or when the court orders mediation, whichever is later, and ends on the date the mediation is officially terminated by the mediator.”

**Section 4.** Section 40-4-307, MCA, is amended to read:

**“40-4-307. Mediator qualifications.** A mediator must meet the following minimum qualifications:

(1) knowledge of the court system and the procedures used in family law matters;

(2) knowledge of other resources in the community to which the parties may be referred for assistance;

(3) *knowledge in the area of domestic violence;*

(3)(4) if applicable, knowledge of child development, clinical issues relating to children, the effects of marriage dissolution on children, and parenting research; and

(4)(5) knowledge of the mediation process.”

Approved April 30, 2013

## CHAPTER NO. 351

[HB 562]

AN ACT REVISING SUBDIVISION LAWS REGARDING SURVEYS AND EXEMPTIONS FROM LOCAL SUBDIVISION REVIEW; AMENDING SECTION 76-3-207, MCA; AND PROVIDING AN EFFECTIVE DATE.

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

**Section 1.** Section 76-3-207, MCA, is amended to read:

**“76-3-207. Divisions or aggregations of land exempted from review but subject to survey requirements and zoning regulations — exceptions — fees for examination of division.** (1) Except as provided in subsection (2), unless the method of disposition is adopted for the purpose of evading this chapter, the following divisions or aggregations of ~~land tracts of record of any size, regardless of the resulting size of any lot created by the division or aggregation,~~ are not subdivisions under this chapter but are subject to the surveying requirements of 76-3-401 for divisions or aggregations of land other than subdivisions and are subject to applicable zoning regulations adopted under Title 76, chapter 2:

(a) divisions made outside of platted subdivisions for the purpose of relocating common boundary lines between ~~adjoining properties adjoining properties;~~

(b) divisions made outside of platted subdivisions for the purpose of a single gift or sale in each county to each member of the landowner’s immediate family;

(c) divisions made outside of platted subdivisions by gift, sale, or agreement to buy and sell in which the parties to the transaction enter a covenant running with the land and revocable only by mutual consent of the governing body and the property owner that the divided land will be used exclusively for agricultural purposes;

(d) for five or fewer lots within a platted subdivision, the relocation of common boundaries;

(e) divisions made for the purpose of relocating a common boundary line between a single lot within a platted subdivision and adjoining land outside a platted subdivision. A restriction or requirement on the original platted lot or original unplatted parcel continues to apply to those areas.

(f) aggregation of parcels or lots when a certificate of survey or subdivision plat shows that the boundaries of the original parcels have been eliminated and the boundaries of a larger aggregate parcel are established. A restriction or requirement on the original platted lot or original unplatted parcel continues to apply to those areas.

(2) Notwithstanding the provisions of subsection (1):

(a) within a platted subdivision filed with the county clerk and recorder, a division, redesign, or rearrangement of lots that results in an increase in the number of lots or that redesigns or rearranges six or more lots must be reviewed



and approved by the governing body before an amended plat may be filed with the county clerk and recorder;

(b) a change in use of the land exempted under subsection (1)(c) for anything other than agricultural purposes subjects the division to review under parts 5 and 6 of this chapter.

(3) (a) Subject to subsection (3)(b), a division of land may not be made under this section unless the county treasurer has certified that all real property taxes and special assessments assessed and levied on the land to be divided have been paid.

(b) (i) If a division of land includes centrally assessed property and the property taxes applicable to the division of land are not specifically identified in the tax assessment, the department of revenue shall prorate the taxes applicable to the land being divided on a reasonable basis. The owner of the centrally assessed property shall ensure that the prorated real property taxes and special assessments are paid on the land being sold before the division of land is made.

(ii) The county treasurer may accept the amount of the tax prorated pursuant to this subsection (3)(b) as a partial payment of the total tax that is due.

(4) The governing body may examine a division or aggregation of land to determine whether or not the requirements of this chapter apply to the division or aggregation and may establish reasonable fees, not to exceed \$200, for the examination.”

**Section 2. Effective date.** [This act] is effective July 1, 2013.

Approved April 30, 2013

## CHAPTER NO. 352

[HB 580]

AN ACT PROVIDING AN APPROPRIATION FOR THE GREATER SAGE-GROUSE HABITAT CONSERVATION ADVISORY COUNCIL ESTABLISHED BY THE GOVERNOR; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

WHEREAS, the greater sage-grouse (*Centrocercus urophasianus*) is an iconic species that inhabits much of the sagebrush-grassland habitats in Montana; and

WHEREAS, the State of Montana currently enjoys viable and widespread populations of the species, the second largest abundance of greater sage-grouse among western states; and

WHEREAS, the United States Fish and Wildlife Service (USFWS) has determined that the greater sage-grouse species is warranted for listing as a threatened or endangered species under the Endangered Species Act (ESA) but is precluded by other higher priority species; and

WHEREAS, the United States District Court for the District of Idaho ruled on February 2, 2012, that the USFWS must reevaluate the status of the greater sage-grouse by September 30, 2015; and

WHEREAS, the United States Secretary of the Interior has invited Montana and other western states impacted by the potential listing of the greater sage-grouse to develop state-specific regulatory mechanisms to conserve the species and preclude the need to list it under the ESA; and

WHEREAS, the development of a state-specific strategy in Montana will be critical in demonstrating to the USFWS that the species does not warrant federal protection under the ESA; and

WHEREAS, the United States Bureau of Land Management (BLM) and the United States Forest Service (USFS) are currently implementing national instruction memoranda to guide interim management of public lands and to develop greater sage-grouse conservation measures for incorporation into the agencies' respective land use plans; and

WHEREAS, the development of a state-specific strategy will enable the BLM and USFS to incorporate relevant elements from the strategy into their land use plans and environmental analyses; and

WHEREAS, approximately half of greater sage-grouse habitat in Montana involves private property, and maintaining the species will require effective conservation strategies across property ownerships; and

WHEREAS, the State of Montana has management authority over greater sage-grouse populations in Montana; and

WHEREAS, the State of Montana in collaboration with stakeholders developed and adopted a state greater sage-grouse plan in 2004, pertaining to sage-grouse population responses to large scale changes in habitat; and

WHEREAS, the State of Montana has identified and will update, as appropriate, greater sage-grouse core areas, which include priority habitats for conservation; and

WHEREAS, it is in the interest of this state to bring stakeholders and experts together to recommend a course of action that will provide for conservation measures sufficient to preclude the need to list the greater sage-grouse; and

WHEREAS, the listing of the greater sage-grouse could have a significant adverse effect on the economy of the state of Montana; and

WHEREAS, it is appropriate and beneficial to fund the Greater Sage-Grouse Habitat Conservation Advisory Council established by Governor Steve Bullock in Executive Order No. 2-2013.

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

**Section 1. Appropriation.** (1) There is appropriated a total of \$75,000 from the state special revenue fund oil and gas ERA account to the governor's office for the bienniums beginning July 1, 2011, and July 1, 2013, for the purpose of funding the greater sage-grouse habitat conservation advisory council established by the governor in Executive Order No. 2-2013.

(2) The legislature recommends that the greater sage-grouse habitat conservation advisory council develop its proposed recommendations on policies and actions for a statewide strategy to preclude the need to list the greater sage-grouse under the Endangered Species Act of 1973 by October 31, 2013, so that the public may review and comment on the proposed recommendations and the council may make any necessary changes prior to the recommendations being delivered to the governor by the established deadline of January 31, 2014.

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

Approved April 30, 2013

**CHAPTER NO. 353**

[HB 583]

AN ACT CREATING THE MONTANA SUICIDE REVIEW TEAM; ESTABLISHING MEMBERSHIP REQUIREMENTS; ESTABLISHING A PROCESS FOR OBTAINING AND REVIEWING INFORMATION RELATED TO SUICIDES; PROVIDING CONFIDENTIALITY; PROVIDING PENALTIES; PROVIDING AN APPROPRIATION; AMENDING SECTIONS 50-16-522, 50-16-525, 50-16-804, 50-16-805, AND 53-21-1102, MCA; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE.

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

**Section 1. Statement of policy — access to information.** (1) The prevention of suicide is both the policy of the state of Montana and a community responsibility. Many community professionals have expertise that can be used to promote strategies and supports to prevent suicide. The use of these professionals in reviewing suicides can lead to a greater understanding of the causes of death and the methods of preventing deaths.

(2) It is the intent of the legislature to establish the Montana suicide review team to study the incidence and causes of suicides in Montana and to make recommendations for community or statewide change, if appropriate, that may help prevent future deaths.

**Section 2. Montana suicide review team — duties.** (1) There is a Montana suicide review team established to review the circumstances related to suicides and to make recommendations to the governor. Activities by the suicide review team are limited to:

(a) performing an in-depth analysis of suicides that occur in Montana, including a review of records available by law;

(b) compiling statistics related to suicides for use in reports published by the department;

(c) analyzing the causes of suicides; and

(d) recommending measures to prevent future suicides.

(2) The Montana suicide review team may not review suicides that occur within the boundaries of an Indian reservation if the tribal government opposes the review.

(3) The Montana suicide review team shall provide a report to the governor before the end of each biennium that summarizes the review team's work and recommendations.

**Section 3. Montana suicide review team — membership — meetings.**

(1) The Montana suicide review team consists of:

(a) six members appointed by the governor; and

(b) the suicide prevention officer provided for in 53-21-1101, who shall serve as a nonvoting member.

(2) (a) The governor shall appoint as members of the team:

(i) one psychiatrist licensed under Title 37, chapter 3;

(ii) one psychologist licensed under Title 37, chapter 17;

(iii) one clinical social worker licensed under Title 37, chapter 22, or one clinical professional counselor licensed under Title 37, chapter 23; and

(iv) one member of the clergy as defined in 15-6-201.

(b) The governor shall appoint two members from among the following:

(i) a nurse licensed under Title 37, chapter 8, to practice as a registered professional nurse or as an advanced practice registered nurse;

(ii) a physician assistant licensed under Title 37, chapter 20;

(iii) a representative of a tribal health department nominated by the tribal government;

(iv) a representative of the U.S. department of veterans affairs;

(v) a representative of an organization that advocates for individuals with mental illness and their family members;

(vi) a law enforcement representative;

(vii) a forensic pathologist; or

(viii) a county coroner.

(3) Appointed members shall serve a term of 3 years and may be reappointed.

(4) The suicide review team shall meet at least eight times a year.

(5) Members of the suicide review team who are not employees of a public agency may be paid a stipend.

(6) (a) Except as provided in subsection (6)(b), members are eligible for reimbursement for travel expenses as provided for in 2-18-501 through 2-18-503.

(b) A member who is an employee of a public agency may be reimbursed for travel and meal expenses only if the member travels to a meeting held in a location other than the location where the member lives or is employed.

(7) The suicide review team is attached to the department for administrative purposes only under 2-15-121.

**Section 4. Disclosure of information — confidentiality.** (1) The department shall provide the Montana suicide review team with a copy of each death certificate filed with the state that lists suicide as the cause of death. The department may not charge a fee for providing the death certificate.

(2) The suicide review team may request and may receive information from:

(a) a county coroner;

(b) the state medical examiner provided for in 44-3-201;

(c) an appropriate tribal official as designated by a tribe; and

(d) a health care provider as permitted in Title 50, chapter 16, part 5 or 8, or applicable federal law.

(3) Upon request of the Montana suicide review team, a health care provider may disclose information about a patient without the patient's authorization or without the authorization of the representative of a patient who is deceased.

(4) The review team shall maintain the confidentiality of the information received pursuant to [sections 1 through 6].

(5) Materials and information obtained by the Montana suicide review team are not subject to subpoena or to the requirements related to public records under Title 2, chapter 6.

**Section 5. Unauthorized disclosure — civil penalty.** A person aggrieved by the use of information obtained pursuant to [section 4] for a purpose not authorized by [sections 1 through 6] may bring a civil action for damages, costs, and fees as provided in 50-16-553 or 50-16-817.

**Section 6. Unauthorized disclosure — misdemeanor.** A person who knowingly uses information obtained pursuant to [section 4] for a purpose not

authorized by [sections 1 through 6] is guilty of a misdemeanor and upon conviction is punishable as provided in 46-18-212.

**Section 7.** Section 50-16-522, MCA, is amended to read:

**“50-16-522. Representative of deceased patient.** *A Except as provided in [section 4], a personal representative of a deceased patient may exercise all of the deceased patient’s rights under this part. If there is no personal representative or upon discharge of the personal representative, a deceased patient’s rights under this part may be exercised by the surviving spouse, a parent, an adult child, an adult sibling, or any other person who is authorized by law to act for the deceased patient.”*

**Section 8.** Section 50-16-525, MCA, is amended to read:

**“50-16-525. Disclosure by health care provider.** (1) Except as authorized in 50-16-529, 50-16-530, ~~and~~ 50-19-402, *and [section 4]* or as otherwise specifically provided by law or the Montana Rules of Civil Procedure, a health care provider, an individual who assists a health care provider in the delivery of health care, or an agent or employee of a health care provider may not disclose health care information about a patient to any other person without the patient’s written authorization. A disclosure made under a patient’s written authorization must conform to the authorization.

(2) A health care provider shall maintain, in conjunction with a patient’s recorded health care information, a record of each person who has received or examined, in whole or in part, the recorded health care information during the preceding 3 years, except for a person who has examined the recorded health care information under 50-16-529(1) or (2). The record of disclosure must include the name, address, and institutional affiliation, if any, of each person receiving or examining the recorded health care information, the date of the receipt or examination, and to the extent practicable a description of the information disclosed.”

**Section 9.** Section 50-16-804, MCA, is amended to read:

**“50-16-804. Representative of deceased patient’s estate.** *A Except as provided in [section 4], a personal representative of a deceased patient’s estate may exercise all of the deceased patient’s rights under this part. If there is no personal representative or upon discharge of the personal representative, a deceased patient’s rights under this part may be exercised by the surviving spouse, a parent, an adult child, an adult sibling, or any other person who is authorized by law to act for the deceased person.”*

**Section 10.** Section 50-16-805, MCA, is amended to read:

**“50-16-805. Disclosure of information for ~~workers’ compensation and occupational disease claims and law enforcement purposes~~ allowed for certain purposes.** (1) To the extent provided in 39-71-604 and 50-16-527, a signed claim for workers’ compensation or occupational disease benefits authorizes disclosure to the workers’ compensation insurer, as defined in 39-71-116, by the health care provider.

(2) A health care provider may disclose health care information about an individual for law enforcement purposes if the disclosure is to:

(a) federal, state, or local law enforcement authorities to the extent required by law; or

(b) a law enforcement officer about the general physical condition of a patient being treated in a health care facility if the patient was injured by the possible criminal act of another.

(3) *A health care provider may disclose health care information to the Montana suicide review team for the purposes of [sections 1 through 6].*”

**Section 11.** Section 53-21-1102, MCA, is amended to read:

**“53-21-1102. Suicide reduction plan.** (1) The department of public health and human services shall produce a biennial suicide reduction plan that must be submitted to the legislature as provided in 5-11-210.

(2) The plan must include:

(a) an assessment of both risk and protective factors impacting Montana’s suicide rate;

(b) specific activities to reduce suicide;

(c) concrete targets for suicide reduction among various demographic populations, including but not limited to American Indians, veterans, and youth;

(d) measurable outcomes for all activities; and

(e) information on all existing state suicide reduction activities for all state agencies, ~~as well as~~ *including but not limited to statistics from and recommendations by the Montana suicide review team and information from any known local or tribal suicide reduction activities.*

(3) Upon the development of a suicide reduction plan draft, the department shall initiate a public comment period of not less than 21 days during which members of mental health advocacy groups and other interested parties may submit comments on and suggestions for the plan. The department shall produce a final plan, which takes public comment into account, no later than 60 days after the close of the comment period. The plan must be published on the department’s website and submitted to the appropriate interim committee of the legislature, the director of the department, and the governor.”

**Section 12. Appropriation.** There is appropriated from the general fund to the department of public health and human services \$67,000 in each year of the biennium beginning July 1, 2013, for carrying out the activities of the Montana suicide review team as established in [sections 2 through 4].

**Section 13. Notification to tribal governments.** The secretary of state shall send a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell Chippewa tribe.

**Section 14. Codification instruction.** [Sections 1 through 6] are intended to be codified as an integral part of Title 53, chapter 21, part 11, and the provisions of Title 53, chapter 21, apply to [sections 1 through 6].

**Section 15. Effective date.** [This act] is effective July 1, 2013.

**Section 16. Termination.** [This act] terminates June 30, 2016.

Approved April 30, 2013

## CHAPTER NO. 354

[HB 586]

AN ACT REVISING LAWS RELATED TO AQUATIC INVASIVE SPECIES; ESTABLISHING A STATEWIDE INVASIVE SPECIES MANAGEMENT AREA; AUTHORIZING USE OF QUARANTINE MEASURES AND CHECK STATIONS AT KEY ENTRY POINTS TO THE STATE; DEFINING AND AUTHORIZING INSPECTION OF EQUIPMENT; REVISING DEPARTMENTAL DUTIES, INCLUDING DUTIES OF THE DEPARTMENT



OF TRANSPORTATION; GRANTING RULEMAKING AUTHORITY; PROVIDING AN APPROPRIATION; AMENDING SECTIONS 80-7-1002, 80-7-1003, 80-7-1004, 80-7-1006, 80-7-1007, 80-7-1008, 80-7-1010, 80-7-1011, AND 80-7-1014, MCA; AND PROVIDING EFFECTIVE DATES.

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

**Section 1. Statewide invasive species management area.** (1) There is established a statewide invasive species management area for the purpose of preventing the introduction, importation, and infestation of invasive species through the mandatory inspection of vessels and equipment at key entry points to the state on a seasonal basis and the mandatory decontamination of any vessel or equipment on or in which an invasive species is detected.

(2) As far as practical, signs indicating that the statewide invasive species management area is in place must be posted in an effective manner along the boundaries of and within the state. The signs must include information about the specific regulations that apply to the area. The signs must be paid for with funds from the invasive species account established in 80-7-1004. The departments may coordinate with any other governmental entity for the posting of signs.

(3) At a check station established pursuant to this section, the departments may examine vessels and equipment for the presence of an invasive species and compliance with this section and rules adopted pursuant to 80-7-1007. A department may examine any interior portion of a vessel or equipment that may contain water, including bilges, livewells, and bait containers, for compliance only if inspection of interior portions is included as part of quarantine measures established pursuant to rules adopted under 80-7-1007.

(4) The owner, operator, or person in possession of a vessel or equipment shall:

(a) comply with this section and rules imposed under 80-7-1007; and

(b) stop at any check station established pursuant to this section unless a medical emergency makes stopping likely to result in death or serious bodily injury.

(5) If during an inspection of a vessel or equipment the presence of an invasive species is detected, that vessel or equipment may not leave the check station without authorization until it is cleaned and decontaminated in a manner established in accordance with rules adopted pursuant to 80-7-1007. The department shall make every effort to ensure decontamination of the vessel or equipment as expeditiously as possible.

(6) After use in a body of water within the statewide invasive species management area, all vessels, equipment, bait containers, livewells, bilges, and other boating-related equipment, excluding marine sanitary systems, must be drained in a way that does not impact any state waters before being transported on land or on a public highway, as defined in 61-1-101, except when allowed by the department of fish, wildlife, and parks.

**Section 2.** Section 80-7-1002, MCA, is amended to read:

**“80-7-1002. Legislative findings and purpose.** (1) The legislature finds that:

(a) invasive species can wreak damage on the economy, environment, recreational opportunities, and human health in Montana;

(b) there is reason to be concerned about the further introduction, importation, and infestation of Eurasian watermilfoil (*Myriophyllum spicatum*) and the introduction, importation, and infestation of additional invasive species

in Montana, such as the zebra mussel (*Dreissena polymorpha*) and the quagga mussel (*Dreissena bugensis*), that could cause catastrophic damage to not only our waterways, rivers, and lakes, our water storage, delivery, and irrigation systems, our hydroelectric power structures and systems, and our aquatic ecosystems, but also to the entire state economy;

(c) as infestations of threatening invasive species move ever closer to Montana's borders, protecting Montana against these species is of utmost importance to the state economy, environment, recreational opportunities, and human health for the benefit of all Montanans;

(d) preventing the introduction, importation, and infestation of invasive species is the most effective and least costly strategy for combating invasive species that, once established, are often difficult to control or eradicate;

(e) the use of check stations, at which vessels and ~~trailers transporting vessels~~ *equipment* may be inspected for the presence of invasive species and cleaned if an invasive species is detected, is an effective way to prevent the introduction, importation, and infestation of invasive species that are easily transferred from infested areas to uninfested areas when proper precautions are not taken; and

(f) preventing the introduction, importation, and infestation of invasive species is best accomplished through coordinated educational and management activities.

(2) The purpose of this part is to establish a mechanism for Montana to take concerted action to detect, control, and manage invasive species, including preventing further introduction, importation, and infestation, by educating the public about the threat of these species, coordinating public and private efforts and expertise to combat these species, and authorizing the use of check stations to prevent the ~~intrastate~~ movement of invasive species from infested areas to uninfested areas to protect the state's economy, environment, recreational opportunities, and human health for the benefit of all Montanans."

**Section 3.** Section 80-7-1003, MCA, is amended to read:

**"80-7-1003. Definitions.** As used in this part, the following definitions apply:

(1) "Departments" means the department of agriculture, the department of fish, wildlife, and parks, ~~and~~ the department of natural resources and conservation, *and the department of transportation.*

(2) "*Equipment*" means an implement or machinery that has been wholly or partially immersed in surface waters, including but not limited to boat lifts, trailers transporting vessels, floating docks, pilings, dredge pipes, and buoys.

(2)(3) "Invasive species" means, upon the mutual agreement of the directors of the departments, a nonnative, aquatic species that has caused, is causing, or is likely to cause harm to the economy, environment, recreational opportunities, or human health.

(3)(4) "Invasive species management area" means a designation made by a department *under 80-7-1008* for a specific area or for a body or bodies of water for a specific or indeterminate amount of time that regulates invasive species or potential carriers of invasive species within the boundaries of that area.

(4)(5) "Person" means an individual, partnership, corporation, association, limited partnership, limited liability company, governmental subdivision, agency, or public or private organization of any character.

(5)(6) "Vessel" has the meaning provided in 61-1-101."

**Section 4.** Section 80-7-1004, MCA, is amended to read:

**“80-7-1004. Invasive species account.** (1) There is an invasive species account in the state special revenue fund. The account is administered by the department of ~~agriculture~~ *fish, wildlife, and parks*.

(2) Money transferred from the general fund or received from any other lawful source, including but not limited to gifts, grants, donations, securities, or other assets, public or private, may be deposited in the account.

(3) Subject to subsection (4), money deposited in the account must be used to ~~accomplish the purposes of this part~~ *for projects that prevent or control any nonnative, aquatic invasive species pursuant to this part*.

(4) Any private contribution deposited in the account for a particular purpose, as stated by the donor, must be used exclusively for that purpose.

(5) Any interest and earnings on the account must be retained in the account.”

**Section 5.** Section 80-7-1006, MCA, is amended to read:

**“80-7-1006. Departmental responsibilities.** (1) The departments shall prepare a list of invasive species and identify those departments and other public agencies with jurisdiction over each species on the list. The jurisdiction of each department for the prevention and control of invasive species is according to the department’s powers and duties as established by law.

(2) For those invasive species under the jurisdiction of more than one department, the departments with jurisdiction, through cooperative agreement, shall seek to clarify and coordinate their respective responsibilities.

(3) Working in collaboration with each other, the departments, individually or collectively, shall develop and adopt an invasive species strategic plan or plans to accomplish the purposes of this part. The plan or plans shall identify and prioritize threats and determine appropriate actions, in the following order of priority, related to:

(a) public awareness and education;

(b) prevention and detection of invasive species, including the use of invasive species management areas authorized under 80-7-1008 *and the statewide invasive species management area established in [section 1]*;

(c) management, control, and restoration of infested areas; and

(d) emergency response.

(4) The departments ~~may~~ *shall* enforce quarantine regulations and measures imposed by law or rule in an invasive species management area *under 80-7-1008 or in the statewide invasive species management area under [section 1]*, including the mandatory inspection of any interior portion of a vessel or equipment that may contain water for the presence of an invasive species.

(5) *The departments may designate employees to carry out the provisions of this part.*

~~(5)~~(6) The departments shall implement education and outreach programs that increase public knowledge and understanding of prevention, early detection, and control of invasive species.”

**Section 6.** Section 80-7-1007, MCA, is amended to read:

**“80-7-1007. Rulemaking authority.** (1) Unless otherwise provided in Title 81, chapters 2 and 7, or this chapter, each of the departments may adopt rules for the prevention, early detection, and control of invasive species under the departments’ jurisdiction, including rules for the:

(1)(a) implementation of the invasive species strategic plan adopted pursuant to 80-7-1006;

(2)(b) transportation of an invasive species or any agent likely to be a carrier of an invasive species;

(3)(c) designation, regulation, and treatment of an invasive species management area *under 80-7-1008*, including rules pertaining to:

(a)(i) the use of quarantine regulations and measures;

(b)(ii) the movement of vessels *and equipment* within, to, or from the area; and

(e)(iii) the inspection and cleaning of vessels *and equipment* moving within, to, or from the area; and

(4)(d) manner in which vessels *and equipment*, including bilges, livewells, bait containers, and other boating-related equipment, traveling in the state must be cleaned to ensure that they are free from the presence of an invasive species.

(2) *The departments shall adopt rules for the administration of the statewide species management area established in [section 1], including rules specifying the method or methods for preventing the introduction or further introduction of invasive species into the state, and shall adopt rules for:*

(a) *the use of quarantine measures;*

(b) *the movement of vessels and equipment into the state; and*

(c) *the manner in which check stations will be used to inspect, clean, and decontaminate vessels and equipment moving into the state.”*

**Section 7.** Section 80-7-1008, MCA, is amended to read:

**“80-7-1008. Invasive species management area — authorization.** (1) ~~When~~ *Except as provided in [section 1], when* an invasive species is identified as infesting or threatening an area, the department with jurisdiction over that invasive species may designate and administer an invasive species management area for a specific area of land or for a body or bodies of water for a specific or indeterminate amount of time to prevent and control the infestation or spread of that invasive species.

(2) To the extent practicable, prior to the designation of an invasive species management area, the department making the designation shall coordinate with all of the departments in order to further the purposes of this part.

(3) The designation of an invasive species management area must specify:

(a) the invasive species present or considered threatening; and

(b) the method or methods for preventing the introduction of the species or controlling or eradicating the species, including regulations pertaining to:

(i) the use of quarantine measures;

(ii) the movement of vessels *and equipment* within, to, and from the area; and

(iii) whether check stations will be used to inspect and clean vessels *and equipment* moving within, to, or from the area. A department may conduct mandatory inspections of any interior portion of a vessel *or equipment* that may contain water only if the department has included the use of mandatory inspections as part of quarantine measures established pursuant to subsection (3)(b)(i).

(4) As far as practical, signs indicating that an invasive species management area is in place must be posted in an effective manner at access points to the

designated area and along the boundaries and within the area. The signs must include information about the specific regulations that apply to the area. The signs must be paid for with funds from the invasive species account established in 80-7-1004. The departments may coordinate with any other governmental entity for the posting of signs.”

**Section 8.** Section 80-7-1010, MCA, is amended to read:

**“80-7-1010. Invasive species management area — regulation.** (1) The owner, operator, or person in possession of any vessel *or equipment* authorized for use in an invasive species management area shall comply with any regulations imposed pursuant to 80-7-1008(3)(b).

(2) After use in a body of water within an invasive species management area, all vessels, *equipment*, bait containers, livewells, bilges, and other boating-related equipment, excluding marine sanitary systems, must be drained in a way that does not impact any state waters before being transported on land or a public highway, as defined in 61-1-101, except where allowed by the department of fish, wildlife, and parks.

~~(3) In a body of water designated as an invasive species management area, taking from the water or possessing any bait animal, dead or alive, including but not limited to crayfish, leeches, and minnows, is prohibited unless approved by the department of fish, wildlife, and parks.”~~

**Section 9.** Section 80-7-1011, MCA, is amended to read:

**“80-7-1011. Check stations.** (1) The departments shall establish a check station within or adjacent to an invasive species management area to prevent the introduction, importation, infestation, and spread of the invasive species for which the designation was issued.

(2) At a check station *established under subsection (1)*, the departments may examine vessels and ~~trailers transporting vessels~~ *equipment* for the presence of an invasive species and compliance with regulations imposed under 80-7-1008(3)(b) and with this section. A department may examine any interior portion of a vessel *or equipment* that may contain water, including bilges, livewells, and bait containers, for compliance only if inspection of interior portions is included as part of quarantine measures established pursuant to 80-7-1008(3)(b)(i).

(3) The owner, operator, or person in possession of a vessel *or equipment* shall stop at any check station unless a medical emergency makes stopping likely to result in death or serious bodily injury.

(4) If during an inspection of a vessel or a ~~trailer transporting a vessel~~ *equipment* the presence of an invasive species is detected, that vessel or ~~trailer~~ *equipment* may not leave the check station *without authorization* until it is cleaned and decontaminated in a manner established in accordance with 80-7-1008(3)(b). *The department shall make every effort to ensure decontamination of the vessel or equipment as expeditiously as possible.”*

**Section 10.** Section 80-7-1014, MCA, is amended to read:

**“80-7-1014. Penalty.** (1) Except as provided in subsection (2), the following penalties apply:

(a) The offense of negligently violating the provisions of 80-7-1010 through 80-7-1012 *and [section 1]* or rules adopted under 80-7-1010 through 80-7-1012 *and [section 1]* pertaining to an invasive species management area *or the statewide invasive species management area* is a misdemeanor punishable by a fine not to exceed \$500.

(b) The offense of purposely or knowingly violating the provisions of 80-7-1010 through 80-7-1012 *and [section 1]* or rules adopted under 80-7-1010 through 80-7-1012 *and [section 1]* pertaining to an invasive species management area *or the statewide invasive species management area* is a misdemeanor punishable by a fine not to exceed \$1,000.

(c) Purposely or knowingly attempting to introduce an invasive species in Montana is a felony. Any person found guilty under this subsection (1)(c) is subject to a criminal penalty of up to 2 years in prison, a fine not to exceed \$5,000, or both. A person convicted of violating this subsection (1)(c) may also be required to pay restitution for any cost incurred to mitigate the effect of the violation.

(d) A civil penalty not to exceed \$250 may be imposed on any person who violates any other provision of 80-7-1010 through 80-7-1012 *and [section 1]* or rules adopted under 80-7-1010 through 80-7-1012 *and [section 1]* not enumerated in subsections (1)(a) through (1)(c).

(2) A warning without penalty may be issued to any person violating the provisions of 80-7-1010 through 80-7-1012 *and [section 1]* or rules adopted under 80-7-1010 through 80-7-1012 *and [section 1]* if it is determined that a warning best serves the public interest.

(3) Civil penalties collected under this section must be deposited in the general fund.”

**Section 11. Appropriation.** (1) In each year of the biennium beginning July 1, 2013, there is appropriated to the department of fish, wildlife, and parks \$640,000 from the state general fund for the prevention and control of any nonnative, aquatic invasive species pursuant to Title 80, chapter 7, part 10.

(2) For the biennium beginning July 1, 2013, there is appropriated to the department of natural resources and conservation \$300,000 from the general fund for projects that prevent or control any nonnative, aquatic invasive species pursuant to 80-7-1004.

**Section 12. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 80, chapter 7, part 10, and the provisions of Title 80, chapter 7, part 10, apply to [section 1].

**Section 13. Effective dates.** (1) Except as provided in subsection (2), [this act] is effective on passage and approval.

(2) [Section 11] is effective July 1, 2013.

Approved April 30, 2013

## CHAPTER NO. 355

[HB 588]

AN ACT REVISING LAWS RELATED TO UNLAWFUL USE OF AIRCRAFT FOR HUNTING-RELATED PURPOSES; PROHIBITING USE OF AN AIRCRAFT TO LOCATE A GAME ANIMAL ON THE SAME DAY IT WILL BE HUNTED; PROHIBITING COMMUNICATION OF THE LOCATION OF A GAME ANIMAL TO ANOTHER PERSON ON THE SAME DAY IT WILL BE HUNTED; REVISING PENALTIES; AND AMENDING SECTION 87-6-207, MCA.

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

**Section 1. Unlawful use of aircraft.** (1) Except as provided in 87-3-126, a person may not:



(a) kill, take, or shoot at any game bird, game animal, or fur-bearing animal from an aircraft, including a helicopter;

(b) use an aircraft, including a helicopter:

(i) to locate any game animal for the purpose of hunting that animal during the same hunting day after the person has been airborne; or

(ii) for the purpose of concentrating, pursuing, driving, rallying, or stirring up any game bird, migratory bird, game animal, or fur-bearing animal; or

(c) if in an aircraft, including a helicopter, spot or locate any game animal or fur-bearing animal and communicate the location of the game animal or fur-bearing animal to any person:

(i) on the ground by means of any air-to-ground communication signal or other device as an aid to hunting or pursuing wildlife; or

(ii) within the same hunting day after being airborne.

(2) Unless permitted by the department, a person may not use an aircraft, including a helicopter, for hunting purposes within the boundaries of a national forest except when cargo or persons are loaded and unloaded at federal aviation agency approved airports, aircraft landing fields, or heliports that have been established on private property or that have been established by any federal, state, county, or municipal governmental body. Hunting purposes include the transportation of hunters or wildlife and hunting equipment and supplies. The provisions of this subsection do not apply:

(a) during emergency situations;

(b) when search and rescue operations are being conducted; or

(c) for predator control as permitted by the department of livestock.

(3) The following penalties apply for a violation of this section:

(a) Unless otherwise provided in this subsection (3), a person convicted of a violation of this section shall be fined not less than \$300 or more than \$1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

(b) If a person is convicted or forfeits bond or bail after being charged with unlawful use of an aircraft to kill or take a deer, elk, antelope, mountain lion, mountain sheep, moose, wild buffalo, caribou, mountain goat, black bear, or grizzly bear, the person shall be fined not less than \$500 or more than \$2,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person shall forfeit any current hunting, fishing, recreational use, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state for 30 months from the date of conviction or forfeiture unless the court imposes a longer period.

(c) If a person is convicted or forfeits bond or bail after being charged with unlawful use of an aircraft to kill or take a fur-bearing animal, the person shall be fined not less than \$100 or more than \$1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person shall forfeit any current hunting, fishing, recreational use, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state for 24 months from the date of conviction or forfeiture unless the court imposes a longer period, and any pelts possessed unlawfully must be confiscated.

**Section 2.** Section 87-6-207, MCA, is amended to read:

**“87-6-207. Unlawful use of aircraft or boat.** (1) Except as provided in 87-3-126, a person may not:

(a) ~~kill, take, or shoot at any game bird, game animal, or fur-bearing animal from an aircraft, including a helicopter;~~

(b) ~~use an aircraft or helicopter for the purpose of concentrating, pursuing, driving, rallying, or stirring up any game bird, migratory bird, game animal, or fur-bearing animal; or~~

(c) ~~if in an aircraft, including a helicopter, spot or locate any game animal or fur-bearing animal and communicate the location of the game animal or fur-bearing animal to any person on the ground by means of any air-to-ground communication signal or other device as an aid to hunting or pursuing wildlife.~~

(2) ~~Unless permitted by the department, a person may not use an aircraft, including a helicopter, for hunting purposes within the boundaries of a national forest except when persons or cargo are loaded and unloaded at federal aviation agency approved airports, aircraft landing fields, or heliports that have been established on private property or that have been established by any federal, state, county, or municipal governmental body. Hunting purposes include the transportation of hunters or wildlife and hunting equipment and supplies. The provisions of this subsection do not apply:~~

~~(a) during emergency situations;~~

~~(b) when search and rescue operations are being conducted; or~~

~~(c) for predator control as permitted by the department of livestock.~~

~~(3)(1) A person may not use a powerboat, sailboat, or any boat under sail or any floating device towed by a powerboat, sailboat, or any boat under sail for the purpose of killing, capturing, taking, pursuing, concentrating, driving, or stirring up any upland game bird, game animal, or fur-bearing animal.~~

~~(4)(2) The following penalties apply for a violation of this section:~~

~~(a) Unless otherwise provided in this subsection (4) (2), a person convicted of a violation of this section shall be fined not less than \$50 or more than \$1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.~~

~~(b) If a person is convicted or forfeits bond or bail after being charged with unlawful use of aircraft or a boat to kill or take a mountain sheep, moose, wild buffalo, caribou, mountain goat, black bear, or grizzly bear, the person shall be fined not less than \$500 or more than \$2,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person shall forfeit any current hunting, fishing, recreational use, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state for 30 months from the date of conviction or forfeiture unless the court imposes a longer period.~~

~~(c) If a person is convicted or forfeits bond or bail after being charged with unlawful use of aircraft or a boat to kill or take a deer, antelope, elk, or mountain lion, the person shall be fined not less than \$300 or more than \$1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person shall forfeit any current hunting, fishing, recreational use, or trapping license issued by this state and the privilege to hunt, fish, or~~

trap in this state for 24 months from the date of conviction or forfeiture unless the court imposes a longer period.

(d) If a person is convicted or forfeits bond or bail after being charged with unlawful use of ~~aircraft or a~~ boat to kill or take a fur-bearing animal, the person shall be fined not less than \$100 or more than \$1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person shall forfeit any current hunting, fishing, recreational use, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state for 24 months from the date of conviction or forfeiture unless the court imposes a longer period, and any pelts possessed unlawfully must be confiscated.”

**Section 3. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 87, chapter 6, part 2, and the provisions of Title 87, chapter 6, part 2, apply to [section 1].

Approved April 30, 2013

### CHAPTER NO. 356

[HB 591]

#### AN ACT INCREASING FEES FOR LICENSING OF WEIGHING DEVICES; AMENDING SECTION 30-12-203, MCA; AND PROVIDING AN EFFECTIVE DATE.

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

**Section 1.** Section 30-12-203, MCA, is amended to read:

**“30-12-203. Licensing of weighing devices.** (1) A person may not knowingly operate or use an unlicensed weighing device in trade or commerce for ascertaining the weight of any commodity.

(2) A license must be obtained by applying to the department upon a form provided by the department. Each license must require at least one inspection a year.

(3) An application must be accompanied by the proper fee as established by this section, except that fees may be paid by credit card and may be discounted for payment processing charges paid by the department to a third party.

#### WEIGHING DEVICES

Capacity	Fees
499 pounds or less .....	\$16 <del>\$20</del>
500 pounds through 1,999 pounds.....	26 <del>\$33</del>
2,000 pounds through 7,999 pounds.....	51 <del>\$64</del>
8,000 pounds through 60,000 pounds.....	130 <del>\$165</del>
60,001 pounds or more.....	225 <del>\$280</del>

(4) The capacity of a weighing device must be determined by the manufacturer’s rated capacity.

(5) (a) All licenses are annual and, except for those described in subsection (5)(b), expire on the anniversary date established by rule by the board of review established in 30-16-302.

(b) Licenses for on-farm scales expire at the end of the calendar year.

(6) (a) A late renewal fee equal to 50% of the renewal license fee established in subsection (3) must be assessed if the fee is not paid:

(i) for on-farm scales, before the first day of the sixth month of the year in which the license fee is due; or

(ii) for all other licenses, within 60 days of the anniversary date.

(b) If the fee is not paid by the respective due date listed in subsection (6)(a), the weighing device may be sealed and removed from service by the department.

(c) A person may not use a weighing device that has been removed from service or break the seal on a device removed from service until all fees have been paid.

(7) The fees must be deposited to the state special revenue fund of the department for use in the administration and enforcement of this part.”

**Section 2. Effective date.** [This act] is effective July 1, 2013.

Approved April 30, 2013

## CHAPTER NO. 357

[HB 593]

AN ACT REVISING THE SITE-SPECIFIC INFORMATION THAT IS CONSIDERED IN THE CLASSIFICATION AND APPRAISAL OF AGRICULTURAL LAND OR FOREST LAND FOR PROPERTY TAXATION PURPOSES; REQUIRING THE AGRICULTURAL ADVISORY COMMITTEE TO PROVIDE METHODS FOR ADJUSTING PRODUCTIVITY VALUES; EXPANDING RULEMAKING AUTHORITY; AMENDING SECTIONS 15-7-103 AND 15-7-201, MCA; AND PROVIDING AN APPLICABILITY DATE.

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

**Section 1.** Section 15-7-103, MCA, is amended to read:

**“15-7-103. Classification and appraisal — general and uniform methods.** (1) ~~It is the duty of the~~ *The* department of revenue *to shall* implement the provisions of 15-7-101, 15-7-102, and this section by providing:

(a) for a general and uniform method of classifying lands in the state for the purpose of securing an equitable and uniform basis of assessment of lands for taxation purposes;

(b) for a general and uniform method of appraising city and town lots;

(c) for a general and uniform method of appraising rural and urban improvements;

(d) for a general and uniform method of appraising timberlands.

(2) All lands must be classified according to their use or uses.

(3) Land classified as agricultural land or forest land must be subclassified according to soil type and productive capacity. In the classification work, use must be made of soil surveys and maps and all other *site-specific and* pertinent available information, *including any information provided by the taxpayer such as:*

(a) *information detailing actual climate conditions;*

(b) *information from the United States department of agriculture, including but not limited to:*

(i) *natural resources conservation service rangeland inventory materials;*

(ii) *farm service agency materials; and*

(iii) *Montana agriculture statistics information; and*

(c) *any other documents or publicly available information that will assist in reaching a value that accurately approximates the productive capacity that the average Montana farmer or rancher could achieve.*

(4) All lands must be classified by parcels or subdivisions not exceeding 1 section each, by the sections, fractional sections, or lots of all tracts of land that have been sectionized by the United States government, or by metes and bounds, whichever yields a true description of the land.

(5) All agricultural lands must be classified and appraised as agricultural lands without regard to the best and highest value use of adjacent or neighboring lands.

(6) In any periodic revaluation of taxable property completed under the provisions of 15-7-111, all property classified in 15-6-134 must be appraised on the taxable portion of its market value in the same year. The department shall publish a rule specifying the year used in the appraisal.

(7) All sewage disposal systems and domestic use water supply systems of all dwellings may not be appraised, assessed, and taxed separately from the land; *or from the house; or other improvements in which they are located. In no event may the* The sewage disposal or domestic water supply systems *may not* be included twice by including *either of* them in the valuation and assessing them separately.”

**Section 2.** Section 15-7-201, MCA, is amended to read:

**“15-7-201. Legislative intent — value of agricultural property.** (1) Because the market value of many agricultural properties is based upon speculative purchases that do not reflect the productive capability of agricultural land, it is the legislative intent that bona fide agricultural properties be classified and assessed at a value that is exclusive of values attributed to urban influences or speculative purposes.

(2) Agricultural land must be classified according to its use, which classifications include but are not limited to irrigated use, nonirrigated use, and grazing use.

(3) Within each class, land must be subclassified by productive capacity. Productive capacity is determined based on yield.

(4) In computing the agricultural land valuation schedules to take effect on the date when each revaluation cycle takes effect pursuant to 15-7-111, the department of revenue shall determine the productive capacity value of all agricultural lands using the formula  $V = I/R$  where:

(a) V is the per-acre productive capacity value of agricultural land in each subclass;

(b) I is the per-acre net income of agricultural land in each subclass and is to be determined as provided in subsection (5); and

(c) R is the capitalization rate and, unless the advisory committee recommends a different rate and the department adopts the recommended capitalization rate by rule, is equal to 6.4%. This capitalization rate must remain in effect until the next revaluation cycle.

(5) (a) Net income must be determined separately for each subclass.

(b) Net income must be based on commodity price data, which may include grazing fees, crop and livestock share arrangements, cost of production data, and water cost data for the base period using the best available data.

(i) Commodity price data and cost of production data for the base period must be obtained from the Montana Agricultural Statistics, the Montana crop

and livestock reporting service, and other sources of publicly available information if considered appropriate by the advisory committee.

(ii) Crop share and livestock share arrangements are based on typical agricultural business practices and average landowner costs.

(iii) Allowable water costs consist only of the per-acre labor costs, energy costs of irrigation, and, unless the advisory committee recommends otherwise and the department adopts the recommended cost by rule, a base water cost of \$15 for each acre of irrigated land. Total allowable water costs may not exceed \$50 for each acre of irrigated land. Labor and energy costs must be determined as follows:

(A) Labor costs are \$5 an acre for pivot sprinkler irrigation systems; \$10 an acre for tow lines, side roll, and lateral sprinkler irrigation systems; and \$15 an acre for hand-moved and flood irrigation systems.

(B) Energy costs must be based on per-acre energy costs incurred in the energy cost base year, which is the calendar year immediately preceding the year specified by the department in 15-7-103(6). By July 1 of the year following the energy cost base year, an owner of irrigated land shall provide the department, on a form prescribed by the department, with energy costs incurred in that energy cost base year. In the event that no energy costs were incurred in the energy cost base year, the owner of irrigated land shall provide the department with energy costs from the most recent year available. The department shall adjust the most recent year's energy costs to reflect costs in the energy cost base year.

(c) The base crop for valuation of irrigated land is alfalfa hay adjusted to 80% of the sales price, and the base crop for valuation of nonirrigated land is spring wheat. The base unit for valuation of grazing lands is animal unit months, defined as the average monthly requirement of pasture forage to support a 1,200-pound cow with a calf or its equivalent.

(d) Unless the advisory committee recommends a different base period and the department adopts the recommended base period by rule, the base period used to determine net income must be the most recent 7 years for which data is available prior to the date the revaluation cycle ends. Unless the advisory committee recommends a different averaging method and the department adopts the recommended averaging method by rule, data referred to in subsection (5)(b) must be averaged, but the average must exclude the lowest and highest yearly data in the period.

(6) The department shall compile data and develop valuation manuals adopted by rule to implement the valuation method established by subsections (4) and (5).

(7) The governor shall appoint an advisory committee of persons knowledgeable in agriculture and agricultural economics. The advisory committee shall include one member of the Montana state university-Bozeman, college of agriculture, staff. The advisory committee shall:

(a) compile and review data required by subsections (4) and (5);

(b) recommend to the department any adjustments to data or to landowners' share percentages if required by changes in government agricultural programs, market conditions, or prevailing agricultural practices;

(c) recommend appropriate base periods and averaging methods to the department;

(d) evaluate the appropriateness of the capitalization rate and recommend a rate to the department;



(e) verify for each class and subclass of land that the income determined in subsection (5) reasonably approximates that which the average Montana farmer or rancher could have attained; ~~and~~

(f) recommend agricultural land valuation schedules to the department. With respect to irrigated land, the recommended value of irrigated land may not be below the value that the land would have if it were not irrigated.

(g) *provide methods for adjusting agricultural land productivity values when more site-specific data is available and pertinent; and*

(h) *recommend to the department definitions for “site-specific” and “pertinent”.*

**Section 3. Applicability.** [This act] applies to property tax years beginning after December 31, 2013.

Approved April 30, 2013

## CHAPTER NO. 358

[HB 607]

AN ACT REVISING THE PILOT PROGRAM FOR ELECTRONIC TITLE, LIEN FILING, AND REGISTRATION TO ALLOW A USER OPTION FOR EXPEDITED SERVICES; ALLOWING THE DEPARTMENT OF JUSTICE TO ESTABLISH A FEE FOR OPTIONAL EXPEDITED SERVICES; AND AMENDING SECTION 61-3-109, MCA.

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

**Section 1.** Section 61-3-109, MCA, is amended to read:

**“61-3-109. Electronic title, lien filing, and registration.** (1) The department shall develop and implement a pilot program to allow:

(1)(a) electronic transmission of data by an authorized agent, a county treasurer, or a person to or from the department in lieu of the transmission of paper documents;

(2)(b) substantiation of electronic record transactions performed by the department, an authorized agent, a county treasurer, or a person;

(3)(c) the production and certification by a court or an authorized agent of a motor vehicle record generated from electronic records of title and registration maintained by the department;

(4)(d) electronic filing, perfection, and release of security interests or liens of record; ~~and~~

(5)(e) certification and audit by the department of its authorized agents; *and*

(f) *expedited title services for customers with exceptional needs who are willing to pay an optional fee prescribed by the department by rule.*

(2) *Money collected from the fee imposed under subsection (1)(f) must be deposited in the highway nonrestricted account provided for in 15-70-125.”*

Approved April 30, 2013

## CHAPTER NO. 359

[HB 614]

AN ACT PROVIDING FOR THE SALE OF TRAVEL INSURANCE BY A TRAVEL RETAILER UNDER THE DIRECTION OF A LIMITED LINES

TRAVEL INSURANCE PRODUCER; PROVIDING FOR FEES FOR LICENSURE AND THE MAINTAINING OF REGISTRIES BY THE COMMISSIONER OF INSURANCE; GRANTING RULEMAKING AUTHORITY TO THE COMMISSIONER OF INSURANCE; PROVIDING FOR ENFORCEMENT AND PENALTIES; AND AMENDING SECTION 33-17-212, MCA.

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

**Section 1. Definitions.** As used in [sections 1 through 4], the following definitions apply:

- (1) “Administrator” means an administrator as defined in 33-17-102.
- (2) “Limited lines travel insurance producer” means a:
  - (a) managing general agent or third-party administrator; or
  - (b) licensed insurance producer, including a limited lines producer, designated by an insurer as the travel insurance supervising entity as set forth in [section 4].
- (3) “Offer and disseminate” means providing general information, including a description of coverage and price, as well as processing applications, collecting premiums, and performing other activities not requiring licensure by the state.
- (4) (a) “Travel insurance” means insurance coverage for personal risks incident to planned travel, including but not limited to:
  - (i) interruption or cancellation of a trip or event;
  - (ii) loss of baggage or personal effects;
  - (iii) damages to accommodations or rental vehicles; and
  - (iv) sickness, accident, disability, or death occurring during travel.
- (b) The term does not include major medical plans that provide comprehensive medical protection for travelers on trips lasting 6 months or longer, including those working overseas and military personnel being deployed.
- (5) “Travel retailer” means a business entity that makes, arranges, or offers travel services and that may offer and disseminate travel insurance as a service to its customers on behalf of and under the direction of a limited lines travel insurance producer.

**Section 2. Requirements to offer and disseminate travel insurance — fees — types of policies — rulemaking.** (1) A travel retailer may offer and disseminate travel insurance under a limited lines travel insurance producer business entity license only if the following conditions are met:

- (a) the limited lines travel insurance producer or travel retailer provides purchasers of travel insurance with:
  - (i) a description of the material terms or the actual material terms of the insurance coverage;
  - (ii) a description of the process for filing a claim;
  - (iii) a description of the review or cancellation process for the travel insurance policy; and
  - (iv) the identity and contact information of the insurer and the limited lines travel insurance producer;
- (b) at the time of licensure, the limited lines travel insurance producer establishes and maintains a registry on a form prescribed by the commissioner of each travel retailer that offers travel insurance on the limited lines travel insurance producer’s behalf. The registry must be maintained and updated

annually by the limited lines travel insurance producer and must include the name, address, and contact information of each travel retailer and of an officer or person who directs or controls each travel retailer's operations; the travel retailer's federal tax identification number; and a statement that the travel retailer has not been convicted of a violation of 18 U.S.C. 1033. The limited lines travel insurance producer shall submit its registry to the commissioner within 10 business days of the commissioner's request. The commissioner shall require a fee for filing the registry that is commensurate with the cost of maintaining a file for all registries filed with the commissioner.

(c) the limited lines travel insurance producer designates an employee who is an individual licensed producer as the designated responsible producer responsible for the limited lines travel insurance producer's compliance with the applicable insurance laws and rules of this state;

(d) the designated responsible producer, president, secretary, treasurer, and any other officer or person who directs or controls the limited lines travel insurance producer's insurance operations have complied with the fingerprinting requirements in the resident state of the limited lines travel insurance producer;

(e) the limited lines travel insurance producer has paid all applicable insurance producer licensing fees required pursuant to 33-2-708 or other applicable state law; and

(f) the limited lines travel insurance producer requires each employee and authorized representative of the travel retailer whose duties include offering and disseminating travel insurance to receive a program of instruction or training, which may be subject to review by the commissioner. The training material must, at a minimum, contain instructions on the types of insurance offered, ethical sales practices, and required disclosures to prospective customers.

(2) A travel retailer offering or disseminating travel insurance shall make available to prospective purchasers brochures or other written materials that:

(a) provide the identity and contact information of the insurer and the limited lines travel insurance producer;

(b) explain that the purchase of travel insurance is not required in order to purchase any other product or service from the travel retailer; and

(c) explain that a travel retailer employee or authorized representative who is not licensed as an insurance producer is permitted to provide general information about the insurance offered by the travel retailer, including a description of the coverage and price, but is not qualified or authorized to answer technical questions about the terms and conditions of the insurance offered by the travel retailer or to evaluate the adequacy of the customer's existing insurance coverage.

(3) A travel retailer's employees or authorized representatives who are not licensed as insurance producers may not:

(a) evaluate or interpret the technical terms, benefits, and conditions of the offered travel insurance coverage;

(b) evaluate or provide advice concerning a prospective purchaser's existing insurance coverage; or

(c) hold themselves out as licensed insurers, licensed producers, or insurance experts.

(4) Travel insurance may be provided under an individual policy or under a group or master policy.

(5) The commissioner may adopt rules to implement the provisions of [sections 1 through 4].

**Section 3. Authorization.** Upon a limited lines travel insurance producer meeting the requirements provided for in [section 2], a travel retailer is authorized to offer and disseminate travel insurance and receive related compensation when the travel retailer's insurance-related activities, and those of its employees and authorized representatives, are limited to offering and disseminating travel insurance on behalf of and under the direction of the limited lines travel insurance producer.

**Section 4. Responsibility — enforcement — penalties.** (1) The limited lines travel insurance producer is the supervising entity responsible for the acts of the travel retailer and shall use reasonable means to ensure compliance by the travel retailer with the provisions of [sections 1 through 4].

(2) A limited lines travel insurance producer and any travel retailer offering and disseminating travel insurance under the limited lines travel insurance producer's license are subject to the applicable unfair trade practices provisions of Title 33, chapter 18, including penalty provisions, and to other enforcement provisions applicable to insurance producers generally.

**Section 5.** Section 33-17-212, MCA, is amended to read:

**“33-17-212. Examination required — exceptions — fees.** (1) Except as provided in subsection (6), an individual applying for a license is required to pass a written examination. The examination must test the knowledge of the individual concerning each kind of insurance listed in subsection (5) for which application is made, the duties and responsibilities of an insurance producer, and the insurance laws and rules of this state. The examination must be developed and conducted under rules adopted by the commissioner.

(2) The commissioner may conduct the examination or make arrangements, including contracting with an outside testing service, for administering the examination. The commissioner may arrange for the testing service to recover the cost of the examination from the applicant.

(3) An individual who fails to appear for the examination as scheduled or fails to pass the examination may reapply for an examination and shall remit all forms before being rescheduled for another examination.

(4) Except as provided in subsection (6), if the applicant is a business entity, each individual who is to be named in the license as having authority to act for the applicant in its insurance transactions under the license must meet the qualifications provided for in this section.

(5) Examination of an applicant for a license must cover all of the kinds of insurance for which the applicant has applied to be licensed, as constituted by any one or more of the following classifications:

- (a) life insurance;
  - (b) disability insurance;
  - (c) property insurance, which for the purposes of this provision includes marine insurance;
  - (d) casualty insurance;
  - (e) surety insurance;
  - (f) limited lines credit insurance;
  - (g) title insurance.
- (6) This section does not apply to and an examination is not required of:

(a) an individual lawfully licensed as an insurance producer as to the kind or kinds of insurance to be transacted as of or immediately prior to January 1, 1961, and who continues to be licensed;

(b) an applicant for a license covering the same kind or kinds of insurance as to which the applicant was licensed in this state, other than under a temporary license, within the 12 months immediately preceding the date of application unless the commissioner has suspended, revoked, or terminated the previous license;

(c) an applicant for a license as a nonresident insurance producer;

~~(d) transportation ticket agents of common carriers applying for a license to solicit and sell only:~~

~~(i) accident insurance ticket policies; or~~

~~(ii) insurance of personal effects while being carried as baggage on a common carrier, as incidental to their duties as transportation ticket agents; or~~

~~(d) a limited lines travel insurance producer and those registered under the limited lines travel insurance producer's license pursuant to [section 2]; or~~

(e) an association applying for a license under 33-17-211.

(7) (a) Subject to the provisions of subsection (7)(b), an individual who applies for a nonresident insurance producer license in this state and who was previously licensed for the same lines of authority in another state may not be required to complete any prelicensing education or examination.

(b) The exemption in subsection (7)(a) is available only if the individual is currently licensed in the other state or the individual's application is received within 90 days of the cancellation of the individual's previous license and if the other state issues a certification that, at the time of the cancellation, the individual was in good standing in that state or the state's database records, maintained by the national association of insurance commissioners or any of the association's affiliates or subsidiaries that the association oversees, indicate that the insurance producer is or was licensed in good standing for the lines of authority requested."

**Section 6. Codification instruction.** [Sections 1 through 4] are intended to be codified as an integral part of Title 33, chapter 17, and the provisions of Title 33, chapter 17, apply to [sections 1 through 4].

Approved April 30, 2013

## CHAPTER NO. 360

[SB 28]

AN ACT ADOPTING THE INTERSTATE INSURANCE PRODUCT REGULATION COMPACT; AUTHORIZING THE STATE AUDITOR AS COMMISSIONER OF INSURANCE TO PARTICIPATE IN THE COMPACT; ENSURING THAT PARTICIPATING STATES PROVIDE A COMMON FRAMEWORK FOR REGULATING DESIGNATED INSURANCE PRODUCTS; LEGISLATIVELY OPTING OUT OF CERTAIN UNIFORM STANDARDS; PROVIDING OPT-OUT AUTHORITY; LIMITING GOVERNMENTAL LIABILITY; AND AMENDING SECTIONS 33-1-311 AND 33-1-501, MCA.

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

**Section 1. Compact Adopted.** The Interstate Insurance Product Regulation Compact is enacted into law and entered into with all jurisdictions legally joining in the compact, in the form substantially as set forth below.

#### Article I. Purposes

Pursuant to terms and conditions of this compact, the state of Montana seeks to join with other states and establish the Interstate Insurance Product Regulation Compact. Through means of joint and cooperative action among the compacting states, the purposes of this compact are:

- (1) to promote and protect the interest of consumers of individual and group annuity, life insurance, disability income, and long-term care insurance products;
- (2) to develop uniform standards for insurance products covered under the compact;
- (3) to establish a central clearinghouse to receive and provide prompt review of insurance products covered under the compact and, in certain cases, advertisement related to the products, submitted by insurers authorized to do business in one or more compacting states;
- (4) to give appropriate regulatory approval to those product filings and advertisement satisfying the applicable uniform standard;
- (5) to improve coordination of regulatory resources and expertise between state insurance departments regarding the setting of uniform standards and review of insurance products covered under the compact;
- (6) to create the interstate insurance product regulation commission; and
- (7) to perform these and other related functions as may be consistent with the state regulation of the business of insurance.

#### Article II. Definitions

For purposes of this compact, the following definitions apply:

- (1) "Advertisement" means any material designed to create public interest in a product or induce the public to purchase, increase, modify, reinstate, borrow on, surrender, replace, or retain a policy, as more specifically defined in the rules and operating procedures of the commission.
- (2) "Bylaws" mean those bylaws established by the commission for its governance or for directing or controlling the commission's actions or conduct.
- (3) "Compacting state" means a state that has enacted this compact legislation and that has not withdrawn pursuant to Article XIV, subsection (1), or been terminated pursuant to Article XIV, subsection (2).
- (4) "Commission" means the interstate insurance product regulation commission established by this compact.
- (5) "Commissioner" means the chief insurance regulatory official of a state, including but not limited to a commissioner, superintendent, director, or administrator.
- (6) "Domiciliary state" means the state in which an insurer is incorporated or organized or, in the case of an alien insurer, its state of entry.
- (7) "Insurer" means any entity licensed by a state to issue contracts of insurance for any of the lines of insurance covered by this compact.
- (8) "Member" means the person chosen by a compacting state as its representative to the commission or the designee named by the representative to the commission.



(9) "Noncompacting state" means a state that is not at the time a compacting state.

(10) "Operating procedures" mean procedures promulgated by the commission implementing a rule, a uniform standard, or a provision of this compact.

(11) "Product" means the form of a policy or contract, including any application, endorsement, or related form that is attached to and made a part of the policy or contract, and any evidence of coverage or certificate, for an individual or group annuity, life insurance, disability income, or long-term care insurance product that an insurer is authorized to issue.

(12) "Rule" means a statement of general or particular applicability and future effect promulgated by the commission, including a uniform standard developed pursuant to Article VII, designed to implement, interpret, or prescribe law or policy or describing the organization, procedure, or practice requirements of the commission, which has the force of law in the compacting states.

(13) "State" means any state, district, or territory of the United States of America.

(14) "Third-party filer" means an entity that submits a product filing to the commission on behalf of an insurer.

(15) "Uniform standard" means a standard adopted by the commission for a product line pursuant to Article VII and includes all of the product requirements in aggregate, provided that each uniform standard must be construed, whether express or implied, to prohibit the use of any inconsistent, misleading, or ambiguous provisions in a product and the form of the product made available to the public may not be unfair, inequitable, or against public policy as determined by the commission.

#### Article III. Establishment of the Commission and Venue

(1) The compacting states create and establish a joint public agency known as the interstate insurance product regulation commission. Pursuant to Article IV, the commission has the power to develop uniform standards for product lines, receive and provide prompt review of products filed with the commission, and give approval to those product filings satisfying applicable uniform standards. However, it is not intended for the commission to be the exclusive entity for receipt and review of insurance product filings. Nothing in the compact prohibits any insurer from filing its product in any state in which the insurer is licensed to conduct the business of insurance, and any such filing is subject to the laws of the state where filed.

(2) The commission is a body corporate and politic and an instrumentality of the compacting states.

(3) The commission is solely responsible for its liabilities except as otherwise specifically provided in this compact.

(4) Venue is proper and judicial proceedings by or against the commission must be brought solely and exclusively in a court of competent jurisdiction where the principal office of the commission is located.

#### Article IV. Powers of the Commission

The commission has the following powers:

(1) to promulgate rules, pursuant to Article VII, which have the force of law and are binding in the compacting states to the extent and in the manner provided in this compact;

(2) to exercise its rulemaking authority and establish reasonable uniform standards for products covered under the compact and advertisement related to the products, which have the force of law and are binding in the compacting states, but only for those products filed with the commission, provided that a compacting state has the right to opt out of the uniform standard pursuant to Article VII, to the extent and in the manner provided in this compact, and provided further that any uniform standard established by the commission for long-term care insurance products may provide the same or greater protections for consumers as, but may not provide less than, those protections set forth in the national association of insurance commissioners' Long-Term Care Insurance Model Act and Long-Term Care Insurance Model Regulation, respectively, adopted as of 2001. The commission shall consider whether any subsequent amendments to the national association of insurance commissioners' Long-Term Care Insurance Model Act or Long-Term Care Insurance Model Regulation adopted by the national association of insurance commissioners require amending of the uniform standards established by the commission for long-term care insurance products.

(3) to receive and review in an expeditious manner products filed with the commission and rate filings for disability income and long-term care insurance products and to give approval of those products and rate filings that satisfy the applicable uniform standard, where the approval has the force of law and is binding on the compacting states to the extent and in the manner provided in the compact;

(4) to receive and review in an expeditious manner advertisement relating to long-term care insurance products for which uniform standards have been adopted by the commission and to give approval to all advertisement that satisfies the applicable uniform standard. For any product covered under this compact, other than long-term care insurance products, the commission has the authority to require an insurer to submit all or any part of its advertisement with respect to that product for review or approval prior to use if the commission determines that the nature of the product is such that an advertisement of the product could have the capacity or tendency to mislead the public. The actions of the commission as provided in this section have the force of law and are binding in the compacting states to the extent and in the manner provided in the compact.

(5) to exercise its rulemaking authority and designate products and advertisement that may be subject to a self-certification process without the need for prior approval by the commission;

(6) to promulgate operating procedures pursuant to Article VII that are binding in the compacting states to the extent and in the manner provided in this compact;

(7) to bring and prosecute legal proceedings or actions in its name as the commission, provided that the standing of any state insurance department to sue or be sued under applicable law may not be affected;

(8) to issue subpoenas requiring the attendance and testimony of witnesses and the production of evidence;

(9) to establish and maintain offices;

(10) to purchase and maintain insurance and bonds;

(11) to borrow, accept, or contract for services of personnel, including but not limited to employees of a compacting state;

(12) to hire employees, professionals, or specialists and elect or appoint officers, to fix their compensation, define their duties, give them appropriate authority to carry out the purposes of the compact, and determine their qualifications, and to establish the commission's personnel policies and programs relating to, among other things, conflicts of interest, rates of compensation, and qualifications of personnel;

(13) to accept any and all appropriate donations and grants of money, equipment, supplies, materials, and services and to receive, utilize, and dispose of the same, provided that at all times the commission shall strive to avoid any appearance of impropriety;

(14) to lease, purchase, or accept appropriate gifts or donations of or otherwise own, hold, improve, or use any property, real, personal, or mixed, provided that at all times the commission shall strive to avoid any appearance of impropriety;

(15) to sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property whether real, personal, or mixed;

(16) to remit filing fees to compacting states as may be set forth in the bylaws, rules, or operating procedures;

(17) to enforce compliance by compacting states with rules, uniform standards, operating procedures, and bylaws;

(18) to provide for dispute resolution among compacting states;

(19) to advise compacting states on issues relating to insurers domiciled or doing business in noncompacting jurisdictions, consistent with the purposes of this compact;

(20) to provide advice and training to those personnel in state insurance departments responsible for product review and to be a resource for state insurance departments;

(21) to establish a budget and make expenditures;

(22) to borrow money;

(23) to appoint committees, including advisory committees comprising members, state insurance regulators, state legislators or their representatives, insurance industry and consumer representatives, and other interested persons as may be designated in the bylaws;

(24) to provide and receive information from and to cooperate with law enforcement agencies;

(25) to adopt and use a corporate seal; and

(26) to perform other functions as may be necessary or appropriate to achieve the purposes of this compact consistent with the state regulation of the business of insurance.

#### Article V. Organization of the Commission

(1) Membership, voting, and bylaws.

(a) Each compacting state has and is limited to one member. Each member must be qualified to serve in that capacity pursuant to applicable law of the compacting state. Any member may be removed or suspended from office as provided by the law of the state from which the member is appointed. Any vacancy occurring in the commission must be filled in accordance with the laws of the compacting state in which the vacancy exists. Nothing in the compact may be construed to affect the manner in which a compacting state determines the election or appointment and qualification of its own commissioner.

(b) Each member is entitled to one vote and must have an opportunity to participate in the governance of the commission in accordance with the bylaws. Notwithstanding any provision in the compact to the contrary, an action of the commission with respect to the promulgation of a uniform standard may not be effective unless two-thirds of the members vote in favor of the standard.

(c) The commission shall, by a majority vote of the members, prescribe bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes and exercise the powers of the compact, including but not limited to:

(i) establishing the fiscal year of the commission;

(ii) providing reasonable procedures for appointing and electing members, as well as holding meetings, of the management committee;

(iii) providing reasonable standards and procedures:

(A) for the establishment and meetings of other committees; and

(B) governing any general or specific delegation of any authority or function of the commission;

(iv) providing reasonable procedures for calling and conducting meetings of the commission that consist of a majority of commission members, ensuring reasonable advance notice of each meeting, and providing for the right of citizens to attend each meeting with enumerated exceptions designed to protect the public's interest, the privacy of individuals, and insurers' proprietary information, including trade secrets. The commission may meet in camera only after a majority of the entire membership votes to close a meeting in whole or in part. As soon as practicable, the commission shall make public:

(A) a copy of the vote to close the meeting revealing the vote of each member with no proxy votes allowed; and

(B) votes taken during the meeting.

(v) establishing the titles, duties, and authority and reasonable procedures for the election of the officers of the commission;

(vi) providing reasonable standards and procedures for the establishment of the personnel policies and programs of the commission. Notwithstanding any civil service or other similar laws of any compacting state, the bylaws must exclusively govern the personnel policies and programs of the commission.

(vii) promulgating a code of ethics to address permissible and prohibited activities of commission members and employees; and

(viii) providing a mechanism for winding up the operations of the commission and the equitable disposition of any surplus funds that may exist after the termination of the compact after the payment or reserving of all of its debts and obligations.

(d) The commission shall publish its bylaws in a convenient form and file a copy of the bylaws and a copy of any amendment to the bylaws with the appropriate agency or officer in each of the compacting states.

(2) Management committee, officers, and personnel.

(a) A management committee comprising no more than 14 members must be established as follows:

(i) one member from each of the six compacting states with the largest premium volume for individual and group annuities, life, disability income, and long-term care insurance products as determined from the records of the national association of insurance commissioners for the prior year;

(ii) four members from those compacting states with at least 2% of the market based on the premium volume described in subsection (2)(a)(i), other

than the six compacting states with the largest premium volume, selected on a rotating basis as provided in the bylaws; and

(iii) four members from those compacting states with less than 2% of the market, based on the premium volume described in subsection (2)(a)(i), with one selected from each of the four zone regions of the national association of insurance commissioners as provided in the bylaws.

(b) The management committee has the authority and duties set forth in the bylaws, including but not limited to:

(i) managing the affairs of the commission in a manner consistent with the bylaws and purposes of the commission;

(ii) establishing and overseeing an organizational structure within and appropriate procedures for the commission to provide for the creation of uniform standards and other rules, receipt and review of product filings, administrative and technical support functions, review of decisions regarding the disapproval of a product filing, and the review of elections made by a compacting state to opt out of a uniform standard, provided that a uniform standard may not be submitted to the compacting states for adoption unless approved by two-thirds of the members of the management committee;

(iii) overseeing the offices of the commission; and

(iv) planning, implementing, and coordinating communications and activities with other state, federal, and local government organizations in order to advance the goals of the commission.

(c) The commission shall annually elect officers from the management committee, with each having the authority and duties specified in the bylaws.

(d) The management committee may, subject to the approval of the commission, appoint or retain an executive director for a period, upon the terms and conditions, and for the compensation that the commission considers appropriate. The executive director shall serve as secretary to the commission but may not be a member of the commission. The executive director shall hire and supervise other staff authorized by the commission.

(3) Legislative and advisory committees.

(a) A legislative committee comprising state legislators or their designees must be established to monitor the operations of and make recommendations to the commission, including the management committee, provided that the manner of selection and term of any legislative committee member must be as set forth in the bylaws. Prior to the adoption by the commission of any uniform standard, revision to the bylaws, annual budget, or other significant matter provided in the bylaws, the management committee shall consult with and report to the legislative committee.

(b) The commission shall establish two advisory committees, one comprising consumer representatives independent of the insurance industry and the other comprising insurance industry representatives.

(c) The commission may establish additional advisory committees as its bylaws may provide to carry out its functions.

(4) Corporate records of the commission. The commission shall maintain its corporate books and records in accordance with the bylaws.

(5) Qualified immunity, defense, and indemnification.

(a) The members, officers, executive director, employees, and representatives of the commission are immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of

property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error, or omission that occurred or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities, provided that nothing in this subsection (5)(a) may be construed to protect any person from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of that person.

(b) The commission shall defend any member, officer, executive director, employee, or representative of the commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities, provided that nothing in the compact may be construed to prohibit that person from retaining personal counsel and provided further that the actual or alleged act, error, or omission did not result from that person's intentional or willful and wanton misconduct.

(c) The commission shall indemnify and hold harmless any member, officer, executive director, employee, or representative of the commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities or that the person had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from the intentional or willful and wanton misconduct of that person.

#### Article VI. Meetings and Acts of the Commission

(1) The commission shall meet and take actions that are consistent with the provisions of this compact and the bylaws.

(2) Each member of the commission has the right and power to cast a vote to which that compacting state is entitled and to participate in the business and affairs of the commission. A member shall vote in person or by other means that are provided in the bylaws. The bylaws may provide for members' participation in meetings by telephone or other means of communication.

(3) The commission shall meet at least once during each calendar year. Additional meetings must be held as set forth in the bylaws.

#### Article VII. Rules and Operating Procedures — Rulemaking Functions of the Commission and Opting Out of Uniform Standards

(1) Rulemaking authority. The commission shall promulgate reasonable rules, including uniform standards, and operating procedures to effectively and efficiently achieve the purposes of this compact. Notwithstanding the foregoing, if the commission exercises its rulemaking authority in a manner that is beyond the scope of the purposes of this compact or the powers granted by this compact, then the action by the commission is invalid and has no force.

(2) Rulemaking procedure. Rules and operating procedures must be made pursuant to a rulemaking process that conforms to the Model State Administrative Procedures Act of 1981, as amended, as may be appropriate to the operations of the commission. Before the commission adopts a uniform standard, the commission shall give written notice to the relevant state legislative committee or committees in each compacting state responsible for insurance issues of its intention to adopt the uniform standard. In adopting a



uniform standard, the commission shall consider fully all submitted materials and issue a concise explanation of its decision.

(3) Effective date and opt out of a uniform standard. A uniform standard becomes effective 90 days after its promulgation by the commission or at a later date determined by the commission, provided, however, that a compacting state may opt out of a uniform standard as provided in this article. "Opt out" means any action by a compacting state to decline to adopt or participate in a promulgated uniform standard. All other rules and operating procedures and amendments of the rules and operating procedures become effective as of the date specified in each rule, operating procedure, or amendment.

(4) Opt-out procedure.

(a) A compacting state may opt out of a uniform standard, either by legislation or regulation promulgated by the insurance department under the compacting state's administrative procedure act. If a compacting state elects to opt out of a uniform standard by regulation, the compacting state shall:

(i) give written notice to the commission no later than 10 business days after the uniform standard is promulgated or at the time the state becomes a compacting state; and

(ii) find that the uniform standard does not provide reasonable protections to the citizens of the state, given the conditions in the state. The commissioner shall make specific findings of fact and conclusions of law, based on a preponderance of the evidence, detailing the conditions in the state that warrant a departure from the uniform standard and determining that the uniform standard would not reasonably protect the citizens of the state. The commissioner shall consider and balance the following factors and find that the conditions in the state and needs of the citizens of the state outweigh:

(A) the intent of the legislature to participate in, and the benefits of, an interstate agreement to establish national uniform consumer protections for the products subject to this compact; and

(B) the presumption that a uniform standard adopted by the commission provides reasonable protections to consumers of the relevant product.

(b) Notwithstanding subsection (4)(a), a compacting state may, at the time of its enactment of this compact, prospectively opt out of all uniform standards involving long-term care insurance products by expressly providing for the opt out in the enacted compact, and the opt out may not be treated as a material variance in the offer or acceptance of any state to participate in this compact. The opt out is effective at the time of enactment of this compact by the compacting state and applies to all existing uniform standards involving long-term care insurance products and those subsequently promulgated.

(5) Effect of opt out.

(a) If a compacting state elects to opt out of a uniform standard, the uniform standard remains applicable in the compacting state electing to opt out until the opt-out legislation is enacted into law or the regulation opting out becomes effective.

(b) Once the opt out of a uniform standard by a compacting state becomes effective as provided under the laws of that state, the uniform standard has no further force in that state unless the legislation or regulation implementing the opt out is repealed or otherwise becomes ineffective under the laws of the state. If a compacting state opts out of a uniform standard after the uniform standard has been made effective in that state, the opt out has the same prospective effect as provided under Article XIV for withdrawals.

(6) Stay of uniform standard. If a compacting state has formally initiated the process of opting out of a uniform standard by regulation and while the regulatory opt out is pending, the compacting state may petition the commission, at least 15 days before the effective date of the uniform standard, to stay the effectiveness of the uniform standard in that state. The commission may grant a stay if it determines the regulatory opt out is being pursued in a reasonable manner and there is a likelihood of success. If the commission grants or extends a stay, the stay or extension may postpone the effective date by up to 90 days unless affirmatively extended by the commission, provided that a stay may not be permitted to remain in effect for more than 1 year unless the compacting state can show extraordinary circumstances that warrant a continuance of the stay, including but not limited to the existence of a legal challenge that prevents the compacting state from opting out. The commission may terminate a stay upon notice that the rulemaking process has been terminated.

(7) Not later than 30 days after a rule or operating procedure is promulgated, any person may file a petition for judicial review of the rule or operating procedure, provided that the filing of a petition may not stay or otherwise prevent the rule or operating procedure from becoming effective unless the court finds that the petitioner has a substantial likelihood of success. The court shall give deference to the actions of the commission consistent with applicable law and may not find the rule or operating procedure to be unlawful if the rule or operating procedure represents a reasonable exercise of the commission's authority.

#### Article VIII. Commission Records and Enforcement

(1) The commission shall promulgate rules establishing conditions and procedures for public inspection and copying of its information and official records, except information and records involving the privacy of individuals and insurers' trade secrets. The commission may promulgate additional rules under which it may make available to federal and state agencies, including law enforcement agencies, records and information otherwise exempt from disclosure and may enter into agreements with those agencies to receive or exchange information or records subject to nondisclosure and confidentiality provisions.

(2) Except with regard to privileged records, data, and information, the laws of any compacting state pertaining to confidentiality or nondisclosure may not relieve any compacting state commissioner of the duty to disclose any relevant records, data, or information to the commission, provided that disclosure to the commission may not be considered to waive or otherwise affect any confidentiality requirement and provided further that, except as otherwise expressly provided in this compact, the commission may not be subject to the compacting state's laws pertaining to confidentiality and nondisclosure with respect to records, data, and information in its possession. Confidential information of the commission must remain confidential after the information is provided to any commissioner.

(3) The commission shall monitor compacting states for compliance with duly adopted bylaws, rules, including uniform standards, and operating procedures. The commission shall notify any noncomplying compacting state in writing of its noncompliance with commission bylaws, rules, or operating procedures. If a noncomplying compacting state fails to remedy its noncompliance within the time specified in the notice of noncompliance, the compacting state is considered to be in default as set forth in Article XIV.

(4) The commissioner of any state in which an insurer is authorized to do business or is conducting the business of insurance shall continue to exercise authority to oversee the market regulation of the activities of the insurer in accordance with the provisions of the state's law. The commissioner's enforcement of compliance with the compact is governed by the following provisions:

(a) With respect to the commissioner's market regulation of a product or advertisement that is approved or certified to the commission, the content of the product or advertisement may not constitute a violation of the provisions, standards, or requirements of the compact except upon a final order of the commission, issued at the request of a commissioner after prior notice to the insurer and an opportunity for hearing before the commission.

(b) Before a commissioner may bring an action for violation of any provision, standard, or requirement of the compact relating to the content of an advertisement not approved or certified to the commission, the commission or an authorized commission officer or employee shall authorize the action. However, authorization pursuant to this subsection (4)(b) does not require notice to the insurer, opportunity for hearing, or disclosure of requests for authorization or records of the commission's action on the requests.

#### Article IX. Dispute Resolution

The commission shall attempt, upon the request of a member, to resolve any disputes or other issues that are subject to this compact and that may arise between two or more compacting states or between compacting states and noncompacting states, and the commission shall promulgate an operating procedure providing for resolution of the disputes.

#### Article X. Product Filing and Approval

(1) Insurers and third-party filers seeking to have a product approved by the commission shall file the product with and pay applicable filing fees to the commission. Nothing in this compact may be construed to restrict or otherwise prevent an insurer from filing its product with the insurance department in any state in which the insurer is licensed to conduct the business of insurance, and the filing is subject to the laws of the states where filed.

(2) The commission shall establish appropriate filing and review processes and procedures pursuant to commission rules and operating procedures. Notwithstanding any provision in this compact to the contrary, the commission shall promulgate rules to establish conditions and procedures under which the commission shall provide public access to product filing information. In establishing the rules, the commission shall consider the interests of the public in having access to the information, as well as protection of personal medical and financial information and trade secrets, that may be contained in a product filing or supporting information.

(3) Any product approved by the commission may be sold or otherwise issued in those compacting states in which the insurer is legally authorized to do business.

#### Article XI. Review of Commission Decisions Regarding Filings

(1) Not later than 30 days after the commission has given notice of a disapproved product or advertisement filed with the commission, the insurer or third-party filer whose filing was disapproved may appeal the determination to a review panel appointed by the commission. The commission shall promulgate rules to establish procedures for appointing a review panel and provide for notice and hearing. An allegation that the commission, in disapproving a

product or advertisement filed with the commission, acted arbitrarily, capriciously, or in a manner that is an abuse of discretion or otherwise not in accordance with the law is subject to judicial review in accordance with Article III, subsection (4).

(2) The commission has authority to monitor, review, and reconsider products and advertisement subsequent to their filing or approval upon a finding that the product does not meet the relevant uniform standard. When appropriate, the commission may withdraw or modify its approval after proper notice and hearing subject to the appeal process in subsection (1).

#### Article XII. Finance

(1) The commission shall pay or provide for the payment of the reasonable expenses of its establishment and organization. To fund the cost of its initial operations, the commission may accept contributions and other forms of funding from the national association of insurance commissioners, compacting states, and other sources. Contributions and other forms of funding from other sources must be of such a nature that the independence of the commission concerning the performance of its duties may not be compromised.

(2) The commission shall collect a filing fee from each insurer and third-party filer filing a product with the commission to cover the cost of the operations and activities of the commission and its staff in a total amount sufficient to cover the commission's annual budget.

(3) The commission's budget for a fiscal year may not be approved until the budget has been subject to notice and comment as set forth in Article VII.

(4) The commission is exempt from all taxation in and by the compacting states.

(5) The commission may not pledge the credit of any compacting state except by and with the appropriate legal authority of that compacting state.

(6) The commission shall keep complete and accurate accounts of all its internal receipts, including grants and donations, and disbursements of all funds under its control. The internal financial accounts of the commission are subject to the accounting procedures established under the commission bylaws. The financial accounts and reports, including the system of internal controls and procedures of the commission, must be audited annually by an independent certified public accountant. Upon the determination of the commission, but no less frequently than every 3 years, the review of the independent auditor must include a management and performance audit of the commission. The commission shall make an annual report to the governor and legislature of the compacting states, which must include a report of the independent audit. The commission's internal accounts are not confidential, and the materials may be shared with the commissioner of any compacting state upon request. However, any work papers related to any internal or independent audit and any information regarding the privacy of individuals and insurers' proprietary information, including trade secrets, must remain confidential.

(7) No compacting state has any claim to or ownership of any property held by or vested in the commission or to any commission funds held pursuant to the provisions of this compact.

#### Article XIII. Compacting States, Effective Date, and Amendment

(1) Any state is eligible to become a compacting state.

(2) The compact becomes effective and binding upon legislative enactment of the compact into law by two compacting states; however, the commission becomes effective for purposes of adopting uniform standards for, reviewing,

and giving approval or disapproval of products filed with the commission that satisfy applicable uniform standards only after 26 states are compacting states or, alternatively, by states representing greater than 40% of the premium volume for life insurance, annuity, disability income, and long-term care insurance products, based on records of the national association of insurance commissioners for the prior year. Thereafter, the compact becomes effective and binding as to any other compacting state upon enactment of the compact into law by the state.

(3) Amendments to the compact may be proposed by the commission for enactment by the compacting states. An amendment does not become effective and binding upon the commission and the compacting states until all compacting states enact the amendment into law.

#### Article XIV. Withdrawal, Default, and Termination

##### (1) Withdrawal.

(a) Once effective, the compact continues in force and remains binding upon each compacting state, provided that a compacting state may withdraw from the compact ("withdrawing state") by enacting a statute specifically repealing the statute that enacted the compact into law.

(b) The effective date of withdrawal is the effective date of the repealing statute. The withdrawal may not apply to any product filings approved or self-certified, or any advertisement of those products, on the date the repealing statute becomes effective except by mutual agreement of the commission and the withdrawing state unless the withdrawing state rescinds the approval as provided in subsection (1)(e).

(c) The commissioner of the withdrawing state shall immediately notify the management committee in writing upon the introduction of legislation repealing this compact in the withdrawing state.

(d) The commission shall notify the other compacting states of the introduction of the legislation within 10 days after its receipt of notice.

(e) The withdrawing state is responsible for all obligations, duties, and liabilities incurred through the effective date of withdrawal, including any obligations, the performance of which extend beyond the effective date of withdrawal, except to the extent those obligations may have been released or relinquished by mutual agreement of the commission and the withdrawing state. The commission's approval of products and advertisement prior to the effective date of withdrawal continues to be effective and must be given full force in the withdrawing state unless formally rescinded by the withdrawing state in the same manner as provided by the laws of the withdrawing state for the prospective disapproval of products or advertisement previously approved under state law.

(f) Reinstatement following withdrawal of any compacting state occurs upon the effective date of the withdrawing state reenacting the compact.

##### (2) Default.

(a) If the commission determines that any compacting state has at any time defaulted ("defaulting state") in the performance of any of its obligations or responsibilities under this compact, the bylaws, or duly promulgated rules or operating procedures, then, after notice and hearing as set forth in the bylaws, all rights, privileges, and benefits conferred by this compact on the defaulting state must be suspended from the effective date of default as fixed by the commission. The grounds for default include but are not limited to failure of a compacting state to perform its obligations or responsibilities and any other

grounds designated in the commission rules. The commission shall immediately notify the defaulting state in writing of the defaulting state's suspension pending a cure of the default. The commission shall stipulate the conditions and the time period within which the defaulting state must cure its default. If the defaulting state fails to cure the default within the time period specified by the commission, the defaulting state must be terminated from the compact and all rights, privileges, and benefits conferred by this compact must be terminated from the effective date of termination.

(b) Product approvals by the commission, product self-certifications, or any advertisement in connection with the product that is in force on the effective date of termination remains in force in the defaulting state in the same manner as if the defaulting state had withdrawn voluntarily pursuant to subsection (1) of this article.

(c) Reinstatement following termination of any compacting state requires a reenactment of the compact.

(3) Dissolution of compact.

(a) The compact dissolves effective upon the date of the withdrawal or default of the compacting state that reduces membership in the compact to one compacting state.

(b) Upon the dissolution of this compact, the compact becomes null and void and is of no further force and the business and affairs of the commission must be wound up and any surplus funds must be distributed in accordance with the bylaws.

#### Article XV. Severability and Construction

(1) The provisions of this compact are severable, and if any phrase, clause, sentence, or provision is considered unenforceable, the remaining provisions of the compact are enforceable.

(2) The provisions of this compact must be liberally construed to effectuate its purposes.

#### Article XVI. Binding Effect of Compact and Other Laws

(1) Other laws.

(a) Nothing in this compact prevents the enforcement of any other law of a compacting state, except as provided in subsection (1)(b).

(b) For any product approved or certified to the commission, the rules, uniform standards, and any other requirements of the commission constitute the exclusive provisions applicable to the content, approval, and certification of those products. For advertisement that is subject to the commission's authority, any rule, uniform standard, or other requirement of the commission that governs the content of the advertisement constitutes the exclusive provision that a commissioner may apply to the content of the advertisement. Notwithstanding the foregoing, no action taken by the commission may abrogate or restrict:

(i) the access of any person to state courts;

(ii) remedies available under state law related to breach of contract, tort, or other laws not specifically directed to the content of the product;

(iii) state law relating to the construction of insurance contracts; or

(iv) the authority of the attorney general of the state, including but not limited to maintaining any actions or proceedings, as authorized by law.

(c) All insurance products filed with individual states are subject to the laws of those states.



(2) Binding effect of this compact.

(a) All lawful actions of the commission, including all rules and operating procedures promulgated by the commission, are binding upon the compacting states.

(b) All agreements between the commission and the compacting states are binding in accordance with their terms.

(c) Upon the request of a party to a conflict over the meaning or interpretation of commission actions and upon a majority vote of the compacting states, the commission may issue advisory opinions regarding the meaning or interpretation in dispute.

(d) In the event any provision of this compact exceeds the constitutional limits imposed on the legislature of any compacting state, the obligations, duties, powers, or jurisdiction sought to be conferred by that provision upon the commission are ineffective as to that compacting state and those obligations, duties, powers, or jurisdiction remain in the compacting state and must be exercised by the agency of the compacting state to which those obligations, duties, powers, or jurisdictions are delegated by law in effect at the time this compact becomes effective.

#### Article XVII. State of Montana Opt Out

In accordance with the provisions of Article VII, subsection (4)(b), the state of Montana opts out of all existing and prospective uniform standards involving long-term care insurance products and all existing uniform standards involving individual disability income insurance products in order to preserve the state's statutory and constitutional requirements governing these insurance products.

**Section 2. Montana compact commissioner — alternate.** The commissioner of insurance provided for in 2-15-1903 or the commissioner's designated alternate shall represent this state on the interstate insurance product regulation commission.

**Section 3. Opt-out duties, guidelines, remedies.** (1) As a participant in the Interstate Insurance Product Regulation Compact, the commissioner may opt out of any uniform standard that provides a materially lower level of protection for or materially diminishes the rights of Montana policyholders or policy applicants under Montana law.

(2) Using the time periods provided in Title 2, chapter 4, for adopting administrative procedures and prior to notifying the interstate insurance product regulation commission of a decision to opt out, the commissioner shall provide public notice and hold a public hearing to allow for comments on the decision to opt out.

(3) After taking public comment, the commissioner shall notify the interstate insurance product regulation commission, the governor, and the legislative council of the decision to opt out.

(4) A decision of the commissioner to opt out of a uniform standard may be appealed as provided in 33-1-711.

**Section 4.** Section 33-1-311, MCA, is amended to read:

**“33-1-311. General powers and duties.** (1) The commissioner shall enforce the applicable provisions of the laws of this state and shall execute the duties imposed on the commissioner by the laws of this state.

(2) The commissioner has the powers and authority expressly conferred upon the commissioner by or reasonably implied from the provisions of the laws of this state.

(3) ~~The~~ *Except as otherwise provided in [section 1], the* commissioner shall administer the department to ensure that the interests of insurance consumers are protected.

(4) The commissioner may conduct examinations and investigations of insurance matters, in addition to examinations and investigations expressly authorized, as the commissioner considers proper, to determine whether any person has violated any provision of the laws of this state or to secure information useful in the lawful administration of any provision. The cost of additional examinations and investigations must be borne by the state.

(5) The commissioner shall maintain as confidential any information or document received from:

(a) the national association of insurance commissioners; or

(b) another state agency, an insurance department from another state, a federal agency, *the interstate insurance product regulation commission*, or a foreign government that treats the same information or document as confidential. The commissioner may provide information or documents, including information or documents that are confidential, to another state agency, the national association of insurance commissioners, a state or federal law enforcement agency, a federal agency, *the interstate insurance product regulation commission*, a foreign government, or an insurance department in another state; if the recipient agrees to maintain the confidentiality of the information or documents.

(6) The department is a criminal justice agency as defined in 44-5-103.”

**Section 5.** Section 33-1-501, MCA, is amended to read:

**“33-1-501. Filing of forms — approval — review of disapproval or withdrawal of approval — application.** (1) (a) An insurance policy or annuity contract form, certificate, enrollment form, application form, printed rider or endorsement form, or form of renewal certificate may not be delivered or issued for delivery in Montana unless the form and, for the purposes of disability insurance, an outline of coverage as required by 33-22-244 and 33-22-521 have been filed with and approved by the commissioner and, if required, the regulatory official of the state of domicile of the insurer *or the interstate insurance product regulation commission provided for in [section 1]*. This provision does not apply to surety bonds or policies, riders, endorsements, or forms of unique character designed for and used with relation to insurance upon a particular subject or that relate to the manner of distribution of benefits or to the reservation of rights and benefits under life or disability insurance policies and are used at the request of the individual policyholder, contract holder, or certificate holder. Forms for use in property, marine, other than ocean marine and foreign trade coverages, casualty, and surety insurance coverages may be filed by a rating organization on behalf of its members and subscribers or by a member or subscriber on its own behalf.

(b) A filing required by subsection (1)(a) must be submitted by an officer of the insurer with a certification in a form prescribed by the commissioner. The certification must state that to the best of the officer’s knowledge and belief, the policy, contract form, certificate, enrollment form, application form, printed rider or endorsement form, or form of renewal certificate complies with the applicable provisions of Title 33.

(c) The approval of an insurance policy or annuity contract form, certificate, enrollment form, application form, or other related insurance form by the state of domicile may be waived by the commissioner if the commissioner considers

the requirements of subsection (1)(a) unnecessary for the protection of Montana insurance consumers. If the requirement is waived, an insurer shall notify the commissioner in writing within 10 days of disapproval, denial, or withdrawal of approval of a form by the state of domicile.

(2) (a) The filing must be made not less than 60 days before delivery and must be delivered by hand or sent by certified mail with a return receipt requested. The commissioner's office shall mark a filing with the date of receipt by the commissioner's office.

(b) (i) If after 60 days from the date of receipt by the commissioner's office the commissioner has not approved or disapproved the form by a notice pursuant to the provisions in subsection (4), the form is considered approved for all purposes, subject to subsection (2)(c).

(ii) The running of the 60-day period is tolled for a period commencing on the date that the commissioner notifies the insurer of problems or questions and requests additional information from the insurer concerning a form filed pursuant to subsection (1)(a) and ending on the date that the insurer submits its response to the commissioner.

(iii) For purposes of tolling the 60-day period as provided in subsection (2)(b)(ii), the commissioner's request notification may be made electronically.

(c) In a letter separate from the original filing and delivered by hand or sent by certified mail with return receipt requested, the insurer shall notify the commissioner, at least 10 days before the use of the form in the market, that the insurer believes that:

(i) the form has been or will be considered approved; and

(ii) the insurer will begin marketing the form in Montana.

(d) The commissioner's office shall mark a letter received pursuant to subsection (2)(c) with the date of receipt by the commissioner's office.

(3) Approval of a form by the commissioner constitutes a waiver of any unexpired portion of the waiting period.

(4) The commissioner may at any time, after notice and for cause shown, withdraw any approval. Notice by the commissioner disapproving a form or withdrawing a previous approval must state the grounds for disapproval or withdrawal in sufficient detail to inform the insurer of the specific reason or reasons for and the legal authority supporting the disapproval or withdrawal of approval in whole or in part. The disapproval or withdrawal of approval does not take effect unless it is issued after the commissioner has reviewed the form and provided notice to the person who filed the form pursuant to 33-1-314 and this subsection.

(5) After the date of the insurer's receipt of notice of disapproval or withdrawal of approval by the commissioner, the insurer may not deliver the form or issue the form for delivery in Montana.

(6) The insurer may request a hearing, as provided for in 33-1-701, for unresolved disputes regarding a disapproval or a withdrawal of approval.

(7) The commissioner may exempt from the requirements of this section, for so long as the commissioner considers proper, an insurance document, form, or type of document or form to which, in the commissioner's opinion, this section may not practicably be applied or the filing and approval of which are not desirable or necessary for the protection of the public.

(8) This section applies to a form used by a domestic insurer for delivery in a jurisdiction outside Montana if the insurance supervisory official of the

jurisdiction informs the commissioner that the form is not subject to approval or disapproval by the official and upon the commissioner's order requiring the form to be submitted to the commissioner for the purpose. The same standards apply to these forms as apply to forms for domestic use.

(9) Section 33-1-502 and this section do not apply to:

(a) reinsurance;

(b) policies or contracts not issued for delivery in Montana or delivered in Montana, except as provided in subsection (8);

(c) ocean marine and foreign trade insurances.

(10) Except as provided in chapter 21, group certificates that are delivered or issued for delivery in Montana for group insurance policies effectuated and delivered outside Montana but covering persons resident in Montana must be filed with the commissioner upon request. The certificates must meet the minimum provisions mandated by Montana if Montana law prevails over conflicting provisions of other state law."

**Section 6. Codification instruction.** [Sections 1 through 3] are intended to be codified as an integral part of Title 33, and the provisions of Title 33 apply to [sections 1 through 3].

**Section 7. Two-thirds vote required.** Because [section 1] limits governmental liability, Article II, section 18, of the Montana constitution requires a vote of two-thirds of the members of each house of the legislature for passage.

Approved April 30, 2013

## CHAPTER NO. 361

[SB 45]

AN ACT REVISING THE DEFINITION OF "ELIGIBLE RENEWABLE RESOURCE" TO INCLUDE HYDROELECTRIC PROJECT EXPANSIONS; PROVIDING THE PUBLIC SERVICE COMMISSION WITH RULEMAKING AUTHORITY WITH RESPECT TO HYDROELECTRIC PROJECT EXPANSIONS; AND AMENDING SECTIONS 69-3-2003 AND 69-3-2006, MCA.

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

**Section 1.** Section 69-3-2003, MCA, is amended to read:

**"69-3-2003. Definitions.** As used in this part, unless the context requires otherwise, the following definitions apply:

(1) "Ancillary services" means services or tariff provisions related to generation and delivery of electric power other than simple generation, transmission, or distribution. Ancillary services related to transmission services include energy losses, energy imbalances, scheduling and dispatching, load following, system protection, spinning reserves and nonspinning reserves, and reactive power.

(2) "Balancing authority" means a transmission system control operator who balances electricity supply and load at all times to meet transmission system operating criteria and to provide reliable electric service to customers.

(3) "Common ownership" means the same or substantially similar persons or entities that maintain a controlling interest in more than one community renewable energy project even if the ownership shares differ between two

community renewable energy projects. Two community renewable energy projects may not be considered to be under common ownership simply because the same entity provided debt or equity or both debt and equity to both projects.

(4) "Community renewable energy project" means an eligible renewable resource that:

(a) is interconnected on the utility side of the meter in which local owners have a controlling interest and that is less than or equal to 25 megawatts in total calculated nameplate capacity; or

(b) is owned by a public utility and has less than or equal to 25 megawatts in total nameplate capacity.

(5) (a) "Competitive electricity supplier" means any person, corporation, or governmental entity that is selling electricity to small customers at retail rates in the state of Montana and that is not a public utility or cooperative.

(b) The term does not include governmental entities selling electricity produced only by facilities generating less than 250 kilowatts that were in operation prior to 1990.

(6) "Compliance year" means each calendar year beginning January 1 and ending December 31, starting in 2008, for which compliance with this part must be demonstrated.

(7) "Cooperative utility" means:

(a) a utility qualifying as an electric cooperative pursuant to Title 35, chapter 18; or

(b) an existing municipal electric utility as of May 2, 1997.

(8) "Dispatch ability" means the ability of either a balancing authority or the owner of an electric generating resource to rapidly start, stop, increase, or decrease electricity production from that generating resource in order to respond to the balancing authority's need to match supply resources to loads on the transmission system.

(9) "Electric generating resource" means any plant or equipment used to generate electricity by any means.

(10) "Eligible renewable resource" means a facility either located within Montana or delivering electricity from another state into Montana that commences commercial operation after January 1, 2005, *or a hydroelectric project expansion referred to in subsection (10)(d)(iii), and that any of which* produces electricity from one or more of the following sources:

(a) wind;

(b) solar;

(c) geothermal;

(d) water power, in the case of a hydroelectric project that:

(i) does not require a new appropriation, diversion, or impoundment of water and that has a nameplate rating of 10 megawatts or less; ~~or~~

(ii) is installed at an existing reservoir or on an existing irrigation system that does not have hydroelectric generation as of April 16, 2009, and has a nameplate capacity of 15 megawatts or less; *or*

(iii) *is an expansion of an existing hydroelectric project that commences construction and increases existing generation capacity on or after [the effective date of this act]. Engineering estimates of the average incremental generation from the increase in existing generation capacity must be submitted to the commission for review. The commission shall determine an average annual*

*incremental generation that will constitute the eligible renewable resource from the capacity expansion, subject to further revision by the commission in the event of significant changes in stream flow or dam operation.*

(e) landfill or farm-based methane gas;

(f) gas produced during the treatment of wastewater;

(g) low-emission, nontoxic biomass based on dedicated energy crops, animal wastes, or solid organic fuels from wood, forest, or field residues, except that the term does not include wood pieces that have been treated with chemical preservatives such as creosote, pentachlorophenol, or copper-chroma-arsenic;

(h) hydrogen derived from any of the sources in this subsection (10) for use in fuel cells;

(i) the renewable energy fraction from the sources identified in subsections (10)(a) through (10)(j) of electricity production from a multiple-fuel process with fossil fuels; and

(j) compressed air derived from any of the sources in this subsection (10) that is forced into an underground storage reservoir and later released, heated, and passed through a turbine generator.

(11) "Local owners" means:

(a) Montana residents;

(b) general partnerships of which all partners are Montana residents;

(c) business entities organized under the laws of Montana that:

(i) have less than \$50 million of gross revenue;

(ii) have less than \$100 million of assets; and

(iii) have at least 50% of the equity interests, income interests, and voting interests owned by Montana residents;

(d) Montana nonprofit organizations;

(e) Montana-based tribal councils;

(f) Montana political subdivisions or local governments;

(g) Montana-based cooperatives other than cooperative utilities; or

(h) any combination of the individuals or entities listed in subsections (11)(a) through (11)(g).

(12) "Nonspinning reserve" means offline generation that can be ramped up to capacity and synchronized to the grid within 10 minutes and that is needed to maintain system frequency stability during emergency conditions, unforeseen load swings, and generation disruptions.

(13) "Public utility" means any electric utility regulated by the commission pursuant to Title 69, chapter 3, on January 1, 2005, including the public utility's successors or assignees.

(14) "Renewable energy credit" means a tradable certificate of proof of 1 megawatt hour of electricity generated by an eligible renewable resource that is tracked and verified by the commission and includes all of the environmental attributes associated with that 1 megawatt-hour unit of electricity production.

(15) "Seasonality" means the degree to which an electric generating resource is capable of producing electricity in each of the seasons of the year.

(16) "Small customer" means a retail customer that has an individual load with an average monthly demand of less than 5,000 kilowatts.

(17) "Spinning reserve" means the online reserve capacity that is synchronized to the grid system and immediately responsive to frequency



control and that is needed to maintain system frequency stability during emergency conditions, unforeseen load swings, and generation disruptions.

(18) "Total calculated nameplate capacity" means the calculation of total nameplate capacity of the community renewable energy project and other eligible renewable resources that are:

- (a) located within 5 miles of the project;
- (b) constructed within the same 12-month period; and
- (c) under common ownership."

**Section 2.** Section 69-3-2006, MCA, is amended to read:

**"69-3-2006. Commission authority — rulemaking authority.** (1) The commission has the authority to generally implement and enforce the provisions of this part.

(2) The commission shall adopt rules before June 1, 2006, to:

(a) select a renewable energy credit tracking system to verify compliance with this part;

(b) establish a system by which renewable resources become certified as eligible renewable resources;

(c) define the process by which waivers from full compliance with this part may be granted;

(d) establish procedures under which contracts for eligible renewable resources and renewable energy credits may receive advanced approval;

(e) define the requirements governing renewable energy procurement plans and annual reports; and

(f) generally implement and enforce the provisions of this part.

(3) *The commission may adopt rules to ensure that the calculation of energy generation and the renewable energy credits for eligible renewable resources under 69-3-2003(10)(d)(iii) reflects the actual electrical production from the expansion as typically reduced by seasonal water conditions.*

**Section 3. Notification to tribal governments.** The secretary of state shall send a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell Chippewa tribe.

**Section 4. Coordination instruction.** If both Senate Bill No. 31 and [this act] are passed and approved, then [section 5 of Senate Bill No. 31] is void. If both Senate Bill No. 31 and [this act] are passed and approved and if both contain a section that amends 69-3-2003, the sections amending 69-3-2003 are void and 69-3-2003 must be amended as follows:

**"69-3-2003. Definitions.** As used in this part, unless the context requires otherwise, the following definitions apply:

(1) "Ancillary services" means services or tariff provisions related to generation and delivery of electric power other than simple generation, transmission, or distribution. Ancillary services related to transmission services include energy losses, energy imbalances, scheduling and dispatching, load following, system protection, spinning reserves and nonspinning reserves, and reactive power.

(2) "Balancing authority" means a transmission system control operator who balances electricity supply and load at all times to meet transmission system operating criteria and to provide reliable electric service to customers.

(3) "Common ownership" means the same or substantially similar persons or entities that maintain a controlling interest in more than one community

renewable energy project even if the ownership shares differ between two community renewable energy projects. Two community renewable energy projects may not be considered to be under common ownership simply because the same entity provided debt or equity or both debt and equity to both projects.

(4) "Community renewable energy project" means an eligible renewable resource that:

(a) is interconnected on the utility side of the meter in which local owners have a controlling interest and that is less than or equal to 25 megawatts in total calculated nameplate capacity; or

(b) is owned by a public utility and has less than or equal to 25 megawatts in total nameplate capacity.

(5) (a) "Competitive electricity supplier" means any person, corporation, or governmental entity that is selling electricity to small customers at retail rates in the state of Montana and that is not a public utility or cooperative.

(b) The term does not include governmental entities selling electricity produced only by facilities generating less than 250 kilowatts that were in operation prior to 1990.

(6) "Compliance year" means each calendar year beginning January 1 and ending December 31, starting in 2008, for which compliance with this part must be demonstrated.

(7) "Cooperative utility" means:

(a) a utility qualifying as an electric cooperative pursuant to Title 35, chapter 18; or

(b) an existing municipal electric utility as of May 2, 1997.

(8) "Dispatch ability" means the ability of either a balancing authority or the owner of an electric generating resource to rapidly start, stop, increase, or decrease electricity production from that generating resource in order to respond to the balancing authority's need to match supply resources to loads on the transmission system.

(9) "Electric generating resource" means any plant or equipment used to generate electricity by any means.

(10) (a) "Eligible renewable resource" means a facility either located within Montana or delivering electricity from another state into Montana that commences commercial operation after January 1, 2005, *is a hydroelectric project referred to in subsection (10)(a)(iv)(C), or is a hydroelectric project expansion referred to in subsection (10)(a)(iv)(D), and that any of which produces electricity from one or more of the following sources:*

~~(a)(i)~~ wind;

~~(b)(ii)~~ solar;

~~(c)(iii)~~ geothermal;

~~(d)(iv)~~ *except as provided in subsection (10)(b)* water power, in the case of a hydroelectric project that:

~~(i)(A)~~ does not require a new appropriation, diversion, or impoundment of water and that has a nameplate rating of 10 megawatts or less; ~~or~~

~~(ii)(B)~~ is installed at an existing reservoir or on an existing irrigation system that does not have hydroelectric generation as of April 16, 2009, and has a nameplate capacity of 15 megawatts or less;

~~(C)~~ *commences commercial operation in Montana on or after January 1, 2013, and is not an expansion under subsection (10)(a)(iv)(D); or*

*(D) is an expansion of a hydroelectric project that commences construction and increases existing generation capacity on or after [the effective date of this act]. Engineering estimates of the average incremental generation from the increase in existing generation capacity must be submitted to the commission for review. The commission shall determine an average annual incremental generation that will constitute the eligible renewable resource from the capacity expansion, subject to further revision by the commission in the event of significant changes in streamflow or dam operation.*

~~(e)(v)~~ landfill or farm-based methane gas;

~~(f)(vi)~~ gas produced during the treatment of wastewater;

~~(g)(vii)~~ low-emission, nontoxic biomass based on dedicated energy crops, animal wastes, or solid organic fuels from wood, forest, or field residues, except that the term does not include wood pieces that have been treated with chemical preservatives such as creosote, pentachlorophenol, or copper-chroma-arsenic;

~~(h)(viii)~~ hydrogen derived from any of the sources in this subsection ~~(10)(10)(a)~~ for use in fuel cells;

~~(i)(ix)~~ the renewable energy fraction from the sources identified in subsections ~~(10)(a) through (10)(j)~~ *this subsection (10)(a)* of electricity production from a multiple-fuel process with fossil fuels; and

~~(j)(x)~~ compressed air derived from any of the sources in this subsection ~~(10)(10)(a)~~ that is forced into an underground storage reservoir and later released, heated, and passed through a turbine generator.

*(b) The term does not include federal hydroelectric projects located in Montana or delivering electricity from another state into Montana.*

(11) "Local owners" means:

(a) Montana residents;

(b) general partnerships of which all partners are Montana residents;

(c) business entities organized under the laws of Montana that:

(i) have less than \$50 million of gross revenue;

(ii) have less than \$100 million of assets; and

(iii) have at least 50% of the equity interests, income interests, and voting interests owned by Montana residents;

(d) Montana nonprofit organizations;

(e) Montana-based tribal councils;

(f) Montana political subdivisions or local governments;

(g) Montana-based cooperatives other than cooperative utilities; or

(h) any combination of the individuals or entities listed in subsections (11)(a) through (11)(g).

(12) "Nonspinning reserve" means offline generation that can be ramped up to capacity and synchronized to the grid within 10 minutes and that is needed to maintain system frequency stability during emergency conditions, unforeseen load swings, and generation disruptions.

(13) "Public utility" means any electric utility regulated by the commission pursuant to Title 69, chapter 3, on January 1, 2005, including the public utility's successors or assignees.

(14) "Renewable energy credit" means a tradable certificate of proof of 1 megawatt hour of electricity generated by an eligible renewable resource that is tracked and verified by the commission and includes all of the environmental attributes associated with that 1 megawatt-hour unit of electricity production.

(15) "Seasonality" means the degree to which an electric generating resource is capable of producing electricity in each of the seasons of the year.

(16) "Small customer" means a retail customer that has an individual load with an average monthly demand of less than 5,000 kilowatts.

(17) "Spinning reserve" means the online reserve capacity that is synchronized to the grid system and immediately responsive to frequency control and that is needed to maintain system frequency stability during emergency conditions, unforeseen load swings, and generation disruptions.

(18) "Total calculated nameplate capacity" means the calculation of total nameplate capacity of the community renewable energy project and other eligible renewable resources that are:

- (a) located within 5 miles of the project;
- (b) constructed within the same 12-month period; and
- (c) under common ownership."

Approved April 30, 2013

## CHAPTER NO. 362

[SB 69]

AN ACT CREATING A FINE FOR RECEIVING ASSETS THAT WERE TRANSFERRED TO QUALIFY AN APPLICANT OR RECIPIENT FOR MEDICAID.

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

**Section 1. Receipt of transferred assets for less than fair market value — fine.** (1) A person who receives an asset for less than fair market value from an applicant for or recipient of medical assistance for certain services under this part is subject to a civil fine payable to the department if the department initiates a judicial proceeding and shows by a preponderance of the evidence that:

(a) the asset was transferred to qualify the applicant or recipient for medical assistance for long-term care or home and community-based services;

(b) the transfer resulted in the imposition of a period of ineligibility for medical assistance under 53-6-166;

(c) the department advised the person who received the asset that the transfer would result in a period of ineligibility and the person refused to return the asset to the applicant or recipient; and

(d) the department provided medical assistance to the applicant or recipient during the period of ineligibility because the applicant or recipient received an undue hardship exception under 53-6-166.

(2) A court may impose a civil fine of 100% to 150% of the amount that the department paid for medical assistance for the applicant or recipient during the period of ineligibility that is attributable to the amount transferred to the person receiving the asset, plus the department's court costs and attorney fees.

(3) The department may petition a court to set aside a transfer that meets the requirements in subsection (1) and to require the return of the transferred asset to the applicant or recipient. Action under this subsection must be undertaken using available resources.

(4) All money collected under this section must be distributed to the state general fund and to the United States as required by applicable state and federal laws and regulations.

**Section 2. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 53, chapter 6, part 1, and the provisions of Title 53, chapter 6, part 1, apply to [section 1].

Approved April 30, 2013

## CHAPTER NO. 363

[SB 84]

AN ACT ESTABLISHING STANDARDS FOR PATIENT-CENTERED MEDICAL HOMES; PROVIDING THAT PATIENT-CENTERED MEDICAL HOMES HAVE A STATE PURPOSE THAT PROVIDES STATE ACTION IMMUNITY ON ANTICOMPETITION CONCERNS; ALLOWING THE USE OF PATIENT-CENTERED MEDICAL HOMES IN THE MEDICAID AND HEALTHY MONTANA KIDS PROGRAMS; ALLOWING THE VOLUNTARY PARTICIPATION OF ALL STATE, UNIVERSITY, AND LOCAL GOVERNMENT PLANS, INCLUDING STATE-REGULATED MULTIPLE-WELFARE ARRANGEMENTS, THIRD-PARTY ADMINISTRATORS, AND SELF-INSURED STUDENT HEALTH PLANS AS POTENTIAL HEALTH PLAN PARTICIPANTS IN A PATIENT-CENTERED MEDICAL HOME PROGRAM; PROVIDING RULEMAKING AUTHORITY FOR THE STATE AUDITOR'S OFFICE AND THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES; AMENDING SECTIONS 20-25-1403, 33-1-102, 33-31-111, 33-35-306, AND 53-6-113, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A TERMINATION DATE.

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

**Section 1. Short title — legislative findings.** (1) [Sections 1 through 5] may be cited as the "Patient-Centered Medical Homes Act".

(2) The legislature finds that the increasing cost of health care makes health plans more difficult for individuals, families, and businesses to afford. These increases in health care costs are attributable in part to inadequate coordination of care among providers, difficulties in accessing primary care, and a lack of engagement between patients and their primary care providers. The purpose of [sections 1 through 5] is to enhance care coordination and promote high-quality, cost-effective care through patient-centered medical homes by engaging patients and their primary care providers.

(3) The legislature also finds that chronic diseases are one of the biggest threats to the health of Montana residents. The purpose of [sections 1 through 5] includes promoting episodic evidence-based care in the community to reduce hospital admissions, enhance chronic disease management, and reduce costs for treating chronic diseases.

(4) The legislature finds that there is a shortage of primary care providers in areas of Montana and that inconsistent access to health care services and variable quality of care have been shown to result in poorer health outcomes and health care disparities but that patient-centered medical homes offer a model of primary care that may attract new providers to Montana because the model is effective, sustainable, and replicable in small communities and provides a process to achieve higher quality health care for Montana citizens and a way to

help slow the continuing escalation of health care costs as well as improve health outcomes for Montana citizens.

(5) The legislature further finds that a single definition and common set of quality measures as well as a uniform payment methodology provide the best chance of success for the patient-centered medical homes model by increasing consistency in reporting across health plans and primary care practices.

(6) The legislature finds that best practices are most likely to be recognized and adopted by primary care practices if a state-structured patient-centered medical home program works with programs that may be developed for health plans and primary care practices and for any programs in Title 53 for medicaid and in Title 53, chapter 4, part 11, for the healthy Montana kids plan.

(7) The legislature also finds that an ongoing process is desirable to evaluate the effectiveness of patient-centered medical homes.

(8) Notwithstanding any state or federal law that prohibits the collaboration of insurers, other health plans, or providers regarding payment methods, the legislature finds that patient-centered medical homes are likely to result in the delivery of more efficient and effective health care services and are in the public interest.

**Section 2. State action immunity doctrine.** The state action immunity doctrine applies to the patient-centered medical home program in Montana, and federal or state antitrust laws that prohibit collusion do not apply to any standards used by the patient-centered medical home program regarding medical payments. The legislative findings, as provided in [section 1], and oversight by the insurance commissioner combine to determine that patient-centered medical homes are in the public interest and are likely to result in the delivery of more efficient and effective health care services sufficient to override concerns about collusion regarding medical payments among insurers, other health plans, or primary care practices.

**Section 3. Definitions.** As used in [sections 1 through 5], the following definitions apply:

(1) “Covered medical services” means the health care services that are included as benefits under a health plan.

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

(3) (a) “Health plan” means any public or private program that pays for medical care, including but not limited to a health benefit plan issued by or administered by an insurer, a health service corporation, a health maintenance organization, a multiple employer welfare arrangement, or a third-party administrator or a plan described under 33-1-102(7), (9), or (12).

(b) The term does not include the provision of services through the medicaid program or the healthy Montana kids program as authorized in Title 53.

(4) “Patient-centered medical home” means a model of health care that is:

(a) directed by a primary care provider offering family-centered, culturally effective care that is coordinated, comprehensive, continuous, and, whenever possible, located in the patient’s community and integrated across systems;

(b) characterized by enhanced access, with an emphasis on prevention, improved health outcomes, and satisfaction;

(c) qualified by the commissioner under [section 4] as meeting the standards of a patient-centered medical home; and



(d) reimbursed under a payment system that recognizes the value of services that meet the standards of the patient-centered medical home program.

(5) "Prevention services" means health care services that include primary prevention services and clinical prevention services.

(6) "Primary care practice" means a solo health care provider or a health care practice that is organized by or includes licensees under Title 37 who provide primary medical care, including but not limited to pediatricians, internal medicine physicians, family medicine physicians, nurse practitioners, and physician assistants.

(7) "Qualified individual" means a policyholder, certificate holder, member, subscriber, enrollee, or other individual who is participating in a health plan and who is enrolled in a patient-centered medical home program.

**Section 4. Powers and duties of commissioner — rulemaking.** (1) The commissioner shall:

(a) adopt rules necessary to implement the provisions of [sections 1 through 5];

(b) in consultation with interested parties, qualify patient-centered medical homes that have been accredited by a nationally recognized accrediting organization approved by the commissioner and that meet any other standards established by the commissioner;

(c) oversee, promote, coordinate, and provide guidance concerning the creation and activities of any patient-centered medical homes doing business in Montana in order to ensure that the requirements of [sections 1 through 5] are met;

(d) consult with all interested parties in association with carrying out the activities required under [sections 1 through 5]; and

(e) develop and implement standards as set forth in [section 5] in consultation with interested parties.

(2) For the purposes of this section, interested parties include but are not limited to the department, public health agencies, health plans, government health plans, primary health care providers, and health care consumers. Interested parties must be organized as a stakeholder council with regular meetings, the scheduling of which must be determined by the commissioner.

**Section 5. Standards for patient-centered medical homes.** (1) The commissioner shall, in consultation with the stakeholder council of interested parties, set standards from the list provided in subsection (2).

(2) Standards may be set for one or more of the following or for other topics determined by the commissioner in consultation with stakeholders:

(a) payment methods used by health plans to pay patient-centered medical homes for services associated with the coordination of covered health care services;

(b) bonuses, fee-based incentives, bundled fees, or other incentives that a health plan may use to pay a patient-centered medical home based on the savings from reduced health care expenditures associated with improved health outcomes and care coordination by qualified individuals attributed to the participation in the patient-centered medical homes;

(c) a uniform set of health care quality and performance measures that include prevention services; and

(d) a uniform set of measures related to cost and medical usage.

(3) A patient-centered medical home must meet the standards in this section in full or in part by providing proof to the commissioner that it has been accredited by a nationally recognized accrediting organization approved by the commissioner.

(4) The commissioner may, in consultation with stakeholders, set standards that are specific to Montana and may be required in addition to nationally recognized accreditation standards.

(5) A patient-centered medical home shall report on its compliance with the uniform set of health care quality and performance measures adopted by the commissioner to:

(a) health plans and other payers with which the patient-centered medical home contracts;

(b) the commissioner; and

(c) the department, if the department is a participant.

(6) A health plan and other payers shall report to the patient-centered medical home regarding their compliance with the uniform set of cost and utilization measures adopted by the commissioner for patients covered under the health plan.

(7) In developing the standards described in subsection (2), the commissioner may consider:

(a) the use of health information technology, including electronic medical records;

(b) the relationship between the primary care practice, specialists, other health care providers, and hospitals;

(c) the access standards for individuals covered by a health plan to receive primary medical care in a timely manner;

(d) the ability of the primary care practice to foster a partnership with patients; and

(e) the use of comprehensive medication management to improve clinical outcomes.

(8) All health care providers and payers who participate in a patient-centered medical home shall, as a condition of participation, collectively commission one independent study on savings generated by the patient-centered medical home program and report to the children, families, health, and human services interim committee no later than September 30, 2016.

**Section 6. Participation in patient-centered medical home optional.** The participation of an insurance contract or plan issued under this part in a patient-centered medical home program is not required. If a plan chooses to participate in a patient-centered medical home program, the plan shall comply with the requirements of [sections 1 through 5].

**Section 7.** Section 20-25-1403, MCA, is amended to read:

**“20-25-1403. Authorization to establish self-insured health plan for students — requirements — exemption.** (1) The commissioner may establish a self-insured student health plan for enrolled students of the system and their dependents, including students of a community college district. In developing a self-insured student health plan, the commissioner shall:

(a) maintain the plan on an actuarially sound basis;

(b) maintain reserves sufficient to liquidate the unrevealed claims liability and other liabilities of the plan; and

(c) deposit all reserve funds, contributions and payments, interest earnings, and premiums paid to the plan. The deposits must be expended for claims under the plan and for the costs of administering the plan, including but not limited to the costs of hiring staff, consultants, actuaries, and auditors, purchasing necessary reinsurance, and repaying debts.

(2) Prior to the implementation of a self-insured student health plan, the commissioner shall consult with affected parties, including but not limited to the board of regents and representatives of enrolled students of the system.

(3) A self-insured student health plan developed under this part is not responsible for and may not cover any services or pay any expenses for which payment has been made or is due under an automobile, premises, or other private or public medical payment coverage plan or provision or under a workers' compensation plan or program, except when the other payor is required by federal law to be a payor of last resort. The term "services" includes but is not limited to all medical services, procedures, supplies, medications, or other items or services provided to treat an injury or medical condition sustained by a member of the plan.

(4) ~~The~~ *Except for the provisions of [sections 1 through 5], the provisions of Title 33 do not apply to the commissioner when exercising the duties provided for in this part.*"

**Section 8.** Section 33-1-102, MCA, is amended to read:

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

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

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

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

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

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

(4) ~~This~~ *Except as provided in [sections 1 through 5], this* code does not apply to health maintenance organizations to the extent that the existence and operations of those organizations are governed by chapter 31.

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

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

(7) ~~This~~ *This* code does not apply to the state employee group insurance program established in Title 2, chapter 18, part 8, or the Montana university system group benefits plans established in Title 20, chapter 25, part 13.

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

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

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

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

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

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

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

(12) ~~This~~ *Except as provided in [sections 1 through 5], this* code does not apply to the self-insured student health plan established in Title 20, chapter 25, part 14.

(13) This code does not apply to private air ambulance services that are in compliance with 50-6-320 and that solicit membership subscriptions, accept membership applications, charge membership fees, and provide air ambulance services to subscription members and designated members of their households.”

**Section 9.** Section 33-31-111, MCA, is amended to read:

**“33-31-111. Statutory construction and relationship to other laws.**

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

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

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

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

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

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

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

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

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

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

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

(7) Title 33, chapter 1, parts 12 and 13, [sections 1 through 5], Title 33, chapter 2, part 19, 33-2-1114, 33-2-1211, 33-2-1212, 33-3-401, 33-3-422, 33-3-431, 33-15-308, Title 33, chapter 17, Title 33, chapter 19, 33-22-107, 33-22-129, 33-22-131, 33-22-136, 33-22-137, 33-22-141, 33-22-142, 33-22-152, 33-22-244, 33-22-246, 33-22-247, 33-22-514, 33-22-515, 33-22-521, 33-22-523, 33-22-524, 33-22-526, and 33-22-706 apply to health maintenance organizations.”

**Section 10.** Section 33-35-306, MCA, is amended to read:

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

(a) 33-1-111;

(b) [sections 1 through 5];

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

~~(e)~~(d) Title 33, chapter 1, part 7;

~~(d)~~(e) 33-3-308;

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

~~(f)~~(g) Title 33, chapter 19;

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

~~(h)~~(i) 33-22-512, 33-22-515, 33-22-525, and 33-22-526.

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

**Section 11.** Section 53-6-113, MCA, is amended to read:

**“53-6-113. Department to adopt rules.** (1) The department shall adopt appropriate rules necessary for the administration of the Montana medicaid program as provided for in this part and that may be required by federal laws and regulations governing state participation in medicaid under Title XIX of the Social Security Act, 42 U.S.C. 1396, et seq., as amended.

(2) The department shall adopt rules that are necessary to further define for the purposes of this part the services provided under 53-6-101 and to provide that services being used are medically necessary and that the services are the most efficient and cost-effective available. The rules may establish the amount, scope, and duration of services provided under the Montana medicaid program, including the items and components constituting the services.

(3) The department shall establish by rule the rates for reimbursement of services provided under this part. The department may in its discretion set rates of reimbursement that it determines necessary for the purposes of the program. In establishing rates of reimbursement, the department may consider but is not limited to considering:

- (a) the availability of appropriated funds;
- (b) the actual cost of services;
- (c) the quality of services;
- (d) the professional knowledge and skills necessary for the delivery of services; and
- (e) the availability of services.

(4) The department shall specify by rule those professionals who may deliver or direct the delivery of particular services.

(5) The department may provide by rule for payment by a recipient of a portion of the reimbursements established by the department for services provided under this part.

(6) The department may adopt rules consistent with this part to govern eligibility for the Montana medicaid program, including the medicaid program provided for in 53-6-195. Rules may include but are not limited to financial standards and criteria for income and resources, treatment of resources, nonfinancial criteria, family responsibilities, residency, application, termination, definition of terms, confidentiality of applicant and recipient information, and cooperation with the state agency administering the child support enforcement program under Title IV-D of the Social Security Act, 42 U.S.C. 651, et seq. The department may not apply financial criteria below \$15,000 for resources other than income in determining the eligibility of a child under 19 years of age for poverty level-related children’s medicaid coverage groups, as provided in 42 U.S.C. 1396a(l)(1)(B) through (l)(1)(D).

(7) The department may adopt rules limiting eligibility based on criteria more restrictive than that provided in 53-6-131 if required by Title XIX of the Social Security Act, 42 U.S.C. 1396, et seq., as may be amended, or if funds appropriated are not sufficient to provide medical care for all eligible persons.

(8) The department may adopt rules necessary for the administration of medicaid managed care systems. Rules to be adopted may include but are not limited to rules concerning:

- (a) participation in managed care;
- (b) selection and qualifications for providers of managed care; and
- (c) standards for the provision of managed care.



(9) Subject to subsection (6), the department shall establish by rule income limits for eligibility for extended medical assistance of persons receiving section 1931 medicaid benefits, as defined in 53-4-602, who lose eligibility because of increased income to the assistance unit, as that term is defined in the rules of the department, as provided in 53-6-134, and shall also establish by rule the length of time for which extended medical assistance will be provided. The department, in exercising its discretion to set income limits and duration of assistance, may consider the amount of funds appropriated by the legislature.

*(10) The department may adopt rules for implementing and administering one or more patient-centered medical home programs. The rules may include but are not limited to provider qualifications, coverage groups, services coverage, measures to ensure the appropriateness and quality of services delivered, payment rates and fees, and utilization measures. In implementing and administering patient-centered medical home programs, the department shall use only health care providers that have been qualified by the commissioner and authorized to use the designation of a patient-centered medical home. The department shall use the standards adopted by the commissioner for patient-centered medical homes under [section 5], except for those standards relating to settling payment rates and fees and any standards that may conflict with federal medicaid requirements."*

**Section 12. Codification instruction.** (1) [Sections 1 through 5] are intended to be codified as an integral part of Title 33, and the provisions of Title 33 apply to [sections 1 through 5].

(2) [Section 6] is intended to be codified as an integral part of Title 2, chapter 18, part 7, and the provisions of Title 2, chapter 18, part 7, apply to [section 6].

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

**Section 14. Termination.** [This act] terminates December 31, 2017.

Approved April 30, 2013

## CHAPTER NO. 364

[SB 348]

AN ACT RELATING TO MONTANA SCHOOL SAFETY; ADDING PUBLIC SCHOOL BUILDINGS TO THE EXEMPTIONS FROM DISCLOSURE TO PROTECT PUBLIC SAFETY OR SECURITY OF PUBLIC FACILITIES; REQUIRING SCHOOL DISTRICTS TO ADOPT A SCHOOL SAFETY PLAN; REVISING LAWS REGARDING DISASTER DRILLS IN PUBLIC SCHOOLS; REQUIRING SCHOOL DISTRICTS TO ANNUALLY REVIEW SUSPENSION AND EXPULSION POLICIES RELATED TO STUDENTS WITH WEAPONS OR FIREARMS AT SCHOOL; EXPANDING PUBLIC SCHOOL DISTRICT ACCESS TO INFORMATION IN POSSESSION OF LAW ENFORCEMENT REGARDING POTENTIAL CRIMINAL ACTIVITY OF STUDENTS; RENAMING THE COUNTY INTERDISCIPLINARY CHILD INFORMATION AND SCHOOL SAFETY TEAM AND REQUIRING COUNTIES TO FORM A TEAM; REVISING THE REQUIREMENTS FOR A YOUTH COURT TO PROVIDE NOTICE TO A SCHOOL REGARDING YOUTH OFFENDERS; ALLOWING SCHOOL DISTRICTS TEMPORARY AUTHORITY TO TRANSFER FUNDS INTO THE BUILDING RESERVE FUND FOR SCHOOL SAFETY AND SECURITY IMPROVEMENTS; AMENDING SECTIONS 2-6-102, 20-1-401, 20-1-402, 20-5-202, 41-3-205, 41-5-215, 52-2-211, AND

52-2-304, MCA; AND PROVIDING EFFECTIVE DATES, AN APPLICABILITY DATE, AND A TERMINATION DATE.

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

**Section 1.** Section 2-6-102, MCA, is amended to read:

**“2-6-102. Citizens entitled to inspect and copy public writings.** (1) Every citizen has a right to inspect and take a copy of any public writings of this state, except as provided in 22-1-1103, 22-3-807, or subsection (3) of this section and as otherwise expressly provided by statute.

(2) Every public officer having the custody of a public writing that a citizen has a right to inspect is bound to give the citizen on demand a certified copy of it, on payment of the legal fees for the copy, and the copy is admissible as evidence in like cases and with like effect as the original writing. The certified copy provision of this subsection does not apply to the public record of electronic mail provided in an electronic format.

(3) Records and materials that are constitutionally protected from disclosure are not subject to the provisions of this section. Information that is constitutionally protected from disclosure is information in which there is an individual privacy interest that clearly exceeds the merits of public disclosure, including legitimate trade secrets, as defined in 30-14-402, and matters related to individual or public safety.

(4) A public officer may withhold from public scrutiny information relating to individual privacy or individual or public safety or security of public facilities, including *public schools*, jails, correctional facilities, private correctional facilities, and prisons, if release of the information may jeopardize the safety of facility personnel, the public, *students in a public school*, or inmates of a facility. Security features that may be protected under this section include but are not limited to architectural floor plans, blueprints, designs, drawings, building materials, alarms system plans, surveillance techniques, and facility staffing plans, including staff numbers and locations. A public officer may not withhold from public scrutiny any more information than is required to protect an individual privacy interest or safety or security interest.”

**Section 2.** Section 20-1-401, MCA, is amended to read:

**“20-1-401. Disaster drills to be conducted regularly — districts to identify disaster risks and adopt school safety plan.** (1) As used in this part, “disaster” ~~has the same meaning as in 10-3-103;~~ *means the occurrence or imminent threat of damage, injury, or loss of life or property.* Disaster drills must be conducted regularly in accordance with this part.

(2) A board of trustees shall identify the local hazards that exist within the boundaries of its school district and design *and incorporate drills in its school safety plan* to address those hazards.

(3) *A board of trustees shall adopt a school safety plan on or before July 1, 2014, that addresses issues of school safety relating to school buildings and facilities, communications systems, and school grounds with the input from the local community and that addresses coordination on issues of school safety, if any, with the county interdisciplinary child information and school safety team provided for in 52-2-211. The trustees shall certify to the office of public instruction on or before July 1, 2014, that a school safety plan has been adopted. The trustees shall review the school safety plan periodically and update the plan as determined necessary by the trustees based on changing circumstances pertaining to school safety.”*

**Section 3.** Section 20-1-402, MCA, is amended to read:

**“20-1-402. Number of disaster drills required — time of drills to vary.** There must be at least eight disaster drills a year in a school. ~~At least four of the drills must be fire exit drills.~~ Drills must be held at different hours of the day or evening to avoid distinction between drills and actual disasters.”

**Section 4.** Section 20-5-202, MCA, is amended to read:

**“20-5-202. Suspension and expulsion.** (1) As provided in 20-4-302, 20-4-402, and 20-4-403, a pupil may be suspended by a teacher, superintendent, or principal. The trustees of the district shall adopt a policy defining the authority and procedure to be used by a teacher, superintendent, or principal in the suspension of a pupil and in defining the circumstances and procedures by which the trustees may expel a pupil. Expulsion is any removal of a pupil for more than 20 school days without the provision of educational services and is a disciplinary action available only to the trustees. A pupil may be suspended from school for an initial period not to exceed 10 school days. Upon a finding by a school administrator that the immediate return to school by a pupil would be detrimental to the health, welfare, or safety of others or would be disruptive of the educational process, a pupil may be suspended for one additional period not to exceed 10 school days if the pupil is granted an informal hearing with the school administrator prior to the additional suspension and if the decision to impose the additional suspension does not violate the Individuals With Disabilities Education Act, 20 U.S.C. 1400, et seq.

(2) (a) The trustees of a district shall adopt a policy for the expulsion of a student who is determined to have brought a firearm, as defined in 18 U.S.C. 921, to school and for referring the matter to the appropriate local law enforcement agency. A student who is determined to have brought a firearm to school under this subsection must be expelled from school for a period of not less than 1 year, except that the trustees may authorize the school administration to modify the requirement for expulsion of a student on a case-by-case basis. *The trustees shall annually review its weapons policy and any policy adopted under this subsection (2)(a) and update the policies as determined necessary by the trustees based on changing circumstances pertaining to school safety.*

(b) A decision to change the placement of a student with a disability who has been expelled pursuant to this section must be made in accordance with the Individuals With Disabilities Education Act.

(3) In accordance with 20-4-302, 20-4-402, 20-4-403, and subsection (1) of this section, a teacher, a superintendent, or a principal shall suspend immediately for good cause a student who is determined to have brought a firearm to school.

(4) Nothing in this section prevents a school district from:

(a) offering instructional activities related to firearms or allowing a firearm to be brought to school for instructional activities sanctioned by the district; or

(b) providing educational services in an alternative setting to a student who has been expelled from the student’s regular school setting.”

**Section 5.** Section 41-3-205, MCA, is amended to read:

**“41-3-205. Confidentiality — disclosure exceptions.** (1) The case records of the department and its local affiliate, the local office of public assistance, the county attorney, and the court concerning actions taken under this chapter and all records concerning reports of child abuse and neglect must be kept confidential except as provided by this section. Except as provided in subsections (7) and (8), a person who purposely or knowingly permits or

encourages the unauthorized dissemination of the contents of case records is guilty of a misdemeanor.

(2) Records may be disclosed to a court for in camera inspection if relevant to an issue before it. The court may permit public disclosure if it finds disclosure to be necessary for the fair resolution of an issue before it.

(3) Records, including case notes, correspondence, evaluations, videotapes, and interviews, unless otherwise protected by this section or unless disclosure of the records is determined to be detrimental to the child or harmful to another person who is a subject of information contained in the records, may be disclosed to the following persons or entities in this state and any other state or country:

(a) a department, agency, or organization, including a federal agency, military enclave, or Indian tribal organization, that is legally authorized to receive, inspect, or investigate reports of child abuse or neglect and that otherwise meets the disclosure criteria contained in this section;

(b) a licensed youth care facility or a licensed child-placing agency that is providing services to the family or child who is the subject of a report in the records or to a person authorized by the department to receive relevant information for the purpose of determining the best interests of a child with respect to an adoptive placement;

(c) a health or mental health professional who is treating the family or child who is the subject of a report in the records;

(d) a parent, guardian, or person designated by a parent or guardian of the child who is the subject of a report in the records or other person responsible for the child's welfare, without disclosure of the identity of any person who reported or provided information on the alleged child abuse or neglect incident contained in the records;

(e) a child named in the records who was allegedly abused or neglected or the child's legal guardian or legal representative, including the child's guardian ad litem or attorney or a special advocate appointed by the court to represent a child in a pending case;

(f) the state protection and advocacy program as authorized by 42 U.S.C. 15043(a)(2);

(g) approved foster and adoptive parents who are or may be providing care for a child;

(h) a person about whom a report has been made and that person's attorney, with respect to the relevant records pertaining to that person only and without disclosing the identity of the reporter or any other person whose safety may be endangered;

(i) an agency, including a probation or parole agency, that is legally responsible for the supervision of an alleged perpetrator of child abuse or neglect;

(j) a person, agency, or organization that is engaged in a bona fide research or evaluation project and that is authorized by the department to conduct the research or evaluation;

(k) the members of an interdisciplinary child protective team authorized under 41-3-108 or of a family group decisionmaking meeting for the purposes of assessing the needs of the child and family, formulating a treatment plan, and monitoring the plan;

(l) the coroner or medical examiner when determining the cause of death of a child;

(m) a child fatality review team recognized by the department;

(n) a department or agency investigating an applicant for a license or registration that is required to operate a youth care facility, day-care facility, or child-placing agency;

(o) a person or entity who is carrying out background, employment-related, or volunteer-related screening of current or prospective employees or volunteers who have or may have unsupervised contact with children through employment or volunteer activities. A request for information under this subsection (3)(o) must be made in writing. Disclosure under this subsection (3)(o) is limited to information that indicates a risk to children, persons with developmental disabilities, or older persons posed by the person about whom the information is sought, as determined by the department.

(p) the news media, a member of the United States congress, or a state legislator, if disclosure is limited to confirmation of factual information regarding how the case was handled and if disclosure does not violate the privacy rights of the child or the child's parent or guardian, as determined by the department;

(q) an employee of the department or other state agency if disclosure of the records is necessary for administration of programs designed to benefit the child;

(r) an agency of an Indian tribe, a qualified expert witness, or the relatives of an Indian child if disclosure of the records is necessary to meet requirements of the federal Indian Child Welfare Act;

(s) a juvenile probation officer who is working in an official capacity with the child who is the subject of a report in the records;

(t) a county attorney, peace officer, or attorney who is hired by or represents the department if disclosure is necessary for the investigation, defense, or prosecution of a case involving child abuse or neglect;

(u) a foster care review committee established under 41-3-115 or, when applicable, a citizen review board established under Title 41, chapter 3, part 10;

(v) a school employee participating in an interview of a child by a social worker, county attorney, or peace officer, as provided in 41-3-202;

(w) a member of a county interdisciplinary child information *and school safety* team formed under the provisions of 52-2-211;

(x) members of a local interagency staffing group provided for in 52-2-203;

(y) a member of a youth placement committee formed under the provisions of 41-5-121; or

(z) a principal of a school or other employee of the school district authorized by the trustees of the district to receive the information with respect to a student of the district who is a client of the department.

(4) A school or school district may disclose, without consent, personally identifiable information from the education records of a pupil to the department, the court, a review board, and the child's assigned attorney, guardian ad litem, or special advocate.

(5) Information that identifies a person as a participant in or recipient of substance abuse treatment services may be disclosed only as allowed by federal substance abuse confidentiality laws, including the consent provisions of the law.

(6) The confidentiality provisions of this section must be construed to allow a court of this state to share information with other courts of this state or of another state when necessary to expedite the interstate placement of children.

(7) A person who is authorized to receive records under this section shall maintain the confidentiality of the records and may not disclose information in the records to anyone other than the persons described in subsection (3)(a). However, this subsection may not be construed to compel a family member to keep the proceedings confidential.

(8) A news organization or its employee, including a freelance writer or reporter, is not liable for reporting facts or statements made by an immediate family member under subsection (7) if the news organization, employee, writer, or reporter maintains the confidentiality of the child who is the subject of the proceeding.

(9) This section is not intended to affect the confidentiality of criminal court records, records of law enforcement agencies, or medical records covered by state or federal disclosure limitations.

(10) Copies of records, evaluations, reports, or other evidence obtained or generated pursuant to this section that are provided to the parent, the guardian, or the parent or guardian's attorney must be provided without cost."

**Section 6.** Section 41-5-215, MCA, is amended to read:

**"41-5-215. Youth court and department records — notification of school.** (1) Formal youth court records, including reports of preliminary inquiries, petitions, motions, other filed pleadings, court findings, verdicts, and orders and decrees on file with the clerk of court are public records and are open to public inspection until the records are sealed under 41-5-216.

(2) Social, medical, and psychological records, youth assessment materials, predispositional studies, and supervision records of probationers are open only to the following:

- (a) the youth court and its professional staff;
- (b) representatives of any agency providing supervision and having legal custody of a youth;
- (c) any other person, by order of the court, having a legitimate interest in the case or in the work of the court;
- (d) any court and its probation and other professional staff or the attorney for a convicted party who had been a party to proceedings in the youth court when considering the sentence to be imposed upon the party;
- (e) the county attorney;
- (f) the youth who is the subject of the report or record, after emancipation or reaching the age of majority;
- (g) a member of a county interdisciplinary child information *and school safety* team formed under 52-2-211 who is not listed in this subsection (2);
- (h) members of a local interagency staffing group provided for in 52-2-203;
- (i) persons allowed access to the reports referred to under 45-5-624(7);
- (j) persons allowed access under 42-3-203; and
- (k) persons conducting evaluations as required in 41-5-2003.

(3) (a) Notwithstanding the requirements of 20-5-321(1)(d) or (1)(e), ~~and~~ subject to the provisions of subsection (3)(b) of this section, ~~the youth court shall~~ *and according to the guidelines in subsection (3)(f) of this section, the chief probation officer or other designee from the district that has jurisdiction over the*



*matter or the department of corrections for youth under the supervision of the department shall notify the school district that the youth presently attends or the school district that the youth has applied to attend of a youth's suspected past or current drug use or criminal activity if after an investigation has been completed:*

(i) ~~the youth has admitted the allegation or a petition has been filed with the youth court or charges are filed in district court alleging a violation of any section in Title 45, chapter 5; and or~~

(ii) ~~a juvenile probation officer has reason to believe that a youth is currently involved with drug use or other criminal activity that has a bearing on the safety of children the youth has admitted the allegation and the acts involve any offense in which another youth was an alleged victim and the admitted activity has a bearing on the safety of children.~~

(b) Notification under subsection (3)(a) may not be given for status offenses.

(c) ~~In addition to the notice requirements in subsection (3)(a), the youth court shall provide notice to the superintendent of a school district for a level 3 sexual offender as provided in 41-5-1513(3) Notification under subsection (3)(a) terminates upon the end of the youth court's supervision or the discharge of the youth by the department of corrections.~~

(d) A school district may not refuse to accept the student if refusal violates the federal Individuals With Disabilities Education Act or the federal Americans With Disabilities Act of 1990.

(e) The administrative officials of the school district may enforce school disciplinary procedures that existed at the time of the admission or adjudication. The information may not be further disclosed and may not be made part of the student's permanent records.

(f) *Notification to the school district under subsection (3)(a) must be provided to:*

(i) *the school district superintendent or the superintendent's designee in districts that employ a superintendent;*

(ii) *the building principal or the principal's designee in school districts where the building principal is the only administrator; or*

(iii) *the county superintendent in school districts that do not employ an administrator.*

(4) In all cases, a victim is entitled to all information concerning the identity and disposition of the youth, as provided in 41-5-1416.

(5) The school district may disclose, without consent, personally identifiable information from an education record of a pupil to the youth court and law enforcement authorities pertaining to violations of the Montana Youth Court Act or criminal laws by the pupil. The youth court or law enforcement authorities receiving the information shall certify in writing to the school district that the information will not be disclosed to any other party except as provided under state law without the prior consent of the parent or guardian of the pupil.

(6) Any part of records information secured from records listed in subsection (2), when presented to and used by the court in a proceeding under this chapter, must also be made available to the counsel for the parties to the proceedings."

**Section 7.** Section 52-2-211, MCA, is amended to read:

**"52-2-211. County interdisciplinary child information and school safety team.** (1) The following persons and agencies operating within a county

may *shall* by written agreement form a county interdisciplinary child information *and school safety* team:

- (a) the youth court;
- (b) the county attorney;
- (c) the department of public health and human services;
- (d) the county superintendent of schools;
- (e) the sheriff;
- (f) the chief of any police force;
- (g) the superintendents of public school districts; and
- (h) the department of corrections.

(2) The persons and agencies signing a written agreement under subsection (1) may by majority vote allow the following persons to sign the written agreement and join the team:

- (a) physicians, psychologists, psychiatrists, nurses, and other providers of medical and mental health care;
- (b) entities operating private elementary and secondary schools;
- (c) attorneys; and
- (d) a person or entity that has or may have a legitimate interest in one or more children that the team will serve.

(3) (a) The members of the team or their designees may form one or more auxiliary teams for the purpose of providing service to a single child, a group of children, or children with a particular type of problem or for any other purpose. Auxiliary teams are subject to the written agreement.

(b) A member of an auxiliary team must be a person who has personal knowledge of or experience with the child or children in the member's respective field.

(4) The purpose of the team and written agreement is to facilitate the exchange and sharing of information that one or more team members may be able to use in serving a child in the course of their professions and occupations, including but not limited to abused or neglected children, delinquent youth, and youth in need of intervention, *and of information relating to issues of school safety*. Information regarding a child that a team member supplies to other team members or that is disseminated to a team member under 41-3-205 or 41-5-215(2) and (3) may not be disseminated beyond the *organizations or departments that have an authorized member on the team under subsections (1) or (2)*.

(5) The terms of the written agreement must provide for the rules under which the team will operate, the method by which information will be shared, distributed, and managed, and any other matters necessary to the purpose and functions of the team.

(6) The terms of the written agreement must state how the team will coordinate its efforts with interdisciplinary child protective teams as provided in 41-3-108 and youth placement committees as provided for in 41-5-121.

(7) To the extent that the county interdisciplinary child information *and school safety* team is involved in a proceeding that is held prior to adjudication of a youth in youth court, the team satisfies the requirements of 20 U.S.C. 1232g(b)(1)(E)(ii)(I) of the Family Educational Rights and Privacy Act of 1974. Montana school districts may release education records to the team. The terms of the written agreement described in subsection (5) must include a requirement

that the officials and authorities to whom the information is disclosed certify in writing to the school district that is releasing the education records that the education records or information from the education records will not be disclosed to any other party without the prior written consent of the parent or guardian of the student.”

**Section 8.** Section 52-2-304, MCA, is amended to read:

**“52-2-304. Committee duties.** (1) The committee established in 52-2-303 shall, to the extent possible within existing resources:

(a) develop policies aimed at eliminating or reducing barriers to the implementation of a system of care;

(b) promote the development of an in-state quality array of core services in order to assist in returning high-risk children with multiagency service needs from out-of-state placements, limiting and preventing the placement of high-risk children with multiagency service needs out of state, and maintaining high-risk children with multiagency service needs within the least restrictive and most appropriate setting;

(c) advise local agencies to ensure that the agencies comply with applicable statutes, administrative rules, and department policy in committing funds and resources for the implementation of unified plans of care for high-risk children with multiagency service needs and in making any determination that a high-risk child with multiagency service needs cannot be served by an in-state provider;

(d) encourage the development of local interagency teams with participation from representatives from child serving agencies who are authorized to commit resources and make decisions on behalf of the agency represented;

(e) specify outcome indicators and measures to evaluate the effectiveness of the system of care;

(f) develop mechanisms to elicit meaningful participation from parents, family members, and youth who are currently being served or who have been served in the children’s system of care; and

(g) take into consideration the policies, plans, and budget developed by any service area authority provided for in 53-21-1006.

(2) The committee shall coordinate responsibility for the development of a stable system of care for high-risk children with multiagency service needs that may include, as appropriate within existing resources:

(a) pooling funding from federal, state, and local sources to maximize the most cost-effective use of funds to provide services in the least restrictive and most appropriate setting to high-risk children with multiagency service needs;

(b) applying for federal waivers and grants to improve the delivery of integrated services to high-risk children with multiagency service needs;

(c) providing for multiagency data collection and for analysis relevant to the creation of an accurate profile of the state’s high-risk children with multiagency service needs in order to provide for the use of services based on client needs and outcomes and use of the analysis in the decisionmaking process;

(d) developing mechanisms for the pooling of human and fiscal resources; and

(e) providing training and technical assistance, as funds permit, at the local level regarding governance, development of a system of care, and delivery of integrated multiagency children’s services.

(3) (a) In order to maximize integration and minimize duplication, the local interagency team, provided for in subsection (1)(d), may be facilitated in conjunction with an existing statutory team for providing youth services, including:

- (i) a child protective team as provided for in 41-3-108;
- (ii) a youth placement committee as provided for in 41-5-121 and 41-5-122;
- (iii) a county interdisciplinary child information *and school safety* team or an auxiliary team as provided for in 52-2-211;
- (iv) a foster care review committee as provided for in 41-3-115;
- (v) a local citizen review board as provided for in 41-3-1003; and
- (vi) a local advisory council as provided for in 53-21-702.

(b) If the local interagency team decides to coordinate and consolidate statutory teams, it shall ensure that all state and federal rules, laws, and policies required of the individual statutory teams are fulfilled.”

**Section 9. Transfer of funds — improvements to school safety and security.** (1) For fiscal year 2013 through fiscal year 2015 only, a school district may transfer state or local revenue from any budgeted or nonbudgeted fund, other than the debt service fund or retirement fund, to its building reserve fund in an amount not to exceed the school district’s estimated costs of improvements to school safety and security as follows:

(a) planning for improvements to school safety, including but not limited to the cost of services provided by architects, engineers, and other consultants;

(b) installing or updating locking mechanisms and ingress and egress systems at public school access points, including but not limited to systems for exterior egress doors and interior passageways and rooms, using contemporary technologies;

(c) installing or updating bullet-resistant windows and barriers; and

(d) installing or updating emergency response systems using contemporary technologies.

(2) Any transfers made pursuant to subsection (1) are not considered expenditures to be applied against budget authority. Any revenue transfers that are not encumbered for expenditures in compliance with subsection (1) by June 30, 2015, must be transferred back to the originating fund from which the revenue was transferred.

(3) The intent of this section is to increase the flexibility and efficiency of school districts without an increase in local taxes. In furtherance of this intent, if transfers of funds are made from any school district fund supported by a nonvoted levy, the district may not increase its nonvoted levy for the purpose of restoring the transferred funds.

**Section 10. Codification instruction.** [Section 9] is intended to be codified as an integral part of Title 20, chapter 9, and the provisions of Title 20, chapter 9, apply to [section 9].

**Section 11. Effective dates.** (1) Except as provided in subsection (2), [this act] is effective July 1, 2013.

(2) [Section 9 and this section] are effective on passage and approval.

**Section 12. Termination.** [Section 9] terminates June 30, 2015.

Approved April 30, 2013

**CHAPTER NO. 365**

[HB 8]

AN ACT APPROVING RENEWABLE RESOURCE PROJECTS AND AUTHORIZING LOANS; REAUTHORIZING RENEWABLE RESOURCE PROJECTS AUTHORIZED BY THE 62ND LEGISLATURE; APPROPRIATING MONEY TO THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION FOR LOANS UNDER THE RENEWABLE RESOURCE GRANT AND LOAN PROGRAM; AUTHORIZING THE ISSUANCE OF COAL SEVERANCE TAX BONDS; AUTHORIZING THE CREATION OF A STATE DEBT AND APPROPRIATING COAL SEVERANCE TAXES FOR DEBT SERVICE; PLACING CERTAIN CONDITIONS UPON LOANS; AND PROVIDING AN EFFECTIVE DATE.

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

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

(2) The interest rate for the project in this group is 3.0% or the rate at which the state bonds are sold, whichever is lower, for up to 20 years.

Loan	Amount
DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION - CONSERVATION AND RESOURCE DEVELOPMENT DIVISION	

Refinance Existing Debt or Rehabilitation of Water and Sewer Facilities	\$3,000,000
--	-------------

(3) The interest rate for the projects in this group is 4.5% or the rate at which the state bonds are sold, whichever is lower, for up to 30 years.

Loan	Amount
DRY PRAIRIE REGIONAL WATER AUTHORITY	

Local Match for Dry Prairie Projects	\$6,000,000
--------------------------------------	-------------

NORTH CENTRAL REGIONAL WATER AUTHORITY	
--	--

Local Match for North Central Projects	\$10,000,000
--	--------------

**Section 2. Projects not completing requirements — projects reauthorized.** (1) The legislature finds that the following renewable resource projects that were approved by the 62nd legislature in Chapter 366, Laws of 2011, may not complete the requirements necessary to obtain the loan funds prior to June 30, 2013. The projects described in this section are reauthorized. The department of natural resources and conservation is authorized to make loans to the political subdivisions of state government and local governments listed in subsections (2) and (3) in amounts not to exceed the loan amounts listed for each project from the proceeds of the bonds authorized in [section 3].

(2) The interest rate for the project in this group is 4.5% or the rate at which the state bonds are sold, whichever is lower, for up to 15 years.

Loan	Amount
DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION - WATER RESOURCES DIVISION	

Ruby Dam Rehabilitation Project - Phase 2	\$2,000,000
---	-------------

(3) The interest rate for the project in this group is 4.5% or the rate at which the state bonds are sold, whichever is lower, for up to 30 years.

Loan	Amount
------	--------

SUNSET IRRIGATION DISTRICT

Gravity Flow Irrigation Pipelines	\$1,465,266
-----------------------------------	-------------

**Section 3. Coal severance tax bonds authorized.** (1) The legislature finds that Title 17, chapter 5, part 7, provides for the issuance of coal severance tax bonds for financing specific approved renewable resource projects as part of the state renewable resource grant and loan program. Available funds from previous sales of coal severance tax bonds, plus any additional principal amount on bonds as may be necessary, pursuant to the conditions in 85-1-605, to fund emergency loans, as authorized and approved in accordance with 85-1-605(4), may also be used for the projects approved in [sections 1 through 7]. The board of examiners is authorized to issue coal severance tax bonds in an amount not to exceed \$24,711,793 in the 2015 biennium, of which up to \$2,246,527 is to be used to establish a reserve for the bonds. Proceeds of the bonds are appropriated to the department of natural resources and conservation for financing the projects identified in [sections 1 and 2] and may be used as authorized in 85-1-605(4). Loans made under 85-1-605(4) must bear interest at the rate borne by the state bonds unless the legislature in a subsequent session provides for a lower interest rate, in which case the rate must be reduced to the rate specified by the legislature.

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

(3) Earnings on bond proceeds prior to the completion of any loan must be allocated to the debt service account to pay the debt service on the bonds during this period. Earnings in excess of debt service, if any, must be allocated to the natural resources projects state special revenue account established in 15-38-302.

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

**Section 4. Conditions of loans.** (1) Disbursement of funds under [sections 1 and 2] for loans is subject to the following conditions that must be met by project sponsors:

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

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

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

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

(e) accomplishment of other specific requirements considered necessary by the department of natural resources and conservation to accomplish the



purpose of the loan as evidenced from the application to the department or from the proposal to the legislature.

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

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

**Section 6. Appropriations established.** For any entity of state government that receives a loan under [sections 1 and 2], an appropriation is established for the amount of the loan upon award of the loan by the department of natural resources and conservation.

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

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

**Section 8. Notification to tribal governments.** The secretary of state shall send a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell Chippewa tribe.

**Section 9. 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 10. Effective date.** [This act] is effective July 1, 2013.

Approved May 1, 2013

## CHAPTER NO. 366

[HB 54]

AN ACT GENERALLY REVISING ADMINISTRATIVE AND FEDERAL TAX QUALIFICATION PROVISIONS OF THE TEACHERS' RETIREMENT SYSTEM; CLARIFYING DEFINITIONS AND TERMINOLOGY RELATED TO TERMINATION OF EMPLOYMENT, POSITIONS REPORTABLE TO THE RETIREMENT SYSTEMS, RETIREMENT STATUS, AND SERVICE CREDIT; SPECIFYING JURISDICTION AND VENUE FOR JUDICIAL REVIEW OF ADMINISTRATIVE DECISIONS; CLARIFYING TERMINATION PAY PROCEDURES; REVISING CERTAIN NORMAL RETIREMENT AGE AND NONFORFEITABILITY OF BENEFIT

PROVISIONS AS REQUIRED FOR FEDERAL TAX QUALIFICATION;  
AMENDING SECTIONS 19-20-101, 19-20-201, 19-20-409, 19-20-716,  
19-20-733, 19-20-801, 19-20-802, 19-20-805, AND 19-20-1101, MCA; AND  
PROVIDING AN EFFECTIVE DATE.

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

**Section 1.** Section 19-20-101, MCA, is amended to read:

**“19-20-101. Definitions.** As used in this chapter, unless the context clearly indicates otherwise, the following definitions apply:

(1) “Accumulated contributions” means the sum of all the amounts deducted from the compensation of a member or paid by a member and credited to the member’s individual account in the annuity savings account, together with interest. Regular interest must be computed and allowed to provide a benefit at the time of retirement.

(2) “Actuarial equivalent” means a benefit of equal value when computed upon the basis of the mortality table and interest rate assumption set by the retirement board.

(3) “Average final compensation” means a member’s highest average earned compensation ~~in 3 consecutive years~~, determined pursuant to 19-20-805, on which *all required* contributions have been made.

(4) “Beneficiary” means one or more persons formally designated by a member or retiree to receive a retirement allowance or payment upon the death of the member or retiree, except for a joint annuitant.

(5) “Benefit recipient” means a retired member, a joint annuitant, or a beneficiary who is receiving a retirement allowance.

(6) “Creditable service” is that service defined by 19-20-401.

(7) “Date of termination” or “termination date” means the last date on which a member performed service in a position reportable to the retirement system.

~~(7)(8)~~ (a) “Earned compensation” means, except as limited by subsections ~~(7)(b)~~ (8)(b) and ~~(7)(e)~~ (8)(c) or by 19-20-715, remuneration paid for the service of a member out of funds controlled by an employer before any pretax deductions allowed under the Internal Revenue Code are deducted.

(b) Earned compensation does not include:

(i) direct employer premium payments on behalf of members for medical, pharmaceutical, disability, life, vision, dental, or any other insurance;

(ii) any direct employer payment or reimbursement for:

(A) professional membership dues;

(B) maintenance;

(C) housing;

(D) day care;

(E) automobile, travel, lodging, or entertaining expenses; or

(F) any similar form of maintenance, allowance, or expenses;

(iii) the imputed value of health, life, or disability insurance or any other fringe benefits;

(iv) any noncash benefit provided by an employer to or on behalf of a member;

(v) termination pay unless included pursuant to 19-20-716;

(vi) compensation paid to a member from a plan for the deferral of compensation under section 457(f) of the Internal Revenue Code, 26 U.S.C. 457(f);

(vii) payment for sick, annual, or other types of leave paid to a member prior to termination from employment or accrued in excess of that normally allowed;

(viii) incentive or bonus payments paid to a member that are not part of a series of annual payments; or

(ix) any similar payment or reimbursement made to or on behalf of a member by an employer.

(c) Adding a direct employer-paid or noncash benefit to an employee's contract or subtracting the same or a similar amount as a pretax deduction is considered a fringe benefit and not earned compensation.

~~(8)~~(9) "Employer" means:

(a) the state of Montana;

(b) a public school district, as provided in 20-6-101 and 20-6-701;

(c) the office of public instruction;

(d) the board of public education;

(e) an education cooperative;

(f) the Montana school for the deaf and blind, as described in 20-8-101;

(g) the Montana youth challenge program, as defined in 10-1-101;

(h) a state youth correctional facility, as defined in 41-5-103;

(i) the Montana university system;

(j) a community college; or

(k) any other agency, ~~or~~ *political* subdivision, *or instrumentality* of the state that employs a person who is designated a member of the retirement system pursuant to 19-20-302.

~~(9)~~(10) "Full-time service" means service that is:

(a) at least 180 days in a fiscal year;

(b) at least 140 hours a month during at least 9 months in a fiscal year; or

(c) at least 1,080 hours in a fiscal year under an alternative school calendar adopted by a school board and reported to the office of public instruction as required by 20-1-302. The standard for full-time service for a school district operating under an alternative school calendar must be applied uniformly to all employees of the school district required to be reported to the retirement system.

~~(10)~~(11) "Internal Revenue Code" has the meaning provided in 15-30-2101.

~~(11)~~(12) "Joint annuitant" means the one person that a retired member who has elected an optional allowance under 19-20-702 has designated to receive a retirement allowance upon the death of the retired member.

~~(12)~~(13) "Member" means a person who has an individual account in the annuity savings account. An active member is a person included under the provisions of 19-20-302. An inactive member is a person included under the provisions of 19-20-303.

~~(13)~~(14) "Normal form" or "normal form benefit" means a monthly retirement benefit payable during the lifetime of the retired member.

~~(14)~~(15) "Normal retirement age" means an age no earlier than ~~55~~ 60 years of age, ~~with the right to receive immediate retirement benefits without an actuarial reduction in the benefits.~~

~~(15)~~(16) "Part-time service" means service that is not full-time service. Part-time service must be credited in the proportion that the actual time worked compares to full-time service.

(17) *“Position reportable to the retirement system” means a position in which an individual performs duties that would entitle the person to active membership in the retirement system under the provisions of 19-20-302.*

~~(16)~~(18) “Regular interest” means interest at a rate set by the retirement board in accordance with 19-20-501(2).

~~(17)~~(19) “Retired”, “retired member”, or “retiree” means a person who has terminated employment that qualifies the person for membership and who has received at least one monthly retirement benefit paid pursuant to this chapter is considered in retired member status under the provisions of [section 9].

(18)(20) “Retirement allowance” or “retirement benefit” means a monthly payment due to a retired member who has qualified for service or disability retirement or due to a joint annuitant or beneficiary.

(19)(21) “Retirement board” or “board” means the retirement system’s governing board provided for in 2-15-1010.

(20)(22) “Retirement system”, “system”, or “plan” means the teachers’ retirement system of the state of Montana provided for in 19-20-102.

(21)(23) “Service” means the performance of duties that would entitle the person to active membership in the retirement system under the provisions of 19-20-302.

~~(22)~~(24) “Termination” or “terminate” means that the member has severed the employment relationship with between the member and the member’s employer and that all, if any, payments due upon termination of employment, including but not limited to accrued sick and annual leave balances, have been paid to the member has been terminated as required in [section 9].

(23)(25) (a) “Termination pay” means any form of bona fide vacation leave, sick leave, severance pay, amounts provided under a window or early retirement incentive plan, or other payments contingent on the employee terminating employment.

(b) Termination pay does not include:

(i) amounts that are not wages under section 3121 of the Internal Revenue Code, determined without regard to the wage base limitation; and

(ii) amounts that are payable to a member from a plan for the deferral of compensation under section 457(f) of the Internal Revenue Code, 26 U.S.C. 457(f).

(24)(26) “Vested” means that a member has been credited with at least 5 full years of membership service upon which contributions have been made and has a right to a future retirement benefit.

~~(25)~~(27) “Written application” or “written election” means a written instrument, required by statute or the rules of the board, properly signed and filed with the board, that contains all the required information, including documentation that the board considers necessary.”

**Section 2.** Section 19-20-201, MCA, is amended to read:

**“19-20-201. Administration by retirement board — jurisdiction and venue for judicial review.** (1) The retirement board shall administer and operate the retirement system within the limitations prescribed by this chapter, and it is the duty of the retirement board to:

(a) establish rules necessary for the proper administration and operation of the retirement system;

(b) approve or disapprove all expenditures necessary for the proper operation of the retirement system;

(c) keep a record of all its proceedings, which must be open to public inspection;

(d) submit a report to the office of budget and program planning detailing the fiscal transactions for the 2 fiscal years immediately preceding the report due date, the amount of the accumulated cash and securities of the retirement system, and the last fiscal year balance sheet showing the assets and liabilities of the retirement system;

(e) keep in convenient form the data that is necessary for actuarial valuation of the various funds of the retirement system and for checking the experience of the retirement system;

(f) prepare an annual valuation of the assets and liabilities of the retirement system that includes an analysis of how market performance is affecting the actuarial funding of the retirement system;

(g) prescribe a form for membership application that will provide adequate and necessary information for the proper operation of the retirement system;

(h) annually determine the rate of regular interest as prescribed in 19-20-501;

(i) establish and maintain the funds of the retirement system in accordance with the provisions of part 6 of this chapter; and

(j) perform other duties and functions as are required to properly administer and operate the retirement system.

(2) In discharging its duties, the board, or an authorized representative of the board, may conduct hearings, administer oaths and affirmations, take depositions, certify to official acts and records, and issue subpoenas to compel the attendance of witnesses and the production of books, papers, correspondence, memoranda, and other records. Subpoenas must be issued and enforced pursuant to 2-4-104.

(3) The board may send retirement-related material to employers and the campuses of the Montana university system for delivery to employees. To facilitate distribution, employers and those campuses shall each provide the board with a point of contact who is responsible for distribution of the material provided by the board.

(4) The board shall make available to the legislature pursuant to 5-11-210 copies of the annual actuarial valuation and report required pursuant to subsections (1)(d) and (1)(f).

(5) *Jurisdiction and venue for judicial review of the board's final administrative decisions is the first judicial district, Lewis and Clark County, unless otherwise stipulated by the parties.*"

**Section 3.** Section 19-20-409, MCA, is amended to read:

**"19-20-409. Transfer of service credits and contributions from public employees' retirement system.** (1) An active member may at any time before retirement file a written application with the retirement board to purchase all of the member's previous ~~creditable~~ service *credit* in the public employees' retirement system. The amount that must be paid to the retirement system to purchase this service under this section is the sum of subsections (2) and (3).

(2) The public employees' retirement system shall transfer to the teachers' retirement system an amount equal to 72% of the amount paid by the member.

(3) The member shall pay either directly or by transferring contributions on account with the public employees' retirement system an amount equal to the

member's accumulated contributions at the time that active membership was terminated, plus accrued interest. Interest must be calculated from the date of termination until a transfer is received by the retirement system, based on the interest tables in use by the public employees' retirement system.

(4) A member who purchases service from the public employees' retirement system in the teachers' retirement system must have completed 5 years of membership service in the teachers' retirement system to receive credit or purchase military service, out-of-state service, employment while on leave, and private school employment.

(5) The retirement board shall determine the service credits that may be transferred.

(6) If an active member who also has ~~creditable~~ service *credit* in the public employees' retirement system before becoming a member of the teachers' retirement system dies before purchasing this service in the teachers' retirement system and if the member's service credits from both systems, when combined, entitle the member's beneficiary to a death benefit, the payment of the death benefit is the liability of the teachers' retirement system. Before payment of the death benefit, the public employees' retirement board must transfer to the teachers' retirement system the contributions necessary to purchase this service in the teachers' retirement system as provided in subsections (2) and (3).

(7) (a) If the teachers' retirement board determines that an individual's membership was erroneously classified and reported to the public employees' retirement system, the public employees' retirement board shall transfer to the teachers' retirement system the member's accumulated contributions and service, together with employer contributions plus interest.

(b) For the period of time that the employer contributions are held by the public employees' retirement system, interest paid on employer contributions transferred under this subsection (7) must be calculated at the short-term investment pool rate earned by the board of investments in the fiscal year preceding the transfer request.

(c) Any employee and employer contributions due as calculated in 19-20-602 and 19-20-605, plus interest, are the liability of the employee and the employing entity where the error occurred.

(8) A member who participated in the public employees' retirement system defined contribution plan provided for in Title 19, chapter 3, part 21, may purchase creditable service for the time spent as a participant in the defined contribution plan if:

(a) the member has 5 years of membership service and has completed at least 1 full year in the teachers' retirement system following the member's public employees' retirement system service;

(b) for each full year or portion of a year to be purchased pursuant to this subsection (8), the member contributes the actuarial cost of the service based on the most recent valuation of the system; and

(c) the member has withdrawn the member's money in the member's public employees' retirement system defined contribution plan account or has rolled over the amount required to purchase service in accordance with this subsection (8).

(9) Creditable service purchased under subsection (8) must be determined according to the laws and rules governing service credit in the public employees' retirement system."



**Section 4.** Section 19-20-716, MCA, is amended to read:

**“19-20-716. Termination pay.** (1) If a member terminates and receives termination pay at the time of retirement, the member shall select, subject to subsections ~~(5)~~ (4) and ~~(6)~~ (5), by signing a binding, irrevocable written election at least 90 days before the member's termination date, one of the following options:

(a) Option 1—The member may use the total termination pay in the calculation of the member's average final compensation. The member and the employer shall pay contributions to the retirement system as determined by the board to adequately compensate the system for the additional retirement benefit. The contributions must be made at the time of termination.

(b) Option 2—The member may use a yearly amount of the total termination pay added to each of the 3 consecutive years' salary used in the calculation of the member's average final compensation. To determine the amount of termination pay used in the calculation of average final compensation, termination pay must be divided by the total number of years of creditable service to determine a yearly amount. The member and the employer shall pay contributions on the termination pay according to the rates provided for in 19-20-602 and 19-20-605(1). For the purposes of this subsection (1)(b), the employer shall also pay as a contribution an amount equal to the termination pay multiplied by the rate established in 19-20-607 that would have been payable by the state as a supplemental contribution. The contributions must be made at the time of termination.

(c) Option 3—The member may exclude the termination pay from the average final compensation. A contribution is not required of either the member or the employer.

(2) ~~A~~ *If a member signs a binding, irrevocable written election required by this section must be signed by both the member and the employer for either an option 1 or option 2 benefit at least 90 days prior to the member's termination date, the employee contributions required by this section must be picked up by the employer. The binding, irrevocable written election required by this subsection (2) must be signed by both the member and the employer and must contain statements with regard to the contributions required to be made by the member under subsections (1)(a) and (1)(b) that:*

(a) the contributions being picked up, although designated as member contributions, are being paid by the employer directly to the system in lieu of contributions by the member and that the picked up contributions are paid from the same source as compensation is paid;

(b) the member may not choose to directly receive the amounts deducted from the member's termination pay instead of having them paid by the employer to the system;

(c) the member may not prepay any portion of the contributions; and

(d) the effective date of the pickup is the date that the irrevocable written election is signed by both the member and employer. The effective date must be at least 90 days prior to the date of the member's *date of* termination. The pickup does not apply to a contribution made before the effective date of the pickup.

~~(3) For the purpose of this section, the date of termination is the last day the member is performing any services covered under this chapter.~~

~~(4)~~(3) Pursuant to subsection (2), contributions required under subsection (1)(a) or (1)(b) must be:

(a) deducted from the portion of termination pay that:

(i) constitutes wages for the purposes of section 3121 of the Internal Revenue Code, determined without regard to the wage base limitation; and

(ii) can be included in the member's gross income for federal tax purposes; and

(b) picked up by the employer, except as provided in subsections ~~(5)~~ (4) and ~~(6)~~ (5).

~~(5)~~(4) A member's contributions greater than the total amount of the member's termination pay may not be picked up by the employer and are subject to the limitations of section 415 of the Internal Revenue Code.

~~(6)~~(5) If a member and the member's employer fail to sign the written election within the time period required in subsection (1), the member may contribute for the purposes specified in subsections (1)(a) and (1)(b) on all or any part of the termination pay received. A contribution made pursuant to this subsection may not be picked up by the employer and is subject to the limitations of section 415 of the Internal Revenue Code."

**Section 5.** Section 19-20-733, MCA, is amended to read:

**"19-20-733. Resumption of employment by retired member — suspension of benefits.** (1) [Except as provided in 19-20-732,] if a retired member returns to employment in a position covered by the retirement system and becomes an active contributing member, benefits must be suspended until the member terminates all employment and applies to have benefits reinstated.

(2) ~~Except as provided in subsection (4), upon~~ Upon termination and retirement of a previously retired member who was reinstated to active membership pursuant to 19-20-731 before July 1, 2009:

(a) if the member earned less than 1 year of creditable service, the original benefit and retirement option that the member was receiving at the time of suspension of benefits must be reinstated beginning either the first of the month following termination or on July 1 following the date on which the retired member was reemployed, whichever is later; or

(b) if the member earned 1 year or more of creditable service, retirement benefits must be recalculated under 19-20-804 if the member would qualify for a service retirement benefit under 19-20-801 or under 19-20-802 if the member is eligible for early retirement. The recalculated benefit must include the service credit accumulated at the time of the member's previous retirement, plus any service credit accumulated subsequent to reemployment. The recalculated benefit amount must be increased by the amount of any benefit enhancement received pursuant to 19-20-719 that the retired member was receiving when the member's benefits were suspended.

(3) (a) Except as provided in subsection ~~(4)~~ (3)(c), upon the subsequent retirement of a formerly retired member who was reinstated to active membership pursuant to 19-20-731 on or after July 1, 2009, and earned:

(i) at least 3 years of membership service following suspension of benefits, the member is entitled to resume receiving the suspended benefit in accordance with the retirement benefit option and joint annuitant previously selected, plus an additional benefit based upon the new creditable service and compensation earned. The second benefit must be calculated as provided under 19-20-804 if the member is eligible for a service retirement benefit or under 19-20-802 if the member is eligible for early retirement. The second benefit must be paid under the same retirement benefit option and with the same joint annuitant originally elected.

(ii) less than 3 years of membership service following suspension of benefits, the member is entitled to resume receiving the suspended benefit in accordance with the retirement benefit option previously selected, plus a refund of the employee contributions contributed after the member was reinstated to active service, plus interest.

(b) If a member dies during the period of reemployment following an initial retirement, the member must be considered as retiring on the day preceding the date of death and benefits must be determined according to the following:

(i) If the member elected the normal form benefit prior to reemployment, the member's designated beneficiary must receive an amount equal to the member's *remaining* accumulated contributions on deposit.

(ii) If the member elected a retirement option pursuant to 19-20-702 prior to reemployment, the benefits due are payable in accordance with the terms of the original option elected and this subsection (3).

~~(4) If a retired member who has not attained normal retirement age is reemployed with the same employer within 30 days from the member's effective date of retirement or if that member is guaranteed reemployment with the same employer, the member must be considered to have continued in the status of an active member and not to have separated from service. Any retirement allowance payments received by the member must be repaid to the system, together with interest, at the actuarially assumed rate, and the retirement allowance must be canceled.~~

*(c) If the joint annuitant nominated prior to the member's reemployment under retirement option A, B, or C dies prior to the member rerequiring, the member will be given the option to select either the normal form retirement benefit or a retirement option as provided in 19-20-702. (Bracketed language terminates June 30, 2015—sec. 5, Ch. 129, L. 2009.)*

**Section 6.** Section 19-20-801, MCA, is amended to read:

**“19-20-801. Eligibility for service retirement.** (1) A member who has at least 5 full years of creditable service and who has attained the age of 60 or has been credited with full-time or part-time creditable service in 25 or more years may retire from service if the member has terminated employment in all positions ~~from which the member is eligible to retire reportable to the retirement system~~ and files with the retirement board a written application.

(2) *A vested member who has attained normal retirement age has a nonforfeitable right to the benefits accrued and payable under the provisions of this chapter, subject to the member's right to withdraw the member's accumulated contributions under 19-20-603.*”

**Section 7.** Section 19-20-802, MCA, is amended to read:

**“19-20-802. Early retirement.** (1) A member who is not eligible for service retirement but who has at least 5 years of creditable service and who has attained the age of 50 may retire from service and be eligible for an early retirement allowance if the member *terminates employment in all positions reportable to the retirement system* and files with the retirement board ~~the member's~~ a written application.

(2) The early retirement allowance must be determined as prescribed in 19-20-804, with the exception that the allowance will be reduced using actuarially equivalent factors based on the most recent valuation of the system.”

**Section 8.** Section 19-20-805, MCA, is amended to read:

**“19-20-805. Calculation of average final compensation.** (1) Except as limited by this section, average final compensation is calculated by averaging

the earned compensation paid to a member in 3 consecutive fiscal years of full-time service that yields the highest average.

(2) The earned compensation of a member who retires under 19-20-802, 19-20-804, or 19-20-902 and has less than 3 consecutive years of full-time service during the 5 years immediately preceding the member's termination is the compensation that the member would have earned in the 3 years used to calculate average final compensation had the member's part-time service been full-time service. To determine the compensation that the member would have earned, the compensation reported must be divided by the part-time service credited to the member's account.

(3) (a) Subject to subsection (3)(b), if a member has transferred service from the public employees' retirement system as provided under 19-20-409 and does not have 3 consecutive years of full-time service reported to the teachers' retirement system, the member's average final compensation must be calculated as follows:

(i) if the member's part-time service credit in the public employees' retirement system plus the member's part-time service credit in the teachers' retirement system equals 1 year in any of the fiscal years used in determining average final compensation, then the member's annual salary for that fiscal year must be the member's salary as a member of the public employees' retirement system plus the member's salary as a member of the teachers' retirement system; or

(ii) if the member's part-time service credit in the public employees' retirement system plus the member's part-time service credit in the teachers' retirement system equals less than 1 year in any of the fiscal years used to determine average final compensation, then the member's part-time salary as a member of the public employees' retirement system plus the member's part-time salary as a member of the teachers' retirement system must be divided by the sum of the member's part-time teachers' retirement system service credit and the member's part-time public employees' retirement system service credit.

(b) Compensation reported to the public employees' retirement system used to calculate average final compensation must be adjusted to exclude any compensation that would be considered termination pay under this chapter.

(4) (a) If the benefits excluded from earned compensation pursuant to 19-20-101(7)(b)(8)(b) have been converted by an employer to earned compensation for all members and have been continuously reported as earned compensation in a like amount for at least 5 fiscal years preceding a member's retirement, the converted benefit amounts must be included in the calculation of average final compensation.

(b) If benefits have been converted to earned compensation as described in subsection (4)(a) but have been reported as earned compensation for less than 5 fiscal years or if the member has been given the option to have benefits converted to earned compensation, any converted benefits reported as earned compensation in the 3 years used to calculate average final compensation may be included in the calculation of average final compensation only as termination pay under 19-20-716(1)(b)."

**Section 9. Termination of employment — retired member status — certification of termination date.** (1) A member shall terminate employment in all positions reportable to the retirement system to be eligible for service retirement under 19-20-801, early retirement under 19-20-802,

disability retirement under 19-20-901, or withdrawal of the member's accumulated contributions under 19-20-603.

(2) Except as provided in subsections (3) and (4), a member has terminated employment in a position reportable to the retirement system when the employment relationship with the employer has been fully and completely severed and all, if any, payments due upon termination of employment, including but not limited to payment of accrued sick and annual leave balances, have been paid to the member.

(3) (a) A member who has not attained normal retirement age has not terminated employment in a position reportable to the retirement system if the member and the employer have a prearranged agreement for postretirement service.

(b) For purposes of this subsection (3), a "prearranged agreement for postretirement service" means an oral or written agreement between a member and an employer made before the member attains retired member status for the member to provide service or perform work, in any capacity, on behalf of the employer in the future.

(4) A member has not terminated employment in a position reportable to the retirement system if the member provides any service or performs any work, in any capacity, on behalf of the employer after the certified date of termination but prior to attaining retired member status.

(5) A member must be in retired member status before the member is eligible to be employed as a working retiree pursuant to 19-20-731. Service provided by a member in a position reportable to the retirement system before the member attains retired member status is service provided as an active member, and the member shall terminate from the position to be eligible for retirement benefits.

(6) (a) A member attains retired member status when the member has terminated employment in all positions reportable to the retirement system and has actually received at least one monthly retirement benefit payment.

(b) A retired member who returns to active member status for any reason ceases to be in retired member status until the member again applies for a retirement benefit and actually receives at least one monthly retirement benefit payment.

(7) (a) Unless waived by the board, the member and the employer for each position from which the member is terminating or has terminated must certify on a form provided by the retirement system the member's date of termination and whether there is a prearranged agreement for postretirement service.

(b) The certification obligation of the member and the employer is ongoing and must be immediately updated if the information previously provided was in error or has changed.

**Section 10.** Section 19-20-1101, MCA, is amended to read:

**"19-20-1101. Withholding of group insurance premium from retirement allowance.** (1) A retired member who is a participant in an approved employer-sponsored group insurance plan may elect to have the monthly premium for the group insurance withheld from the member's retirement allowance by the retirement system. Premiums withheld may be paid directly to the insurance carrier or employer of record at the time of retirement.

(2) Upon the death of a retired member, the joint annuitant or beneficiary, if eligible, may elect to continue to have the monthly insurance premium withheld

from a monthly retirement benefit and paid directly to the employer or the employer's insurance carrier.

(3) Each month, using the retirement system's online employer reporting system, the employer shall ~~verify~~ *commence withholding, cease withholding, or process any necessary adjustments to the premium amount on behalf of the benefit recipient, including verification* that all authorized insurance deductions are correct. ~~and~~

(4) *The employer shall notify the retired member benefit recipient of any changes related to the premiums, including any changes to the premium amount, prior to the effective date of the change.*"

**Section 11. Codification instruction.** [Section 9] is intended to be codified as an integral part of Title 19, chapter 20, part 8, and the provisions of Title 19, chapter 20, part 8, apply to [section 9].

**Section 12. Coordination instruction.** If House Bill No. 78 and [this act] are both passed and approved and if both contain sections amending 19-20-733, then the sections amending 19-20-733 are void and 19-20-733 must be amended as follows:

**"19-20-733. Resumption of employment by retired member — suspension of benefits.** (1) [Except as provided in 19-20-732, *and*] *subject to [section 2 of House Bill No. 78], the following provisions apply:*

(1) ~~if~~ *If* a retired member returns to employment in a position covered by the retirement system and becomes an active contributing member, benefits must be suspended until the member terminates all employment and applies to have benefits reinstated.

(2) ~~Except as provided in subsection (4), upon~~ *Upon* termination and retirement of a previously retired member who was reinstated to active membership pursuant to 19-20-731 before July 1, 2009:

(a) if the member earned less than 1 year of creditable service, the original benefit and retirement option that the member was receiving at the time of suspension of benefits must be reinstated beginning either the first of the month following termination or on July 1 following the date on which the retired member was reemployed, whichever is later; or

(b) if the member earned 1 year or more of creditable service, retirement benefits must be recalculated under 19-20-804 if the member would qualify for a service retirement benefit under 19-20-801 or under 19-20-802 if the member is eligible for early retirement. The recalculated benefit must include the service credit accumulated at the time of the member's previous retirement, plus any service credit accumulated subsequent to reemployment. The recalculated benefit amount must be increased by the amount of any benefit enhancement received pursuant to 19-20-719 that the retired member was receiving when the member's benefits were suspended.

(3) (a) Except as provided in subsection ~~(4)~~ *(3)(c)*, upon the subsequent retirement of a formerly retired member who was reinstated to active membership pursuant to 19-20-731 on or after July 1, 2009, and earned:

(i) at least 3 years of membership service following suspension of benefits, the member is entitled to resume receiving the suspended benefit in accordance with the retirement benefit option and joint annuitant previously selected, plus an additional benefit based upon the new creditable service and compensation earned. The second benefit must be calculated as provided under 19-20-804 if the member is eligible for a service retirement benefit or under 19-20-802 if the member is eligible for early retirement. The second benefit must be paid under



the same retirement benefit option and with the same joint annuitant originally elected.

(ii) less than 3 years of membership service following suspension of benefits, the member is entitled to resume receiving the suspended benefit in accordance with the retirement benefit option previously selected, plus a refund of the employee contributions contributed after the member was reinstated to active service, plus interest.

(b) If a member dies during the period of reemployment following an initial retirement, the member must be considered as retiring on the day preceding the date of death and benefits must be determined according to the following:

(i) If the member elected the normal form benefit prior to reemployment, the member's designated beneficiary must receive an amount equal to the member's accumulated contributions on deposit.

(ii) If the member elected a retirement option pursuant to 19-20-702 prior to reemployment, the benefits due are payable in accordance with the terms of the original option elected and this subsection (3).

~~(4) If a retired member who has not attained normal retirement age is reemployed with the same employer within 30 days from the member's effective date of retirement or if that member is guaranteed reemployment with the same employer, the member must be considered to have continued in the status of an active member and not to have separated from service. Any retirement allowance payments received by the member must be repaid to the system, together with interest, at the actuarially assumed rate, and the retirement allowance must be canceled.~~

*(c) If the joint annuitant nominated prior to the member's reemployment under retirement option A, B, or C dies prior to the member rerequiring, the member will be given the option to select either the normal form retirement benefit or a retirement option as provided in 19-20-702. (Bracketed language terminates June 30, 2015—sec. 5, Ch. 129, L. 2009.)*

**Section 13. Coordination instruction.** If House Bill No. 377 and [this act] are both passed and approved and if both contain sections amending 19-20-801, then the sections amending 19-20-801 are void and 19-20-801 must be amended as follows:

**“19-20-801. Eligibility for service retirement.** (1) A tier one member ~~who is eligible to receive a service retirement allowance calculated under 19-20-804(1) if the member:~~

(a) has been credited with at least 5 full years of creditable service and ~~who~~ has attained the age of 60; or

(b) has been credited with full-time or part-time creditable service in 25 or more years ~~may retire from service if the member has.~~

(2) *Except as provided in subsection (3), a tier two member is eligible to receive a service retirement allowance calculated under 19-20-804(1) if the member:*

(a) *has been credited with at least 5 full years of creditable service and has attained the age of 60; or*

(b) *has been credited with full-time or part-time creditable service in 30 or more years and has attained the age of 55.*

(3) *A tier two member who has been credited with 30 or more years of creditable service and has attained the age of 60 is eligible for a professional retirement option allowance calculated under 19-20-804(2).*

(4) *To receive a retirement allowance under 19-20-804, the member must have terminated employment in all positions from which the member is eligible to retire and files reportable to the retirement system and must file a written application with the retirement board a written application.*

(5) *A vested member who has attained normal retirement age has a nonforfeitable right to the benefits accrued and payable under the provisions of this chapter, subject to the member's right to withdraw the member's accumulated contributions under 19-20-603."*

**Section 14. Coordination instruction.** If House Bill No. 377 is passed and approved and if it includes a section amending 19-20-802, then [section 7 of this act] amending 19-20-802 is void.

**Section 15. Effective date.** [This act] is effective July 1, 2013.

Approved May 1, 2013

## CHAPTER NO. 367

[HB 129]

AN ACT REVISING CAMPAIGN FINANCE AND DISCLOSURE LAWS; REVISING WHEN PRINTED ELECTION MATERIAL MUST DISCLOSE CONTRASTING VOTES MADE BY A CANDIDATE; REVISING THE POLITICAL-CIVIL LIBEL LAW; AND AMENDING SECTIONS 13-35-225 AND 13-37-131, MCA.

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

**Section 1.** Section 13-35-225, MCA, is amended to read:

**"13-35-225. Election materials not to be anonymous — statement of accuracy.** (1) All communications advocating the success or defeat of a candidate, political party, or ballot issue through any broadcasting station, newspaper, magazine, outdoor advertising facility, direct mailing, poster, handbill, bumper sticker, internet website, or other form of general political advertising must clearly and conspicuously include the attribution "paid for by" followed by the name and address of the person who made or financed the expenditure for the communication. When a candidate or a candidate's campaign finances the expenditure, the attribution must be the name and the address of the candidate or the candidate's campaign. In the case of a political committee, the attribution must be the name of the committee, the name of the committee treasurer, and the address of the committee or the committee treasurer.

(2) Communications in a partisan election financed by a candidate or a political committee organized on the candidate's behalf must state the candidate's party affiliation or include the party symbol.

(3) (a) Printed election material described in subsection (1) that includes information about another candidate's voting record must include *the following*:

(i) a reference to the particular vote or votes upon which the information is based;

(ii) a disclosure of contrasting votes known to have been made by the candidate on the same issue if ~~closely related in time~~ *the contrasting votes were made in any of the previous 6 years; and; and*

(iii) a statement, signed as provided in subsection (3)(b), that to the best of the signer's knowledge, the statements made about the other candidate's voting record are accurate and true.

(b) The statement required under subsection (3)(a) must be signed:

(i) by the candidate if the election material was prepared for the candidate or the candidate's political committee and includes information about another candidate's voting record; or

(ii) by the person financing the communication or the person's legal agent if the election material was not prepared for a candidate or a candidate's political committee.

(4) If a document or other article of advertising is too small for the requirements of subsections (1) through (3) to be conveniently included, the candidate responsible for the material or the person financing the communication shall file a copy of the article with the commissioner of political practices, together with the required information or statement, at the time of its public distribution.

(5) If information required in subsections (1) through (3) is omitted or not printed, upon discovery of or notification about the omission, the candidate responsible for the material or the person financing the communication shall:

(a) file notification of the omission with the commissioner of political practices within 5 days of the discovery or notification;

(b) bring the material into compliance with subsections (1) through (3); and

(c) withdraw any noncompliant communication from circulation as soon as reasonably possible."

**Section 2.** Section 13-37-131, MCA, is amended to read:

**"13-37-131. Misrepresentation of voting record — ~~political civil libel.~~** (1) It is unlawful for a person to misrepresent a candidate's public voting record ~~or any other matter that is relevant to the issues of the campaign~~ with knowledge that the assertion is false or with a reckless disregard of whether or not the assertion is false.

(2) It is unlawful for a person to misrepresent to a candidate another candidate's public voting record ~~or any other matter that is relevant to the issues of the campaign~~ with knowledge that the assertion is false or with a reckless disregard of whether or not the assertion is false.

(3) For the purposes of this section, the public voting record of a candidate who was previously a member of the legislature includes a vote of that candidate recorded in committee minutes or in journals of the senate or the house of representatives. Failure of a person to verify a public voting record is evidence of the person's reckless disregard if the statement made by the person or the information provided to the candidate is false.

(4) A person violating subsection (1) or (2) is liable in a civil action brought by the commissioner or county attorney pursuant to 13-37-124 for an amount up to \$1,000. An action pursuant to this section is subject to the provisions of 13-37-129 and 13-37-130."

Approved May 1, 2013

## CHAPTER NO. 368

[HB 354]

AN ACT REVISING THE LAWS GOVERNING THE FIRE SUPPRESSION ACCOUNT; REQUIRING THE CONSIDERATION OF WILDLAND FIRE SUPPRESSION ACTIVITIES IN DETERMINING THE AMOUNT OF THE PROJECTED GENERAL FUND BUDGET DEFICIT; REQUIRING

TRANSFER OF THE UNOBLIGATED BALANCE OF THE APPROPRIATION FOR GOVERNOR-DECLARED DISASTERS TO THE FIRE SUPPRESSION ACCOUNT; REQUIRING TRANSFER OF A CERTAIN PERCENTAGE OF UNEXPENDED GENERAL FUND MONEY TO THE FIRE SUPPRESSION ACCOUNT; PROVIDING THAT THE MONEY IN THE FIRE SUPPRESSION ACCOUNT MAY NOT EXCEED \$100 MILLION; REQUIRING TRANSFER OF AN EXCESS AMOUNT OF CORPORATION LICENSE TAX REVENUE INTO THE FIRE SUPPRESSION ACCOUNT; STATUTORILY APPROPRIATING THE MONEY TO THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION; AMENDING SECTIONS 10-3-312, 17-7-140, 17-7-502, AND 76-13-150, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

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

**Section 1.** Section 10-3-312, MCA, is amended to read:

**“10-3-312. Maximum expenditure by governor — appropriation.** (1) Whenever a disaster or an emergency, including an energy emergency as defined in 90-4-302 or an invasive species emergency declared under 80-7-1013, is declared by the governor, there is statutorily appropriated to the office of the governor, as provided in 17-7-502, and, subject to subsection (2), the governor is authorized to expend from the general fund an amount not to exceed \$16 million in any biennium, minus any amount appropriated pursuant to 10-3-310 in the same biennium. The statutory appropriation in this subsection may be used by any state agency designated by the governor.

(2) In the event of the recovery of money expended under this section, the spending authority must be reinstated to a level reflecting the recovery.

(3) If a disaster is declared by the president of the United States, there is statutorily appropriated to the office of the governor, as provided in 17-7-502, and the governor is authorized to expend from the general fund an amount not to exceed \$500,000 during the biennium to meet the state’s share of the individual and family grant programs as provided in 42 U.S.C. 5178. The statutory appropriation in this subsection may be used by any state agency designated by the governor.

(4) *At the end of each biennium, an amount equal to the unexpended and unencumbered balance of the \$16 million statutory appropriation in subsection (1), minus any amount appropriated pursuant to 10-3-310 in the same biennium, must be transferred by the state treasurer from the state general fund to the fire suppression account provided for in 76-13-150.”*

**Section 2.** 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)(b), 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 1% of all general fund appropriations during the biennium. 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%.

(b) 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 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 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) 2% of the general fund appropriations for the second fiscal year of the biennium prior to October of the year preceding a legislative session;
- (ii) 3/4 of 1% in October of the year preceding a legislative session;
- (iii) 1/2 of 1% in January of the year in which a legislative session is convened; and
- (iv) 1/4 of 1% 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."

**Section 3.** Section 17-7-502, MCA, is amended to read:

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

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

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

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

(3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-120; 5-11-407; 5-13-403; 7-4-2502; 10-1-108; 10-1-1202; 10-1-1303; 10-2-603; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-121; 15-1-218; 15-31-906; 15-35-108; 15-36-332; 15-37-117; 15-39-110; 15-65-121; 15-70-101; 15-70-369; 15-70-601; 16-11-509; 17-3-106; 17-3-112; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 18-11-112; 19-3-319; 19-6-404; 19-6-410; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 19-20-607; 19-21-203; 20-8-107; 20-9-534; 20-9-622; 20-26-1503; 22-3-1004; 23-4-105; 23-5-306; 23-5-409; 23-5-612; 23-7-301; 23-7-402; 30-10-1004; 37-43-204; 37-51-501; 39-71-503; 41-5-2011; 42-2-105; 44-4-1101; 44-12-206; 44-13-102; 50-4-623; 53-1-109; 53-9-113; 53-24-108; 53-24-206; 60-11-115; 61-3-415; 69-3-870; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 76-13-150; 76-13-416; 77-1-108; 77-2-362; 80-2-222; 80-4-416; 80-11-518; 81-1-112; 81-7-106; 81-10-103; 82-11-161; 85-20-1504; 85-20-1505; 87-1-230; 87-1-603; 87-1-621; 90-1-115; 90-1-205; 90-1-504; 90-3-1003; 90-6-331; and 90-9-306.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the inclusion of 19-20-604 terminates when the amortization period for the teachers' retirement system's unfunded liability is 10 years or less; pursuant to sec. 10, Ch. 10, Sp. L. May 2000, secs. 3 and 6, Ch. 481, L. 2003, and sec. 2, Ch. 459, L. 2009, the inclusion of 15-35-108 terminates June 30, 2019; pursuant to sec. 17, Ch. 593, L. 2005, and sec. 1, Ch. 186, L. 2009,



the inclusion of 15-31-906 terminates January 1, 2015; pursuant to sec. 73, Ch. 44, L. 2007, the inclusion of 19-6-410 terminates upon the death of the last recipient eligible under 19-6-709(2) for the supplemental benefit provided by 19-6-709; pursuant to sec. 8, Ch. 330, L. 2009, the inclusion of 87-1-621 terminates June 30, 2013; pursuant to sec. 14, Ch. 374, L. 2009, the inclusion of 53-9-113 terminates June 30, 2015; pursuant to sec. 8, Ch. 427, L. 2009, the inclusion of 87-1-230 terminates June 30, 2013; pursuant to sec. 5, Ch. 442, L. 2009, the inclusion of 90-6-331 terminates June 30, 2019; pursuant to sec. 47, Ch. 19, L. 2011, the inclusion of 87-1-621 terminates June 30, 2013; pursuant to sec. 16, Ch. 58, L. 2011, the inclusion of 30-10-1004 terminates June 30, 2017; pursuant to sec. 6, Ch. 61, L. 2011, the inclusion of 76-13-416 terminates June 30, 2019; and pursuant to sec. 13, Ch. 339, L. 2011, the inclusion of 81-1-112 and 81-7-106 terminates June 30, 2017.)”

**Section 4.** Section 76-13-150, MCA, is amended to read:

**“76-13-150. Fire suppression account — fund transfer.** (1) There is a fire suppression account in the state special revenue fund to the credit of the department.

(2) The legislature may transfer money from other funds to the account, and the money in the account is subject to legislative fund transfers.

(3) Funds received for restitution by private parties must be deposited in the account.

(4) Money in the account may be used only for the purpose of paying expenses for fire prevention, including fuel *reduction and* mitigation, *forest restoration*, grants for the purchase of fire suppression equipment for county cooperatives, and fire suppression costs.

(5) Interest earned on the balance of the account is retained in the account.

(6) *Except as provided in subsections (7) and (8), by August 15 following the end of each fiscal year, an amount equal to the balance of unexpended and unencumbered general fund money appropriated in excess of 0.5% of the total general fund money appropriated for that fiscal year must be transferred by the state treasurer from the general fund to the fire suppression account. General fund appropriations that continue from a fiscal year to the next fiscal year and any general fund appropriations made pursuant to 10-3-310 or 10-3-312 are excluded from the calculation.*

(7) *The provisions of subsection (6) do not apply in a fiscal year in which reductions required by 17-7-140 occur or if a transfer pursuant to subsection (6) would require reductions pursuant to 17-7-140.*

(8) *The fund balance in the account may not exceed \$100 million.*

(9) *Up to \$5 million each biennium may be used for the purpose of fuel reduction and mitigation and forest restoration.*

(10) *Money in the account is statutorily appropriated, as provided in 17-7-502, to the department for the purposes described in subsection (4).”*

**Section 5. Fund transfer.** Subject to 76-13-150(8), the following amounts collected from the corporation license tax pursuant to Title 15, chapter 31, and deposited into the state general fund must be transferred to the fire suppression account provided for in 76-13-150:

(1) by August 15, 2013, funds in excess of \$152 million collected for the fiscal year ending June 30, 2013;

(2) by August 15, 2014, funds in excess of \$156.2 million collected for the fiscal year ending June 30, 2014; and

(3) by August 15, 2015, funds in excess of \$157.5 million collected for the fiscal year ending June 30, 2015.

**Section 6. Effective date.** [This act] is effective on passage and approval.

Approved May 1, 2013

## CHAPTER NO. 369

[HB 395]

AN ACT REVISING THE MEMBERSHIP OF THE LIVESTOCK LOSS BOARD; REDUCING BOARD MEMBERSHIP; CHANGING MEMBERSHIP REQUIREMENTS; AND AMENDING SECTION 2-15-3110, MCA.

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

**Section 1.** Section 2-15-3110, MCA, is amended to read:

**“2-15-3110. Livestock loss board — purpose, membership, and qualifications.** (1) There is a livestock loss board. The purpose of the board is to administer the programs called for in the Montana gray wolf management plan and established in 2-15-3111 through 2-15-3113, with funds provided through the accounts established in 81-1-110, in order to minimize losses caused by wolves to livestock producers and to reimburse livestock producers for livestock losses from wolf predation.

(2) The board consists of ~~seven~~ *five* members, appointed by the governor, as follows:

(a) ~~three members from a list of names recommended by the board of livestock who are actively involved in the livestock industry and who have knowledge and experience with regard to wildlife impacts or management; and~~

~~(b) three members from a list of names recommended by the fish, wildlife, and parks commission; and~~

~~(c)~~ *(b) one member two members of the general public of the general public who are or have been actively involved in wildlife conservation or wildlife management and who have knowledge and experience with regard to livestock production or management.*

~~(3) Each board member must have knowledge of or have experience in at least one of the following:~~

~~(a) the raising of livestock in Montana;~~

~~(b) livestock marketing, valuations, sales, or breeding associations;~~

~~(c) the interaction of wolves with livestock and livestock mortality caused by wolves;~~

~~(d) wildlife conservation;~~

~~(e) administration; and~~

~~(f) fundraising.~~

~~(4)~~ *(3) The board is designated as a quasi-judicial board for the purposes of 2-15-124. Notwithstanding the provisions of 2-15-124(1), the governor is not required to appoint an attorney to serve as a member of the board.*

~~(5)~~ *(4) The board is allocated to the department of livestock for administrative purposes only as provided in 2-15-121.*

~~(6)~~ *(5) The board shall adopt rules to implement the provisions of 2-15-3110 through 2-15-3114 and 81-1-110 through 81-1-112.”*

Approved May 1, 2013

**CHAPTER NO. 370**

[HB 414]

AN ACT ALLOWING A NONRESIDENT WHO HAS AN INTEREST IN REAL PROPERTY IN MONTANA TO REGISTER A MOTOR VEHICLE IN THE COUNTY WHERE THE REAL PROPERTY IS LOCATED; AND AMENDING SECTIONS 61-3-201 AND 61-3-303, MCA.

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

**Section 1.** Section 61-3-201, MCA, is amended to read:

**“61-3-201. Certificate of title required — exclusions.** (1) Except as provided in subsection (2), the owner of a motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile that is in this state and for which a certificate of title has not been issued by or an electronic record of title has not been created by the department shall apply to the department, its authorized agent, or a county treasurer for a certificate of title for the motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile.

(2) The following motor vehicles, trailers, semitrailers, pole trailers, campers, motorboats, personal watercraft, sailboats, or snowmobiles are exempt from the requirements of this part:

(a) a motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile owned by the United States, unless the motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile is registered in this state;

(b) except as required in 61-4-111, a motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile that is:

(i) owned by a manufacturer, a dealer, a wholesaler, or an auto auction; and

(ii) held for sale, even though incidentally moved on the highway, used for purposes of testing or demonstration, or used solely by a manufacturer for testing;

(c) a motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile owned by a nonresident ~~of this state~~ or a nonresident who has an interest in real property in Montana who chooses not to register a motor vehicle in this state as provided in 61-3-303;

(d) a motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile regularly engaged in the interstate transportation of persons or property and:

(i) for which a currently effective certificate of title has been issued in another state or jurisdiction; or

(ii) that is properly registered under the provisions of Title 61, chapter 3, part 7;

(e) a vehicle moved solely by human or animal power;

(f) an implement of husbandry;

(g) special mobile equipment or a motor vehicle or trailer designed and used to apply fertilizer to agricultural land;

(h) a self-propelled wheelchair or tricycle used by a person with a disability;

(i) a dolly or converter gear;

(j) a mobile home or housetrailer;

(k) a manufactured home declared to be an improvement to real property under 15-1-116; or

(l) a golf cart unless it is operated by a person with a low-speed restricted driver's license."

**Section 2.** Section 61-3-303, MCA, is amended to read:

**"61-3-303. Original registration — process — fees.** (1) Except as provided in 61-3-324, a Montana resident who owns a motor vehicle, trailer, semitrailer, or pole trailer operated or driven upon the public highways of this state shall register the motor vehicle, trailer, semitrailer, or pole trailer in the office of the county treasurer in the county where the owner is domiciled. *A nonresident who has an interest in real property in Montana may register in the county where the real property is located a motor vehicle, trailer, semitrailer, or pole trailer operated or driven upon the public highways of this state.*

(2) Except as provided in subsections (3) and (11), the county treasurer shall register any vehicle for which:

(a) as of the date that the motor vehicle, trailer, semitrailer, or pole trailer is to be registered, the owner delivers an application for a certificate of title to the department, its authorized agent, or a county treasurer; or

(b) the county treasurer confirms that the department has an electronic record of title for the motor vehicle, trailer, semitrailer, or pole trailer as provided under 61-3-101.

(3) (a) A county treasurer may register a motor vehicle, trailer, semitrailer, or pole trailer for which a certificate of title and registration were issued in another jurisdiction and for which registration is required under 61-3-701 after the county treasurer examines the current out-of-jurisdiction registration certificate or receipt and receives payment of the fees required in 61-3-701. The county treasurer may ask the motor vehicle, trailer, semitrailer, or pole trailer owner to provide additional information, prescribed by the department, to ensure that the electronic record of registration maintained by the department is complete.

(b) A county treasurer may register a motor vehicle, trailer, semitrailer, or pole trailer for which the new owner cannot, due to circumstances beyond the new owner's control, surrender a previously assigned certificate of title. The new owner may submit an application for certificate of title, subject to the registration renewal limitations of 61-3-312.

(4) Upon registering a motor vehicle, trailer, semitrailer, or pole trailer for the first time in this state, the county treasurer shall:

(a) update the electronic record of title, if any, maintained for the vehicle by the department under 61-3-101;

(b) assign a registration period for the vehicle under 61-3-311;

(c) determine the vehicle's age, if required, under 61-3-501;

(d) determine the amount of fees, including local option taxes or fees, to be paid under subsection (5); and

(e) assign and issue license plates for the vehicle under 61-3-331.

(5) Unless otherwise provided by law, a person registering a motor vehicle shall pay to the county treasurer:

(a) the fees in lieu of tax or registration fees as required for:

(i) a light vehicle under 61-3-321 or 61-3-562, in addition to, if applicable, any local option tax or fee under 61-3-537 or 61-3-570;

(ii) a motor home under 61-3-321;

- (iii) a travel trailer under 61-3-321;
  - (iv) a motorcycle or quadricycle under 61-3-321;
  - (v) a bus, a truck having a manufacturer's rated capacity of more than 1 ton, or a truck tractor under 61-3-321 and 61-3-529; or
  - (vi) a trailer under 61-3-321;
- (b) a donation of \$1 or more if the person indicates that the person wishes to donate to promote awareness and education efforts for procurement of organ and tissue donations in Montana to favorably impact anatomical gifts; and
- (c) a donation of \$1 or more if the person indicates that the person wishes to donate to promote education on, support for, and awareness of traumatic brain injury.
- (6) The county treasurer may not issue a registration receipt or license plates for the motor vehicle, trailer, semitrailer, or pole trailer to the owner unless the owner makes the payments required by subsection (5).
- (7) The department may make full and complete investigation of the registration status of the motor vehicle, trailer, semitrailer, or pole trailer. A person seeking to register a motor vehicle, trailer, semitrailer, or pole trailer under this section shall provide additional information to support the registration to the department if requested.
- (8) Revenue that accrues from the voluntary donation provided in subsection (5)(b) must be forwarded by the respective county treasurer to the department for deposit in the state special revenue fund to the credit of an account established by the department of public health and human services to support activities related to awareness and education efforts for procurement of organ and tissue donations for anatomical gifts.
- (9) (a) Except as provided in subsection (9)(b), the fees in lieu of tax, taxes, and fees imposed on or collected from the registration of a travel trailer, motorcycle, or quadricycle or a trailer, semitrailer, or pole trailer that has a declared weight of less than 26,000 pounds are required to be paid only once during the time that the travel trailer, motorcycle, quadricycle, trailer, semitrailer, or pole trailer is owned by the same person who registered the travel trailer, motorcycle, quadricycle, trailer, semitrailer, or pole trailer. Once registered, a travel trailer, motorcycle, quadricycle, trailer, semitrailer, or pole trailer is registered permanently unless ownership is transferred.
- (b) Whenever ownership of a travel trailer, motorcycle, quadricycle, trailer, semitrailer, or pole trailer is transferred, the new owner is required to register the travel trailer, motorcycle, quadricycle, trailer, semitrailer, or pole trailer as if it were being registered for the first time, including paying all of the required fees in lieu of tax, taxes, and fees.
- (10) Revenue that accrues from the voluntary donation provided in subsection (5)(c) must be forwarded by the respective county treasurer to the department for deposit in the state special revenue fund to the credit of the account established in 2-15-2218 to support activities related to education regarding prevention of traumatic brain injury.
- (11) Beginning January 1, 2013, the county treasurer shall use the online motor vehicle liability insurance verification system provided in 61-6-157 to verify that the vehicle owner has complied with the requirements of 61-6-301."

Approved May 1, 2013

**CHAPTER NO. 371**

[HB 417]

AN ACT GENERALLY REVISING EMINENT DOMAIN LAWS; REQUIRING THAT A FINAL WRITTEN OFFER BE REJECTED BEFORE A CONDEMNATION COMPLAINT IS FILED; ALLOWING FOR ADDITIONAL OFFERS; REQUIRING THAT THE CLAIM REQUIRED IN THE CONTENTS OF A COMPLAINT FOR CONDEMNATION BE EQUAL TO THE FINAL WRITTEN OFFER MADE BY THE STATE OR ITS AGENT; AMENDING SECTIONS 70-30-110, 70-30-111, 70-30-203, 70-30-206, AND 70-30-305, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.

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

**Section 1.** Section 70-30-110, MCA, is amended to read:

**“70-30-110. Survey and location of property to be taken — greatest public good — least private injury.** (1) In all cases in which land is required for public use, the state or its agents in charge of the public use may survey and locate the land to be used. The use must be located in the manner that will be most compatible with the greatest public good and the least private injury, and the location is subject to the provisions of 70-30-206. The state or its agents in charge of the public use may, after giving 30 days’ written notice to the owners and persons in possession of the land, enter upon the land and make examination, surveys, and maps of the land. The entry does not constitute a cause of action in favor of the owners of the land except from injuries resulting from negligence or intentional acts. Upon written request of the state or its agents, the owner shall provide the names and addresses of all persons who are in possession of the owner’s land within 14 days from receipt of the written notice. The state or its agents shall within 14 days from receipt of that information furnish written notice to the listed persons.

(2) Prior to or at the time of rejection of the final written offer as referred to in ~~70-30-111(4)~~ *70-30-111(1)(d)*, the condemnee may provide to the condemnor the condemnee’s claim of appropriate measures that the condemnee considers necessary to minimize damages to the property directly affected by the project as well as to minimize damages incurred to the remaining parcel of property.”

**Section 2.** Section 70-30-111, MCA, is amended to read:

**“70-30-111. Facts necessary to be found before condemnation.** (1) Before property can be taken, the condemnor shall show by a preponderance of the evidence that the public interest requires the taking based on the following findings:

~~(1)(a)~~ the use to which the property is to be applied is a public use pursuant to 70-30-102;

~~(2)(b)~~ the taking is necessary to the public use;

~~(3)(c)~~ if already being used for a public use, that the public use for which the property is proposed to be used is a more necessary public use;

~~(4)(d)~~ an effort to obtain the property interest sought to be taken was made by submission of a *final* written offer *prior to initiating condemnation proceedings* and the *final written offer* was rejected.

(2) *Subsection (1)(d) does not prohibit the condemnor from making further offers in an effort to obtain the property interest sought to be taken, but offers made after the final written offer is submitted pursuant to subsection (1)(d) may not be used to determine whether the condemnee prevails pursuant to 70-30-305.*



*The condemnor shall disclose to a property owner that further offers made in accordance with this subsection (2) are not considered the final written offer.*"

**Section 3.** Section 70-30-203, MCA, is amended to read:

**"70-30-203. Contents of complaint.** (1) The complaint for condemnation must contain:

(a) the name of the corporation, association, commission, or person in charge of the public use for which the property is sought to be taken, who is the plaintiff;

(b) the names of all owners, purchasers under contracts for deed, mortgagees, and lienholders of record and any other claimants of record of the property sought to be taken, if known, or a statement that they are unknown, who are the defendants;

(c) a statement of the right of the plaintiff to take the property for public use;

(d) statements of each of the facts necessary to be found in ~~70-30-111~~ 70-30-111(1);

(e) a description of each interest in real property sought to be taken, a statement of whether the property sought to be taken includes the whole or only a part of the entire parcel or tract, and a statement that the interest sought is the minimum necessary interest. All parcels lying in the county and required for the same public use may be included in the same or separate proceedings, at the option of the plaintiff, but the court may consolidate or separate them to suit the convenience of the parties.

(f) a statement of the condemnor's claim of appropriate payment for damages to the property proposed to be taken as well as to any remaining parcel of property. *The condemnor's claim of appropriate payment for damages must be the same amount as the final written offer that was rejected pursuant to the facts necessary in 70-30-111(1)(d).*

(2) If a right-of-way is sought, in addition to the items listed in subsection (1), the complaint must show the location, general route, and termini and must be accompanied with a map of the route, so far as the route is involved in the action or proceeding.

(3) (a) If a sand, stratum, or formation suitable for use as an underground natural gas storage reservoir is sought to be taken, in addition to the items listed in subsection (1), the complaint must include a description of the reservoir and of the land in which the reservoir is alleged to be contained and a description of all other property and rights sought to be taken for use in connection with the right to store natural gas in and withdraw natural gas from the reservoir.

(b) In addition, the complaint must state facts showing that:

(i) the reservoir is subject to being taken by the plaintiff;

(ii) the underground storage of natural gas in the land sought to be taken is in the public interest;

(iii) the reservoir is suitable and practicable for natural gas storage;

(iv) the plaintiff in good faith has been unable to acquire the rights sought to be taken; and

(v) ~~a statement that~~ the rights and property sought to be taken are not prohibited by law from being taken.

(c) The complaint must be accompanied by a certificate from the board of oil and gas conservation as provided in 82-10-304."

**Section 4.** Section 70-30-206, MCA, is amended to read:

**“70-30-206. Powers of court — preliminary condemnation order.** (1) In a condemnation proceeding, the court may:

(a) regulate and determine the place and manner of:

(i) making the connections and crossings and enjoying the common uses mentioned in 70-30-103(1)(e); and

(ii) occupying canyons, passes, and defiles for railroad purposes, as permitted and regulated by the laws of this state or of the United States; or

(b) subject to 70-30-104(2), limit the interest in real property sought to be taken if in the opinion of the court the interest sought is not necessary.

(2) If the court finds and concludes from the evidence presented that the public interest requires the taking of an interest in real property and that the condemnor has met the burden of proof under ~~70-30-111~~ 70-30-111(1), the court shall enter a preliminary condemnation order providing that the condemnation of the interest in real property may proceed in accordance with the provisions of this chapter.

(3) (a) If the property sought to be taken is a sand, stratum, or formation suitable for use as an underground natural gas storage reservoir and the existence and suitability of the property for that use has been proved by the condemnor based upon substantial evidence, the order of the court must direct the condemnation commissioners to determine the amount to be paid by the condemnor to each person for each person’s interest in the property sought to be taken for use as an underground natural gas storage reservoir.

(b) In addition to or in lieu of the amount paid under subsection (3)(a), the court may direct the commissioners to determine the annual rental for:

(i) the use of the underground natural gas storage reservoir;

(ii) the use of so much of the surface as is required in the operation of the reservoir and for the use in connection with the creation, operation, and maintenance of the reservoir; and

(iii) all the native gas contained in the reservoir. However, the amount to be paid for the native gas may not be less than the market value of the gas.

(4) The court shall appoint three persons, qualified and recommended as experts by the board of oil and gas conservation, to assist and advise the commissioners in determining the compensation and damages to be paid by the condemnor to each person for each person’s interest in the property sought to be taken. The fees and expenses of the experts are chargeable as costs of the proceedings to be paid by the condemnor.

(5) After a complaint as described in 70-30-203 is filed and prior to the issuance of the preliminary condemnation order, all parties shall proceed as expeditiously as possible, but without prejudicing any party’s position, with all aspects of the preliminary condemnation proceeding, including discovery and trial. The court shall give the proceedings expeditious and priority consideration. The preliminary condemnation proceeding must be tried by the court ~~sitting without a jury~~ *sitting without a jury.*”

**Section 5.** Section 70-30-305, MCA, is amended to read:

**“70-30-305. Condemnor to make offer upon appeal — award of expenses of litigation.** (1) The condemnor shall, within 30 days after an appeal is perfected from the condemnation commissioner’s award or report or not more than 60 days after the waiver of appointment of commissioners, submit to the condemnee a written final offer of judgment for the property sought to be

taken, together with the accrued necessary expenses of the condemnee. If at any time prior to 10 days before trial the condemnee serves written notice that the offer is accepted, either party may then file the offer and notice of acceptance, together with proof of service of the acceptance, and judgment must be entered. An offer not accepted is considered withdrawn and evidence of the offer is not admissible at the trial except in a proceeding to determine costs. The fact that an offer is made but not accepted does not preclude a subsequent offer.

(2) In the event of litigation and when the condemnee prevails *either by the court not allowing condemnation or by the condemnee receiving an award in excess of the final written offer of the condemnor that was rejected pursuant to the facts necessary in 70-30-111(1)(d)*, the court shall award necessary expenses of litigation to the condemnee.”

**Section 6. Saving clause.** [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

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

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

**Section 9. Applicability.** [This act] applies to complaints for condemnation filed on or after [the effective date of this act].

Approved April 30, 2013

## CHAPTER NO. 372

[HB 447]

AN ACT ESTABLISHING A STATE SCHOLARSHIP PROGRAM FOR ELIGIBLE PURPLE HEART RECIPIENTS; PROVIDING AN APPROPRIATION; AND PROVIDING AN EFFECTIVE DATE.

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

**Section 1. State scholarship for eligible purple heart recipients.** (1) There is a state scholarship program for eligible purple heart recipients. The board shall administer the program pursuant to this section.

(2) A person is eligible for the scholarship provided in subsection (3) if the person:

(a) is a recipient of the purple heart as verified by an authentic department of defense form 214 (DD 214) or other authentic military discharge form listing awards;

(b) is a resident of Montana;

(c) has been enrolled for a full academic year as a full-time or part-time student at an accredited state university or state vocational or technical school either prior to or after military service, has maintained a grade point average of at least 2.0 on a 4.0 grade point scale, and has reenrolled to continue the student's higher education at an accredited state university or state vocational or technical school.

(3) Each student who meets the criteria set forth in subsection (2) is eligible to receive a \$1,000 scholarship as provided in subsection (4).

(4) (a) The state educational institution in which the eligible student is enrolled shall verify the student's eligibility and apply to the board, on a form

prescribed by the board, for the scholarship. Except as provided in subsection (5), upon receipt of the scholarship application, the board shall pay the scholarship money to the educational institution.

(b) The educational institution shall provide the scholarship money to the eligible student in the form of a voucher that the eligible student may apply toward the cost of tuition, books, transportation, or housing.

(5) The scholarship may be paid only to the extent that funding is available. Scholarship awards must be paid in the order that the applications are received by the board.

**Section 2. Appropriation.** There is appropriated from the general fund to the department of military affairs \$50,000 for the biennium ending June 30, 2015, for the administration of the purple heart scholarship program established in [section 1].

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

**Section 4. Effective date.** [This act] is effective July 1, 2013.

Approved May 1, 2013

## CHAPTER NO. 373

[HB 464]

AN ACT GENERALLY REVISING LAWS PERTAINING TO PREVAILING WAGES; CLARIFYING THE CEILING FOR WAGE RATES AND FRINGE BENEFIT RATES; REDUCING THE NUMBER OF PREVAILING WAGE RATE DISTRICTS FROM A MAXIMUM OF 10 DISTRICTS TO A MAXIMUM OF 5 DISTRICTS; REVISING THE METHOD OF DETERMINING PREVAILING FRINGE BENEFITS; REQUIRING THE DEPARTMENT OF LABOR AND INDUSTRY TO ESTABLISH THE PREVAILING WAGE RATES FOR HEAVY CONSTRUCTION SERVICES, HIGHWAY CONSTRUCTION SERVICES, AND BUILDING CONSTRUCTION SERVICES ANNUALLY; REVISING PROVISIONS RELATED TO PREVAILING WAGES FOR HEAVY CONSTRUCTION SERVICES AND HIGHWAY CONSTRUCTION SERVICES; ESTABLISHING A METHOD FOR CALCULATING ZONE PAY OR PER DIEM; AND AMENDING SECTIONS 18-2-402, 18-2-411, 18-2-413, AND 18-2-414, MCA.

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

**Section 1.** Section 18-2-402, MCA, is amended to read:

**“18-2-402. Standard prevailing rate of wages.** (1) The commissioner may determine the standard prevailing rate of wages, *including fringe benefits*, applicable to public works contracts under this part. The commissioner shall keep and maintain copies of collective bargaining agreements and other information on which the rates are based.

(2) The provisions of this part do not apply in those instances in which the standard prevailing rate of wages is determined by federal law.

(3) Whenever this part is applicable, the standard prevailing rate of wages, *including fringe benefits*, ~~is the~~ ~~may be equal to but not greater than~~ *of the highest applicable rate of wages in the area for the particular work in question as negotiated under existing and current collective bargaining agreements or the rate determined by the applicable survey under this part.*”

**Section 2.** Section 18-2-411, MCA, is amended to read:

**“18-2-411. Creation of prevailing wage rate districts.** (1) Without taking into consideration heavy construction services and highway construction services wage rates, the commissioner shall divide the state into not more than ~~10~~ 5 prevailing wage rate districts for building construction services and nonconstruction services.

(2) In initially determining the districts, the commissioner shall:

(a) follow the rulemaking procedures in the Montana Administrative Procedure Act; and

(b) publish the reasons supporting the creation of each district.

(3) A district boundary may not be changed except for good cause and in accordance with the rulemaking procedures in the Montana Administrative Procedure Act.

(4) The presence of collective bargaining agreements in a particular area may not be the sole basis for the creation of boundaries of a district, nor may the absence of collective bargaining agreements in a particular area be the sole basis for changing the boundaries of a district.

(5) For each prevailing wage rate district established under this section, the commissioner shall determine the standard prevailing rate of wages to be paid employees, as provided in this part. The standard prevailing rate of wages for construction services, as determined by the commissioner in this subsection, must be used for calculating an apprentice’s wage, as provided in 39-6-108.”

**Section 3.** Section 18-2-413, MCA, is amended to read:

**“18-2-413. Standard prevailing rate of wages for building construction services.** (1) The department shall conduct an annual survey to calculate the standard prevailing rate of wages for building construction services using the process described in this section.

(2) The standard prevailing wage rates adopted under subsection (1) must be set for the districts established pursuant to 18-2-411.

(3) The department shall survey:

(a) electrical contractors who are licensed under Title 37, chapter 68, who perform commercial work;

(b) plumbers who are licensed under Title 37, chapter 69, whose work is performed according to commercial building codes; and

(c) construction contractors registered under Title 39, chapter 9, whose work is performed according to commercial building codes.

(4) The surveys required under subsection (3) must include those wages, including fringe benefits plus *zone pay, per diem, and* travel allowances if applicable, that are paid in the applicable district by other contractors for work of a similar character performed in that district by each craft, classification, or type of worker needed to complete a contract under this part.

(5) (a) The contractor survey must include information pertaining to the number of skilled workers employed in the contractor’s peak month of employment and the wages and *fringe* benefits paid for each craft, classification, or type of work.

(b) (i) In setting the prevailing wages from the survey for each craft, classification, or type of work, the department shall use a weighted average wage for each craft, classification, or type of work, except in those cases in which the survey shows that at least 50% of the skilled workers are receiving the same wage.

(ii) If the survey shows that at least 50% of the skilled workers are receiving the same wage, ~~that wage~~ then the higher of the collective bargaining agreement rate or the surveyed rate is the prevailing wage for that craft, classification, or type of work.

(c) (i) In setting the prevailing fringe benefits from the survey for each craft, classification, or type of work, the department shall use a weighted average fringe benefit for each craft, classification, or type of work, except in those cases in which the survey shows that at least 50% of the skilled workers are receiving fringe benefits pursuant to a collective bargaining agreement or pursuant to an employer's fringe benefit fund, plan, or program that meets the requirements of the Employment Retirement Income Security Act of 1974 or that is approved by the U.S. department of labor.

(ii) If the survey shows that at least 50% of the skilled workers are receiving fringe benefits pursuant to a collective bargaining agreement or pursuant to an employer's fringe benefit fund, plan, or program that meets the requirements of the Employment Retirement Income Security Act of 1974 or that is approved by the U.S. department of labor, the higher of fringe benefits received under collective bargaining agreements and employers' fringe benefit funds, plans, or programs is the prevailing fringe benefit for that craft, classification, or type of work.

(6) The work performed must be work of a similar character to the work performed in the applicable district unless the survey in the applicable district does not generate sufficient data. If the survey produces insufficient data, the rate may be established by the use of other information or methods that the commissioner determines fairly establish the standard prevailing rate of wages.

(7) (a) The commissioner shall establish by rule the methodology for determining the standard prevailing rate of wages. The rules must include an alternate methodology to determine the standard prevailing rate of wages whenever insufficient data is generated by the survey of contractors in the applicable district. The rules must identify the amount of data that constitutes insufficient data.

(b) The commissioner shall use an alternate methodology provided by rule to determine the standard prevailing rate of wages whenever insufficient data exists.

(c) The alternative method of determining the prevailing rate of wages must provide for review and the incorporation of data from work of a similar character, which must be based on a survey that is conducted as closely as possible to the original district.

(8) Whenever work of a similar character is not being performed in the district, the standard prevailing rate of wages, including fringe benefits and the rate of travel allowance, must be those rates established by collective bargaining agreements in effect in the applicable district for each craft, classification, or type of skilled worker needed to complete the contract."

**Section 4.** Section 18-2-414, MCA, is amended to read:

**"18-2-414. Standard prevailing rate of wages for heavy construction services and for highway construction services — definition.** (1) The department shall establish ~~from time to time~~ the standard prevailing rate of wages for heavy construction services and for highway construction services *annually*.



(2) In establishing the standard prevailing rate of wages for heavy construction services and for highway construction services, the department may either:

(a) conduct a survey of construction contractors registered under Title 39, chapter 9, who perform heavy construction services or highway construction services, *electrical contractors licensed under Title 37, chapter 68, who perform commercial work, or plumbers licensed under Title 37, chapter 69, whose work is performed according to commercial building codes*; or

(b) adopt by reference through rulemaking the rates established by the U.S. department of labor under the federal Davis-Bacon Act, 29 CFR 1, et seq., for projects in Montana; or

(c) use, as provided by rule, a combination of surveyed rates, as provided in subsection (2)(a), and rates adopted by reference, as provided in subsection (2)(b).

(3) For the purposes of this section, the term “standard prevailing rate of wages for heavy construction services and for highway construction services” means wage rates, including fringe benefits plus zone pay, *per diem*, and travel allowances, *if applicable*, that are determined and established statewide for heavy construction projects and highway construction projects. The department may define by rule the terms heavy construction projects and highway construction projects. The definitions of heavy construction projects and highway construction projects must include but are not limited to projects the same as or similar to the construction, alteration, or repair of roads, streets, highways, alleys, runways, airport runways and ramps, dams, powerhouses, canals, channels, pipelines, parking areas, utility rights-of-way, staging yards located on or off the right-of-way, or new or reopened pits that produce aggregate, asphalt, concrete, or backfill when the pit does not normally sell to the general public.”

**Section 5. Wage rates based on project classification.** (1) The contracting agency shall determine, based on the preponderance of labor hours to be worked, whether the public works construction services project is classified as a highway construction project, a heavy construction project, or a building construction project.

(2) Once the project has been classified, employees in each trade classification who are working on that project must be paid at the rate for that project classification.

**Section 6. Zone pay and per diem.** If there is not sufficient data reported to establish zone pay or per diem for a trade classification, the department may establish a zone pay or a per diem amount that reasonably approximates an applicable average zone pay or per diem rate that is payable for the trade classification.

**Section 7. Codification instruction.** [Sections 4 and 5] are intended to be codified as an integral part of Title 18, chapter 2, part 4, and the provisions of Title 18, chapter 2, part 4, apply to [sections 4 and 5].

Approved May 1, 2013

## CHAPTER NO. 374

[HB 478]

AN ACT REVISING LAWS REGARDING TRAFFICKING OF PERSONS FOR COMMERCIAL SEXUAL ACTIVITY; REVISING PROSTITUTION LAWS; REVISING CERTAIN PENALTIES; ESTABLISHING THE OFFENSES OF

SEXUAL SERVITUDE OF A CHILD AND PATRONIZING A CHILD; AMENDING SECTIONS 45-5-305, 45-5-306, 45-5-601, 45-5-602, 45-5-603, 46-18-111, 46-18-201, 46-18-203, 46-18-205, 46-18-207, 46-18-222, 46-18-231, 46-23-502, AND 46-23-1011, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE.

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

**Section 1.** Section 45-5-305, MCA, is amended to read:

**“45-5-305. Subjecting another to involuntary servitude — definitions.** (1) A person commits the offense of subjecting another to involuntary servitude if the person purposely or knowingly obtains or maintains the forced labor or services of another person by any of the following actions or by threatening any of the following actions:

- (a) causing physical harm to any person;
- (b) damaging or destroying the property of any person;
- (c) physically restraining another person;
- (d) abusing the law or legal process;
- (e) knowingly destroying, concealing, removing, confiscating, or possessing any actual or purported passport or other immigration document or any other actual or purported government identification document of another person;
- (f) blackmail; or
- (g) causing financial harm to any person or using financial control over any person.

(2) (a) Except as provided in subsection (2)(b), a person convicted of the offense of subjecting another to involuntary servitude shall be imprisoned in the state prison for a term of not more than 10 years, fined an amount not to exceed \$50,000, or both.

(b) A person convicted of the offense of subjecting another to involuntary servitude, if the violation involves aggravated kidnapping, sexual intercourse without consent, or deliberate homicide, shall be punished by life imprisonment or by imprisonment in the state prison for a term of not more than 100 years and may be fined not more than \$50,000.

(3) As used in this section part, unless the context requires otherwise, the following definitions apply:

(a) “Blackmail” means an unlawful demand of money, property, or services under threat to accuse another person of a crime or to expose any secret tending to subject a person to hatred, contempt, or ridicule.

(b) “Commercial sexual activity” means any sex act or simulated sex act, including sexually explicit performances, for which anything of value is given, promised to, or received directly or indirectly by any person.

(c) “Financial harm” includes employment contracts that violate 28-2-903, taking, receiving, reserving, or charging a rate of interest greater than is allowed by 31-1-107, and defrauding creditors as defined in 45-6-315.

(d) “Forced labor or services” means labor or services that are performed or provided by another person and are obtained or maintained through violation of subsection (1).

(e) “Labor” means work of economic or financial value.

(f) “Maintain” means to secure continued performance of labor or services, regardless of any initial agreement on the part of the victim to perform that type of service.

(f)(g) "Obtain" means to secure *the* performance of labor or services.

(g)(h) "Services" means ~~an ongoing relationship between a person and the offender in which the person performs activities under the supervision of or for the benefit of the offender~~ *acts committed at the direction of, request of, supervision of, or for the benefit of another*, including commercial sexual activity and sexually explicit performances.

(i) "*Sexually explicit performances*" means *live, public, private, photographed, recorded, or videotaped acts or simulated acts intended to sexually arouse, satisfy the sexual desires of, or appeal to the prurient interests of any person.*"

**Section 2.** Section 45-5-306, MCA, is amended to read:

**"45-5-306. Trafficking of persons for involuntary servitude.** (1) A person commits the offense of trafficking of persons for involuntary servitude if the person purposely or knowingly:

(a) recruits, entices, harbors, transports, provides, or obtains by any means another person, intending or knowing that the person will be subjected to involuntary servitude as described in 45-5-305; or

(b) benefits, financially *or* by receiving anything of value, from participation in a venture that has engaged in the offense of subjecting another to involuntary servitude as described in 45-5-305.

(2) (a) Except as provided in subsection (2)(b), a person convicted of the offense of trafficking of persons for involuntary servitude shall be imprisoned in the state prison for a term of not more than 15 years, fined an amount not to exceed \$100,000, or both.

(b) A person convicted of the offense of trafficking of persons for involuntary servitude, if the violation involves aggravated kidnapping, sexual intercourse without consent, or deliberate homicide, shall be punished by life imprisonment or by imprisonment in the state prison for a term of not more than 100 years and may be fined not more than \$100,000."

**Section 3. Sexual servitude of child.** (1) A person commits the offense of sexual servitude of a child if the person purposely or knowingly:

(a) recruits, entices, solicits, isolates, harbors, transports, provides, obtains, or maintains through any means a child for the performance of commercial sexual activity; or

(b) benefits, financially or by receiving anything of value, from participation in a venture that has engaged in the offense of sexual servitude of a child.

(2) (a) A person convicted of the offense of sexual servitude of a child, whether or not the person is aware of the child's age:

(i) shall be punished by imprisonment in a state prison for a term of 100 years. The court may not suspend execution or defer imposition of the first 25 years of a sentence of imprisonment imposed under this subsection (2)(a)(i) except as provided in 46-18-222, and during the first 25 years of imprisonment, the person is not eligible for parole.

(ii) may be fined an amount not to exceed \$50,000; and

(iii) shall be ordered to enroll in and successfully complete the educational phase and the cognitive and behavioral phase of a sexual offender treatment program provided or approved by the department of corrections.

(b) If the person is released after the mandatory minimum period of imprisonment, the person is subject to supervision by the department of

corrections for the remainder of the person's life and shall participate in the program for continuous, satellite-based monitoring provided for in 46-23-1010."

**Section 4. Patronizing a child.** (1) A person commits the offense of patronizing a child if the person purposely or knowingly engages in commercial sexual activity with a child while knowing or negligently disregarding that the child is a victim of the offense of sexual servitude of a child as provided in [section 3].

(2) (a) A person convicted of the offense of patronizing a child, whether or not the person is aware of the child's age:

(i) shall be punished by imprisonment in a state prison for a term of 100 years. The court may not suspend execution or defer imposition of the first 25 years of a sentence of imprisonment imposed under this subsection (2)(a)(i) except as provided in 46-18-222, and during the first 25 years of imprisonment, the person is not eligible for parole.

(ii) may be fined an amount not to exceed \$50,000; and

(iii) shall be ordered to enroll in and successfully complete the educational phase and the cognitive and behavioral phase of a sexual offender treatment program provided or approved by the department of corrections.

(b) If the person is released after the mandatory minimum period of imprisonment, the person is subject to supervision by the department of corrections for the remainder of the person's life and shall participate in the program for continuous, satellite-based monitoring provided for in 46-23-1010."

**Section 5.** Section 45-5-601, MCA, is amended to read:

**"45-5-601. Prostitution.** (1) A person commits the offense of prostitution if the person engages in or agrees or offers to engage in sexual intercourse with another person for compensation, whether the compensation is received or to be received or paid or to be paid.

(2) (a) A prostitute convicted of prostitution shall be fined an amount not to exceed \$500 or be imprisoned in the county jail for a term not to exceed 6 months, or both.

(b) Except as provided in subsection (3), a ~~prostitute's client~~ *patron* who is convicted of prostitution shall for the first offense be fined an amount not to exceed \$1,000 or be imprisoned for a term not to exceed 1 year, or both, and for a second or subsequent offense shall be fined an amount not to exceed \$10,000 or be imprisoned for a term not to exceed 5 years, or both.

(3) (a) If the ~~prostitute person patronized~~ was ~~12 years of age or younger a child~~ and the ~~prostitute's client~~ *patron* was 18 years of age or older at the time of the offense, *whether or not the patron was aware of the child's age*, the *patron* offender:

(i) shall be punished by imprisonment in a state prison for a term of 100 years. The court may not suspend execution or defer imposition of the first 25 years of a sentence of imprisonment imposed under this subsection (3)(a)(i) except as provided in 46-18-222, and during the first 25 years of imprisonment, the offender is not eligible for parole.

(ii) may be fined an amount not to exceed \$50,000; and

(iii) shall be ordered to enroll in and successfully complete the educational phase and the cognitive and behavioral phase of a sexual offender treatment program provided or approved by the department of corrections.

(b) If the offender is released after the mandatory minimum period of imprisonment, the offender is subject to supervision by the department of corrections for the remainder of the offender's life and shall participate in the program for continuous, satellite-based monitoring provided for in 46-23-1010."

**Section 6.** Section 45-5-602, MCA, is amended to read:

**"45-5-602. Promoting prostitution.** (1) A person commits the offense of promoting prostitution if the person purposely or knowingly commits any of the following acts:

(a) owns, controls, manages, supervises, resides in, or otherwise keeps, alone or in association with others, a house of prostitution or a prostitution business;

(b) procures an individual for a house of prostitution or a place in a house of prostitution for an individual;

(c) encourages, induces, or otherwise purposely causes another to become or remain a prostitute;

(d) solicits clients for another person who is a prostitute;

(e) procures a prostitute for a patron;

(f) transports an individual into or within this state with the purpose to promote that individual's engaging in prostitution or procures or pays for transportation with that purpose;

(g) leases or otherwise permits a place controlled by the offender, alone or in association with others, to be regularly used for prostitution or for the procurement of prostitution or fails to make reasonable effort to abate that use by ejecting the tenant, notifying law enforcement authorities, or using other legally available means; or

(h) lives in whole or in part upon the earnings of an individual engaging in prostitution, unless the person is the prostitute's minor child or other legal dependent incapable of self-support.

(2) Except as provided in subsection (3), a person convicted of promoting prostitution shall be fined an amount not to exceed \$50,000 or be imprisoned in a state prison for a term not to exceed 10 years, or both.

(3) (a) If the ~~prostitute person engaging in prostitution was 12 years of age or younger a child~~ and the ~~prostitute's client~~ patron was 18 years of age or older at the time of the offense, *whether or not the patron was aware of the child's age*, the *patron* offender:

(i) shall be punished by imprisonment in a state prison for a term of 100 years. The court may not suspend execution or defer imposition of the first 25 years of a sentence of imprisonment imposed under this subsection (3)(a)(i) except as provided in 46-18-222, and during the first 25 years of imprisonment, the offender is not eligible for parole.

(ii) may be fined an amount not to exceed \$50,000; and

(iii) shall be ordered to enroll in and successfully complete the educational phase and the cognitive and behavioral phase of a sexual offender treatment program provided or approved by the department of corrections.

(b) If the offender is released after the mandatory minimum period of imprisonment, the offender is subject to supervision by the department of corrections for the remainder of the offender's life and shall participate in the program for continuous, satellite-based monitoring provided for in 46-23-1010."

**Section 7.** Section 45-5-603, MCA, is amended to read:

**“45-5-603. Aggravated promotion of prostitution.** (1) A person commits the offense of aggravated promotion of prostitution if the person purposely or knowingly commits any of the following acts:

(a) compels another to engage in or promote prostitution;

(b) promotes prostitution of a child ~~under the age of 18 years~~, whether or not the person is aware of the child’s age;

(c) promotes the prostitution of one’s spouse, child, ward, or any person for whose care, protection, or support the person is responsible.

(2) (a) Except as provided in ~~subsections subsection (2)(b) and (2)(e)~~, a person convicted of aggravated promotion of prostitution shall be punished by:

(i) life imprisonment; or

(ii) imprisonment in a state prison for a term not to exceed 20 years or a fine in an amount not to exceed \$50,000, or both.

~~(b) Except as provided in 46-18-219 and 46-18-222, a person convicted of aggravated promotion of prostitution of a child, who at the time of the offense is under 18 years of age, shall be punished by:~~

~~(i) life imprisonment; or~~

~~(ii) imprisonment in a state prison for a term of not less than 4 years or more than 100 years or a fine in an amount not to exceed \$100,000, or both.~~

~~(e)(b) (i) If Except as provided in 46-18-219 and 46-18-222, if the prostitute person engaging in prostitution was 12 years of age or younger a child and the prostitute’s client patron was 18 years of age or older at the time of the offense, the patron offender:~~

~~(A) shall be punished by imprisonment in a state prison for a term of 100 years. The court may not suspend execution or defer imposition of the first 25 years of a sentence of imprisonment imposed under this subsection (2)(e)(i)(A) (2)(b)(i)(A) except as provided in 46-18-222, and during the first 25 years of imprisonment, the offender is not eligible for parole.~~

~~(B) may be fined an amount not to exceed \$50,000; and~~

~~(C) shall be ordered to enroll in and successfully complete the educational phase and the cognitive and behavioral phase of a sexual offender treatment program provided or approved by the department of corrections.~~

~~(ii) If the offender is released after the mandatory minimum period of imprisonment, the offender is subject to supervision by the department of corrections for the remainder of the offender’s life and shall participate in the program for continuous, satellite-based monitoring provided for in 46-23-1010.”~~

**Section 8.** Section 46-18-111, MCA, is amended to read:

**“46-18-111. Presentence investigation — when required.** (1) (a) Upon the acceptance of a plea or upon a verdict or finding of guilty to one or more felony offenses, the district court shall direct the probation officer to make a presentence investigation and report. The district court shall consider the presentence investigation report prior to sentencing.

(b) If the defendant was convicted of an offense under [section 3], [section 4], 45-5-502, 45-5-503, 45-5-504, 45-5-505, 45-5-507, 45-5-625, 45-5-627, 45-5-601(3), 45-5-602(3), or ~~45-5-603(2)(e) 45-5-603(2)(b)~~ or if the defendant was convicted under 46-23-507 and the offender was convicted of failure to register as a sexual offender pursuant to Title 46, chapter 23, part 5, the investigation must include a psychosexual evaluation of the defendant and a recommendation as to treatment of the defendant in the least restrictive environment,



considering the risk the defendant presents to the community and the defendant's needs, unless the defendant was sentenced under 46-18-219. The evaluation must be completed by a sex offender therapist who is a member of the Montana sex offender treatment association or has comparable credentials acceptable to the department of labor and industry. The psychosexual evaluation must be made available to the county attorney's office, the defense attorney, the probation and parole officer, and the sentencing judge. All costs related to the evaluation must be paid by the defendant. If the defendant is determined by the district court to be indigent, all costs related to the evaluation are the responsibility of the district court and must be paid by the county or the state, or both, under Title 3, chapter 5, part 9.

(c) When, pursuant to 46-14-311, the court has ordered a presentence investigation and a report pursuant to this section, the mental evaluation required by 46-14-311 must be attached to the presentence investigation report and becomes part of the report. The report must be made available to persons and entities as provided in 46-18-113.

(2) The court shall order a presentence investigation report unless the court makes a finding that a report is unnecessary. Unless the court makes that finding, a defendant convicted of any offense not enumerated in subsection (1) that may result in incarceration for 1 year or more may not be sentenced before a written presentence investigation report by a probation and parole officer is presented to and considered by the district court. The district court may order a presentence investigation for a defendant convicted of a misdemeanor only if the defendant was convicted of a misdemeanor that the state originally charged as a sexual or violent offense as defined in 46-23-502.

(3) The defendant shall pay to the department of corrections a \$50 fee at the time that the report is completed, unless the court determines that the defendant is not able to pay the fee within a reasonable time. The fee may be retained by the department and used to finance contracts entered into under 53-1-203(5)."

**Section 9.** Section 46-18-201, MCA, is amended to read:

**"46-18-201. Sentences that may be imposed.** (1) (a) Whenever a person has been found guilty of an offense upon a verdict of guilty or a plea of guilty or nolo contendere, a sentencing judge may defer imposition of sentence, except as otherwise specifically provided by statute, for a period:

(i) not exceeding 1 year for a misdemeanor or for a period not exceeding 3 years for a felony; or

(ii) not exceeding 2 years for a misdemeanor or for a period not exceeding 6 years for a felony if a financial obligation is imposed as a condition of sentence for either the misdemeanor or the felony, regardless of whether any other conditions are imposed.

(b) Except as provided in 46-18-222, imposition of sentence in a felony case may not be deferred in the case of an offender who has been convicted of a felony on a prior occasion, whether or not the sentence was imposed, imposition of the sentence was deferred, or execution of the sentence was suspended.

(2) Whenever a person has been found guilty of an offense upon a verdict of guilty or a plea of guilty or nolo contendere, a sentencing judge may suspend execution of sentence, except as otherwise specifically provided by statute, for a period up to the maximum sentence allowed or for a period of 6 months, whichever is greater, for each particular offense.

(3) (a) Whenever a person has been found guilty of an offense upon a verdict of guilty or a plea of guilty or nolo contendere, a sentencing judge may impose a sentence that may include:

(i) a fine as provided by law for the offense;

(ii) payment of costs, as provided in 46-18-232, or payment of costs of assigned counsel as provided in 46-8-113;

(iii) a term of incarceration, as provided in Title 45 for the offense, at a county detention center or at a state prison to be designated by the department of corrections;

(iv) commitment of:

(A) an offender not referred to in subsection (3)(a)(iv)(B) to the department of corrections, with a recommendation for placement in an appropriate correctional facility or program; however, all but the first 5 years of the commitment to the department of corrections must be suspended, except as provided in *[section 3]*, *[section 4]*, 45-5-503(4), 45-5-507(5), 45-5-601(3), 45-5-602(3), ~~45-5-603(2)(e)~~ 45-5-603(2)(b), and 45-5-625(4); or

(B) a youth transferred to district court under 41-5-206 and found guilty in the district court of an offense enumerated in 41-5-206 to the department of corrections for a period determined by the court for placement in an appropriate correctional facility or program;

(v) with the approval of the facility or program, placement of the offender in a community corrections facility or program as provided in 53-30-321;

(vi) with the approval of the prerelease center or prerelease program and confirmation by the department of corrections that space is available, placement of the offender in a prerelease center or prerelease program for a period not to exceed 1 year;

(vii) chemical treatment of sexual offenders, as provided in 45-5-512, if applicable, that is paid for by and for a period of time determined by the department of corrections, but not exceeding the period of state supervision of the person; or

(viii) any combination of subsections (2) and (3)(a)(i) through (3)(a)(vii).

(b) A court may permit a part or all of a fine to be satisfied by a donation of food to a food bank program.

(4) When deferring imposition of sentence or suspending all or a portion of execution of sentence, the sentencing judge may impose upon the offender any reasonable restrictions or conditions during the period of the deferred imposition or suspension of sentence. Reasonable restrictions or conditions imposed under subsection (1)(a) or (2) may include but are not limited to:

(a) limited release during employment hours as provided in 46-18-701;

(b) incarceration in a detention center not exceeding 180 days;

(c) conditions for probation;

(d) payment of the costs of confinement;

(e) payment of a fine as provided in 46-18-231;

(f) payment of costs as provided in 46-18-232 and 46-18-233;

(g) payment of costs of assigned counsel as provided in 46-8-113;

(h) with the approval of the facility or program, an order that the offender be placed in a community corrections facility or program as provided in 53-30-321;

(i) with the approval of the prerelease center or prerelease program and confirmation by the department of corrections that space is available, an order

that the offender be placed in a prerelease center or prerelease program for a period not to exceed 1 year;

(j) community service;

(k) home arrest as provided in Title 46, chapter 18, part 10;

(l) payment of expenses for use of a judge pro tempore or special master as provided in 3-5-116;

(m) with the approval of the department of corrections and with a signed statement from an offender that the offender's participation in the boot camp incarceration program is voluntary, an order that the offender complete the boot camp incarceration program established pursuant to 53-30-403;

(n) participation in a day reporting program provided for in 53-1-203;

(o) participation in the sobriety program provided for in Title 44, chapter 4, part 12, for a second or subsequent violation of 61-8-401 or 61-8-406;

(p) any other reasonable restrictions or conditions considered necessary for rehabilitation or for the protection of the victim or society; or

(q) any combination of the restrictions or conditions listed in subsections (4)(a) through (4)(p).

(5) In addition to any other penalties imposed, if a person has been found guilty of an offense upon a verdict of guilty or a plea of guilty or nolo contendere and the sentencing judge finds that a victim, as defined in 46-18-243, has sustained a pecuniary loss, the sentencing judge shall, as part of the sentence, require payment of full restitution to the victim, as provided in 46-18-241 through 46-18-249, whether or not any part of the sentence is deferred or suspended.

(6) In addition to any of the penalties, restrictions, or conditions imposed pursuant to subsections (1) through (5), the sentencing judge may include the suspension of the license or driving privilege of the person to be imposed upon the failure to comply with any penalty, restriction, or condition of the sentence. A suspension of the license or driving privilege of the person must be accomplished as provided in 61-5-214 through 61-5-217.

(7) In imposing a sentence on an offender convicted of a sexual or violent offense, as defined in 46-23-502, the sentencing judge may not waive the registration requirement provided in Title 46, chapter 23, part 5.

(8) If a felony sentence includes probation, the department of corrections shall supervise the offender unless the court specifies otherwise."

**Section 10.** Section 46-18-203, MCA, is amended to read:

**"46-18-203. Revocation of suspended or deferred sentence.** (1) Upon the filing of a petition for revocation showing probable cause that the offender has violated any condition of a sentence, any condition of a deferred imposition of sentence, or any condition of supervision after release from imprisonment imposed pursuant to *[section 3]*, *[section 4]*, 45-5-503(4), 45-5-507(5), 45-5-601(3), 45-5-602(3), ~~45-5-603(2)(e)~~ *45-5-603(2)(b)*, or 45-5-625(4), the judge may issue an order for a hearing on revocation. The order must require the offender to appear at a specified time and place for the hearing and be served by delivering a copy of the petition and order to the offender personally. The judge may also issue an arrest warrant directing any peace officer or a probation and parole officer to arrest the offender and bring the offender before the court.

(2) The petition for a revocation must be filed with the sentencing court either before the period of suspension or deferral has begun or during the period of suspension or deferral but not after the period has expired. Expiration of the

period of suspension or deferral after the petition is filed does not deprive the court of its jurisdiction to rule on the petition.

(3) The provisions pertaining to bail, as set forth in Title 46, chapter 9, are applicable to persons arrested pursuant to this section.

(4) Without unnecessary delay, the offender must be brought before the judge, and the offender must be advised of:

(a) the allegations of the petition;

(b) the opportunity to appear and to present evidence in the offender's own behalf;

(c) the opportunity to question adverse witnesses; and

(d) the right to be represented by counsel at the revocation hearing pursuant to Title 46, chapter 8, part 1.

(5) A hearing is required before a suspended or deferred sentence can be revoked or the terms or conditions of the sentence can be modified unless:

(a) the offender admits the allegations and waives the right to a hearing; or

(b) the relief to be granted is favorable to the offender and the prosecutor, after having been given notice of the proposed relief and a reasonable opportunity to object, has not objected. An extension of the term of probation is not favorable to the offender for the purposes of this subsection (5)(b).

(6) (a) At the hearing, the prosecution shall prove, by a preponderance of the evidence, that there has been a violation of:

(i) the terms and conditions of the suspended or deferred sentence; or

(ii) a condition of supervision after release from imprisonment imposed pursuant to *[section 3]*, *[section 4]*, 45-5-503(4), 45-5-507(5), 45-5-601(3), 45-5-602(3), ~~45-5-603(2)(e)~~ *45-5-603(2)(b)*, or 45-5-625(4).

(b) However, when a failure to pay restitution is the basis for the petition, the offender may excuse the violation by showing sufficient evidence that the failure to pay restitution was not attributable to a failure on the offender's part to make a good faith effort to obtain sufficient means to make the restitution payments as ordered.

(7) (a) If the judge finds that the offender has violated the terms and conditions of the suspended or deferred sentence, the judge may:

(i) continue the suspended or deferred sentence without a change in conditions;

(ii) continue the suspended sentence with modified or additional terms and conditions;

(iii) revoke the suspension of sentence and require the offender to serve either the sentence imposed or any sentence that could have been imposed that does not include a longer imprisonment or commitment term than the original sentence; or

(iv) if the sentence was deferred, impose any sentence that might have been originally imposed.

(b) If a suspended or deferred sentence is revoked, the judge shall consider any elapsed time and either expressly allow all or part of the time as a credit against the sentence or reject all or part of the time as a credit. The judge shall state the reasons for the judge's determination in the order. Credit must be allowed for time served in a detention center or home arrest time already served.

(c) If a judge finds that an offender has not violated a term or condition of a suspended or deferred sentence, that judge is not prevented from setting, modifying, or adding conditions of probation as provided in 46-23-1011.

(8) If the judge finds that the prosecution has not proved, by a preponderance of the evidence, that there has been a violation of the terms and conditions of the suspended or deferred sentence, the petition must be dismissed and the offender, if in custody, must be immediately released.

(9) The provisions of this section apply to any offender whose suspended or deferred sentence is subject to revocation regardless of the date of the offender's conviction and regardless of the terms and conditions of the offender's original sentence."

**Section 11.** Section 46-18-205, MCA, is amended to read:

**"46-18-205. Mandatory minimum sentences — restrictions on deferral or suspension.** (1) If the victim was less than 16 years of age, the imposition or execution of the first 30 days of a sentence of imprisonment imposed under the following sections may not be deferred or suspended and the provisions of 46-18-222 do not apply to the first 30 days of the imprisonment:

- (a) 45-5-503, sexual intercourse without consent;
- (b) 45-5-504, indecent exposure;
- (c) 45-5-505, deviate sexual conduct; or
- (d) 45-5-507, incest.

(2) Except as provided in 45-9-202 and 46-18-222, the imposition or execution of the first 2 years of a sentence of imprisonment imposed under the following sections may not be deferred or suspended:

- (a) 45-5-103(4), mitigated deliberate homicide;
- (b) 45-5-202, aggravated assault;
- (c) 45-5-302(2), kidnapping;
- (d) 45-5-303(2), aggravated kidnapping;
- (e) 45-5-401(2), robbery;
- (f) 45-5-502(3), sexual assault;
- (g) 45-5-503(2) and (3), sexual intercourse without consent;
- (h) 45-5-603, aggravated promotion of prostitution;
- (i) 45-9-101(2), (3), and (5)(d), criminal distribution of dangerous drugs;
- (j) 45-9-102(4), criminal possession of dangerous drugs; and
- (k) 45-9-103(2), criminal possession with intent to distribute dangerous drugs.

(3) Except as provided in 46-18-222, the imposition or execution of the first 10 years of a sentence of imprisonment imposed under 45-5-102, deliberate homicide, may not be deferred or suspended.

(4) The provisions of this section do not apply to sentences imposed pursuant to [section 3], [section 4], 45-5-503(4), 45-5-507(5), 45-5-601(3), 45-5-602(3), ~~45-5-603(2)(e)~~ 45-5-603(2)(b), or 45-5-625(4)."

**Section 12.** Section 46-18-207, MCA, is amended to read:

**"46-18-207. Sexual offender treatment.** (1) Upon sentencing a person convicted of a sexual offense, as defined in 46-23-502, the court shall designate the offender as a level 1, 2, or 3 offender pursuant to 46-23-509.

(2) (a) Except as provided in subsection (2)(b), the court shall order an offender convicted of a sexual offense, as defined in 46-23-502, except an offense

under 45-5-301 through 45-5-303, and sentenced to imprisonment in a state prison to:

(i) enroll in and successfully complete the educational phase of the prison's sexual offender treatment program;

(ii) if the person has been or will be designated as a level 3 offender pursuant to 46-23-509, enroll in and successfully complete the cognitive and behavioral phase of the prison's sexual offender treatment program; and

(iii) if the person is sentenced pursuant to *[section 3]*, *[section 4]*, 45-5-503(4), 45-5-507(5), 45-5-601(3), 45-5-602(3), ~~45-5-603(2)(e)~~ 45-5-603(2)(b), or 45-5-625(4) and is released on parole, remain in an outpatient sex offender treatment program for the remainder of the person's life.

(b) A person who has been sentenced to life imprisonment without possibility of release may not participate in treatment provided pursuant to this section.

(3) A person who has been ordered to enroll in and successfully complete a phase of a state prison's sexual offender treatment program is not eligible for parole unless that phase of the program has been successfully completed as certified by a sexual offender evaluator to the board of pardons and parole.

(4) (a) Except for an offender sentenced pursuant to *[section 3]*, *[section 4]*, 45-5-503(4), 45-5-507(5), 45-5-601(3), 45-5-602(3), ~~45-5-603(2)(e)~~ 45-5-603(2)(b), or 45-5-625(4), during an offender's term of commitment to the department of corrections or a state prison, the department may place the person in a residential sexual offender treatment program approved by the department under 53-1-203.

(b) If the person successfully completes a residential sexual offender treatment program approved by the department of corrections, the remainder of the term must be served on probation unless the department petitions the sentencing court to amend the original sentencing judgment.

(5) If, following a conviction for a sexual offense as defined in 46-23-502, any portion of a person's sentence is suspended, during the suspended portion of the sentence the person:

(a) shall abide by the standard conditions of probation established by the department of corrections;

(b) shall pay the costs of imprisonment, probation, and any sexual offender treatment if the person is financially able to pay those costs;

(c) may have no contact with the victim or the victim's immediate family unless approved by the victim or the victim's parent or guardian, the person's therapists, and the person's probation officer;

(d) shall comply with all requirements and conditions of sexual offender treatment as directed by the person's sex offender therapist;

(e) may not enter an establishment where alcoholic beverages are sold for consumption on the premises or where gambling takes place;

(f) may not consume alcoholic beverages;

(g) shall enter and remain in an aftercare program as directed by the person's probation officer;

(h) shall submit to random or routine drug and alcohol testing;

(i) may not possess pornographic material or access pornography through the internet; and

(j) at the discretion of the probation and parole officer, may be subject to electronic monitoring or continuous satellite monitoring.



(6) The sentencing of a sexual offender is subject to 46-18-202(2) and 46-18-219.

(7) The sentencing court may, upon petition by the department of corrections, modify a sentence of a sexual offender to impose any part of a sentence that was previously suspended.”

**Section 13.** Section 46-18-222, MCA, is amended to read:

**“46-18-222. Exceptions to mandatory minimum sentences, restrictions on deferred imposition and suspended execution of sentence, and restrictions on parole eligibility.** Mandatory minimum sentences prescribed by the laws of this state, mandatory life sentences prescribed by 46-18-219, the restrictions on deferred imposition and suspended execution of sentence prescribed by 46-18-201(1)(b), 46-18-205, 46-18-221(3), 46-18-224, and 46-18-502(3), and restrictions on parole eligibility do not apply if:

(1) the offender was less than 18 years of age at the time of the commission of the offense for which the offender is to be sentenced;

(2) the offender’s mental capacity, at the time of the commission of the offense for which the offender is to be sentenced, was significantly impaired, although not so impaired as to constitute a defense to the prosecution. However, a voluntarily induced intoxicated or drugged condition may not be considered an impairment for the purposes of this subsection.

(3) the offender, at the time of the commission of the offense for which the offender is to be sentenced, was acting under unusual and substantial duress, although not such duress as would constitute a defense to the prosecution;

(4) the offender was an accomplice, the conduct constituting the offense was principally the conduct of another, and the offender’s participation was relatively minor;

(5) in a case in which the threat of bodily injury or actual infliction of bodily injury is an actual element of the crime, no serious bodily injury was inflicted on the victim unless a weapon was used in the commission of the offense; or

(6) the offense was committed under [section 3], [section 4], 45-5-502(3), 45-5-503(4), 45-5-507(5), 45-5-601(3), 45-5-602(3), ~~45-5-603(2)(e)~~ 45-5-603(2)(b), or 45-5-625(4) and the judge determines, based on the findings contained in a sexual offender evaluation report prepared by a qualified sexual offender evaluator pursuant to the provisions of 46-23-509, that treatment of the offender while incarcerated, while in a residential treatment facility, or while in a local community affords a better opportunity for rehabilitation of the offender and for the ultimate protection of the victim and society, in which case the judge shall include in its judgment a statement of the reasons for its determination.”

**Section 14.** Section 46-18-231, MCA, is amended to read:

**“46-18-231. Fines in felony and misdemeanor cases.** (1) (a) Except as provided in subsection (1)(b), whenever, upon a verdict of guilty or a plea of guilty or nolo contendere, an offender has been found guilty of an offense for which a felony penalty of imprisonment could be imposed, the sentencing judge may, in lieu of or in addition to a sentence of imprisonment, impose a fine only in accordance with subsection (3).

(b) For those crimes for which penalties are provided in the following sections, a fine may be imposed in accordance with subsection (3) in addition to a sentence of imprisonment:

(i) 45-5-103(4), mitigated deliberate homicide;

(ii) 45-5-202, aggravated assault;

- (iii) 45-5-213, assault with a weapon;
- (iv) 45-5-302(2), kidnapping;
- (v) 45-5-303(2), aggravated kidnapping;
- (vi) *[section 3] or [section 4], sexual servitude of a child or patronizing a child;*
- ~~(vi)~~(vii) 45-5-401(2), robbery;
- ~~(vii)~~(viii) 45-5-502(3), sexual assault when the victim is less than 16 years old and the offender is 3 or more years older than the victim or the offender inflicts bodily injury in the course of committing the sexual assault;
- ~~(viii)~~(ix) 45-5-503(2) through (4), sexual intercourse without consent;
- ~~(ix)~~(x) 45-5-507(5), incest when the victim is 12 years of age or younger and the offender is 18 years of age or older at the time of the offense;
- ~~(x)~~(xi) 45-5-601(3), 45-5-602(3), or ~~45-5-603(2)~~(e) *45-5-603(2)(b)*, prostitution, promotion of prostitution, or aggravated promotion of prostitution when the prostitute was 12 years of age or younger *person patronized or engaging in prostitution was a child* and the prostitute's client patron was 18 years of age or older at the time of the offense;
- ~~(xi)~~(xii) 45-5-625(4), sexual abuse of children;
- ~~(xii)~~(xiii) 45-9-101(2), (3), and (5)(d), criminal possession with intent to distribute a narcotic drug, criminal possession with intent to distribute a dangerous drug included in Schedule I or Schedule II, or other criminal possession with intent to distribute a dangerous drug;
- ~~(xiii)~~(xiv) 45-9-102(4), criminal possession of an opiate;
- ~~(xiv)~~(xv) 45-9-103(2), criminal possession of an opiate with an intent to distribute; and
- ~~(xv)~~(xvi) 45-9-109, criminal possession with intent to distribute dangerous drugs on or near school property.

(2) Whenever, upon a verdict of guilty or a plea of guilty or nolo contendere, an offender has been found guilty of an offense for which a misdemeanor penalty of a fine could be imposed, the sentencing judge may impose a fine only in accordance with subsection (3).

(3) The sentencing judge may not sentence an offender to pay a fine unless the offender is or will be able to pay the fine. In determining the amount and method of payment, the sentencing judge shall take into account the nature of the crime committed, the financial resources of the offender, and the nature of the burden that payment of the fine will impose.

(4) Any fine levied under this section in a felony case shall be in an amount fixed by the sentencing judge not to exceed \$50,000."

**Section 15.** Section 46-23-502, MCA, is amended to read:

**"46-23-502. Definitions.** As used in 46-18-255 and this part, the following definitions apply:

(1) "Department" means the department of corrections provided for in 2-15-2301.

(2) "Mental abnormality" means a congenital or acquired condition that affects the mental, emotional, or volitional capacity of a person in a manner that predisposes the person to the commission of one or more sexual offenses to a degree that makes the person a menace to the health and safety of other persons.

(3) "Municipality" means an entity that has incorporated as a city or town.

(4) "Personality disorder" means a personality disorder as defined in the fourth edition of the Diagnostic and Statistical Manual of Mental Disorders adopted by the American psychiatric association.

(5) "Predatory sexual offense" means a sexual offense committed against a stranger or against a person with whom a relationship has been established or furthered for the primary purpose of victimization.

(6) "Registration agency" means:

(a) if the offender resides in a municipality, the police department of that municipality; or

(b) if the offender resides in a place other than a municipality, the sheriff's office of the county in which the offender resides.

(7) (a) "Residence" means the location at which a person regularly resides, regardless of the number of days or nights spent at that location, that can be located by a street address, including a house, apartment building, motel, hotel, or recreational or other vehicle.

(b) The term does not mean a homeless shelter.

(8) "Sexual offender evaluator" means a person qualified under rules established by the department to conduct sexual offender and sexually violent predator evaluations.

(9) "Sexual offense" means:

(a) any violation of or attempt, solicitation, or conspiracy to commit a violation of 45-5-301 (if the victim is less than 18 years of age and the offender is not a parent of the victim), 45-5-302 (if the victim is less than 18 years of age and the offender is not a parent of the victim), 45-5-303 (if the victim is less than 18 years of age and the offender is not a parent of the victim), [section 3], [section 4], 45-5-502(3) (if the victim is less than 16 years of age and the offender is 3 or more years older than the victim), 45-5-503, 45-5-504(1) (if the victim is under 18 years of age and the offender is 18 years of age or older), 45-5-504(2)(c), 45-5-507 (if the victim is under 18 years of age and the offender is 3 or more years older than the victim or if the victim is 12 years of age or younger and the offender is 18 years of age or older at the time of the offense), 45-5-601(3), 45-5-602(3), 45-5-603(1)(b) or ~~(2)(e)~~ (2)(b), or 45-5-625; or

(b) any violation of a law of another state, a tribal government, or the federal government that is reasonably equivalent to a violation listed in subsection (9)(a) or for which the offender was required to register as a sexual offender after an adjudication or conviction.

(10) "Sexual or violent offender" means a person who has been convicted of or, in youth court, found to have committed or been adjudicated for a sexual or violent offense.

(11) "Sexually violent predator" means a person who:

(a) has been convicted of or, in youth court, found to have committed or been adjudicated for a sexual offense and who suffers from a mental abnormality or a personality disorder that makes the person likely to engage in predatory sexual offenses; or

(b) has been convicted of a sexual offense against a victim 12 years of age or younger and the offender is 18 years of age or older.

(12) "Transient" means an offender who has no residence.

(13) "Violent offense" means:

(a) any violation of or attempt, solicitation, or conspiracy to commit a violation of 45-5-102, 45-5-103, 45-5-202, 45-5-206 (third or subsequent offense),

45-5-210(1)(b), (1)(c), or (1)(d), 45-5-212, 45-5-213, 45-5-302 (if the victim is not a minor), 45-5-303 (if the victim is not a minor), 45-5-401, 45-6-103, or 45-9-132; or

(b) any violation of a law of another state, a tribal government, or the federal government reasonably equivalent to a violation listed in subsection (13)(a).”

**Section 16.** Section 46-23-1011, MCA, is amended to read:

**“46-23-1011. Supervision on probation.** (1) The department shall supervise probationers during their probation period, including supervision after release from imprisonment imposed pursuant to *[section 3]*, *[section 4]*, 45-5-503(4), 45-5-507(5), 45-5-601(3), 45-5-602(3), ~~45-5-603(2)(e)~~ *45-5-603(2)(b)*, or 45-5-625(4), in accord with the conditions set by a sentencing judge. If the sentencing judge did not set conditions of probation at the time of sentencing, the court shall, at the request of the department, hold a hearing and set conditions of probation. The probationer must be present at the hearing. The probationer has the right to counsel as provided in chapter 8 of this title.

(2) A copy of the conditions of probation must be signed by the probationer. The department may require a probationer to waive extradition for the probationer’s return to Montana.

(3) The probation and parole officer shall regularly advise and consult with the probationer to encourage the probationer to improve the probationer’s condition and conduct and shall inform the probationer of the restoration of rights on successful completion of the sentence.

(4) (a) The probation and parole officer may recommend and a judge may modify or add any condition of probation or suspension of sentence at any time.

(b) The probation and parole officer shall provide the county attorney in the sentencing jurisdiction with a report that identifies the conditions of probation and the reason why the officer believes that the judge should modify or add the conditions.

(c) The county attorney may file a petition requesting that the court modify or add conditions as requested by the probation and parole officer.

(d) The court may grant the petition if the probationer does not object. If the probationer objects to the petition, the court shall hold a hearing pursuant to the provisions of 46-18-203.

(e) Except as they apply to supervision after release from imprisonment imposed pursuant to *[section 3]*, *[section 4]*, 45-5-503(4), 45-5-507(5), 45-5-601(3), 45-5-602(3), ~~45-5-603(2)(e)~~ *45-5-603(2)(b)*, or 45-5-625(4), the provisions of 46-18-203(7)(a)(ii) do not apply to this section.

(f) The probationer shall sign a copy of new or modified conditions of probation. The court may waive or modify a condition of restitution only as provided in 46-18-246.

(5) (a) Upon recommendation of the probation and parole officer, a judge may conditionally discharge a probationer from supervision before expiration of the probationer’s sentence if:

(i) the judge determines that a conditional discharge from supervision:

(A) is in the best interests of the probationer and society; and

(B) will not present unreasonable risk of danger to the victim of the offense; and

(ii) the offender has paid all restitution and court-ordered financial obligations in full.

(b) Subsection (5)(a) does not prohibit a judge from revoking the order suspending execution or deferring imposition of sentence, as provided in

46-18-203, for a probationer who has been conditionally discharged from supervision.

(c) If the department certifies to the sentencing judge that the workload of a district probation and parole office has exceeded the optimum workload for the district over the preceding 60 days, the judge may not place an offender on probation under supervision by that district office unless the judge grants a conditional discharge to a probationer being supervised by that district office. The department may recommend probationers to the judge for conditional discharge. The judge may accept or reject the recommendations of the department. The department shall determine the optimum workload for each district probation and parole office.”

**Section 17. Codification instruction.** [Sections 3 and 4] are intended to be codified as an integral part of Title 45, chapter 5, part 3, and the provisions of Title 45, chapter 5, part 3, apply to [sections 3 and 4].

**Section 18. Effective date.** [This act] is effective July 1, 2013.

**Section 19. Applicability.** [This act] applies to offenses committed on or after [the effective date of this act].

Approved May 1, 2013

## CHAPTER NO. 375

[HB 524]

AN ACT REVISING THE REQUIREMENT THAT RETAIL LICENSES FOR SELLING BEER OR WINE FOR OFF-PREMISES CONSUMPTION BE OPERATED AS A BONA FIDE GROCERY STORE OR A DRUGSTORE LICENSED AS A PHARMACY; AND AMENDING SECTION 16-4-115, MCA.

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

**Section 1.** Section 16-4-115, MCA, is amended to read:

**“16-4-115. Beer and wine licenses for off-premises consumption.**

(1) A retail license to sell beer or table wine, or both, in the original packages for off-premises consumption may be issued only to a person, firm, or corporation that is approved by the department as a person, firm, or corporation qualified to sell beer or table wine, or both, ~~and whose premises proposed for licensing are operated as a bona fide grocery store or a drugstore licensed as a pharmacy~~ *If the premises proposed for licensing are operated in conjunction with another business, that business must be a grocery store or drugstore licensed as a pharmacy.* The number of licenses that the department may issue is not limited by the provisions of 16-4-105 but must be determined by the department in the exercise of its sound discretion, and the department may in the exercise of its sound discretion grant or deny an application for any license or suspend or revoke any license for cause.

(2) Upon receipt of a completed application for a license under this section, accompanied by the necessary license fee as provided in 16-4-501, the department shall request that the department of justice make a background investigation of all matters relating to the application.

(3) Based on the results of the investigation or in exercising its sound discretion as provided in subsection (1), the department shall determine whether:

(a) the applicant is qualified to receive a license;

(b) the applicant's premises are suitable for the carrying on of the business; and

(c) the requirements of this code and the rules promulgated by the department are met and complied with.

(4) License applications submitted under this section are not subject to the provisions of 16-4-203 and 16-4-207.

(5) If the premises proposed for licensing under this section are a new or remodeled structure, the department may issue a conditional license prior to completion of the premises upon reasonable evidence that the premises will be suitable for the carrying on of business ~~as a bona fide grocery store or a drug store licensed as a pharmacy.~~

Approved April 30, 2013

## CHAPTER NO. 376

[HB 626]

AN ACT IMPLEMENTING PROVISIONS OF THE GENERAL APPROPRIATIONS ACT BY INCREASING THE PERCENTAGE OF MOTOR VEHICLE REVENUE DEPOSITED IN THE STATE GENERAL FUND TO BE ALLOCATED TO VETERANS' ACCOUNTS; AMENDING SECTION 15-1-122, MCA; AND PROVIDING AN EFFECTIVE DATE.

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

**Section 1.** Section 15-1-122, MCA, is amended to read:

**"15-1-122. Fund transfers.** (1) There is transferred from the state general fund to the adoption services account, provided for in 42-2-105, a base amount of \$59,209, and the amount of the transfer must be increased by 10% in each succeeding fiscal year.

(2) For each fiscal year, there is transferred from the state general fund to the accounts, entities, or recipients indicated the following amounts:

(a) to the motor vehicle recycling and disposal program provided for in Title 75, chapter 10, part 5, 1.48% of the motor vehicle revenue deposited in the state general fund in each fiscal year. The amount of 9.48% of the allocation in each fiscal year must be used for the purpose of reimbursing the hired removal of abandoned vehicles. Any portion of the allocation not used for abandoned vehicle removal reimbursement must be used as provided in 75-10-532.

(b) to the noxious weed state special revenue account provided for in 80-7-816, 1.50% of the motor vehicle revenue deposited in the state general fund in each fiscal year;

(c) to the department of fish, wildlife, and parks:

(i) 0.46% of the motor vehicle revenue deposited in the state general fund, with the applicable percentage to be:

(A) used to:

(I) acquire and maintain pumpout equipment and other boat facilities, 4.8% in each fiscal year;

(II) administer and enforce the provisions of Title 23, chapter 2, part 5, 19.1% in each fiscal year;

(III) enforce the provisions of 23-2-804, 11.1% in each fiscal year; and

(IV) develop and implement a comprehensive program and to plan appropriate off-highway vehicle recreational use, 16.7% in each fiscal year; and



(B) deposited in the state special revenue fund established in 23-1-105 in an amount equal to 48.3% in each fiscal year;

(ii) 0.10% of the motor vehicle revenue deposited in the state general fund in each fiscal year, with 50% of the amount to be used for enforcing the purposes of 23-2-601, 23-2-602, 23-2-611, 23-2-614 through 23-2-618, 23-2-621, 23-2-622, 23-2-631 through 23-2-635, and 23-2-641 through 23-2-644 and 50% of the amount designated for use in the development, maintenance, and operation of snowmobile facilities; and

(iii) 0.16% of the motor vehicle revenue deposited in the state general fund in each fiscal year to be deposited in the motorboat account to be used as provided in 23-2-533;

(d) ~~0.64%~~ 0.81% of the motor vehicle revenue deposited in the state general fund in each fiscal year, with 24.55% to be deposited in the state veterans' cemetery account provided for in 10-2-603 and with 75.45% to be deposited in the veterans' services account provided for in 10-2-112(1);

(e) 0.30% of the motor vehicle revenue deposited in the state general fund in each fiscal year for deposit in the state special revenue fund to the credit of the senior citizens and persons with disabilities transportation services account provided for in 7-14-112; and

(f) to the search and rescue account provided for in 10-3-801, 0.04% of the motor vehicle revenue deposited in the state general fund in each fiscal year.

(3) The amount of \$200,000 is transferred from the state general fund to the livestock loss reduction and mitigation restricted state special revenue account provided for in 81-1-112 in each fiscal year.

(4) For the purposes of this section, "motor vehicle revenue deposited in the state general fund" means revenue received from:

(a) fees for issuing a motor vehicle title paid pursuant to 61-3-203;

(b) fees, fees in lieu of taxes, and taxes for vehicles, vessels, and snowmobiles registered or reregistered pursuant to 61-3-321 and 61-3-562;

(c) GVW fees for vehicles registered for licensing pursuant to Title 61, chapter 3, part 3; and

(d) all money collected pursuant to 15-1-504(3).

(5) The amounts transferred from the general fund to the designated recipient must be appropriated as state special revenue in the general appropriations act for the designated purposes."

**Section 2. Effective date.** [This act] is effective July 1, 2013.

Approved May 1, 2013

## CHAPTER NO. 377

[SB 196]

AN ACT LIMITING THE USE OF UNMANNED AERIAL VEHICLES BY LAW ENFORCEMENT; AND PROHIBITING THE USE OF UNLAWFULLY OBTAINED INFORMATION AS EVIDENCE IN COURT.

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

**Section 1. Limitations on unmanned aerial vehicles.** (1) In any prosecution or proceeding within the state of Montana, information from an unmanned aerial vehicle is not admissible as evidence unless the information was obtained:

(a) pursuant to the authority of a search warrant; or  
(b) in accordance with judicially recognized exceptions to the warrant requirement.

(2) Information obtained from the operation of an unmanned aerial vehicle may not be used in an affidavit of probable cause in an effort to obtain a search warrant unless the information was obtained under the circumstances described in subsection (1)(a) or (1)(b) or was obtained through the monitoring of public lands or international borders.

(3) For the purposes of this section, “unmanned aerial vehicle” means an aircraft that is operated without direct human intervention from on or within the aircraft. The term does not include satellites.

**Section 2. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 46, chapter 5, part 1, and the provisions of Title 46, chapter 5, part 1, apply to [section 1].

Approved May 1, 2013

## CHAPTER NO. 378

[SB 198]

AN ACT PROVIDING FOR INCREASED PENALTIES FOR ASSAULT ON A MINOR UNDER 36 MONTHS OF AGE; AMENDING SECTIONS 45-5-212 AND 46-18-111, MCA; AND PROVIDING AN APPLICABILITY DATE.

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

**Section 1.** Section 45-5-212, MCA, is amended to read:

**“45-5-212. Assault on minor.** (1) A person commits the offense of assault on a minor if the person commits an offense under 45-5-201, and at the time of the offense, the victim is under 14 years of age and the offender is 18 years of age or older.

(2) (a) *Except as provided in subsection (2)(b) or (2)(c), a* A person convicted of assault on a minor shall be imprisoned in a state prison for a term not to exceed 5 years or be fined not more than \$50,000, or both.

(b) *If, at the time of the offense the victim is under 36 months of age, a person convicted of assault on a minor:*

(i) *for a first offense under this subsection (2)(b) shall be imprisoned in a state prison for a term not to exceed 10 years or be fined not more than \$50,000, or both; or*

(ii) *for a second or subsequent offense under this subsection (2)(b) shall be imprisoned in a state prison for a term not to exceed 20 years or be fined not more than \$50,000, or both.*

(c) *If, at the time of the offense the victim is under 36 months of age, a person convicted of assault on a minor that resulted in serious bodily injury to the victim:*

(i) *for a first offense under this subsection (2)(c) shall be imprisoned in a state prison for a term not to exceed 20 years or be fined not more than \$50,000, or both; or*

(ii) *for a second or subsequent offense under this subsection (2)(c) shall be imprisoned in a state prison for a term not to exceed 40 years or be fined not more than \$50,000, or both.*

*(3) An offender convicted of an offense under subsection (2)(b) or (2)(c) shall pay for and complete a counseling assessment with a focus on violence, controlling behavior, dangerousness, and chemical dependency and complete all recommendations for counseling, referrals, attendance at psychoeducational groups, or treatment, including any indicated chemical dependency treatment, made by the counseling provider. The counseling provider must be approved by the court and be a person licensed under Title 37, chapter 17, 22, or 23, or a professional person as defined in 53-21-102. The offender shall complete a minimum of 40 hours of counseling.*

**Section 2.** Section 46-18-111, MCA, is amended to read:

**“46-18-111. Presentence investigation — when required.** (1) (a) Upon the acceptance of a plea or upon a verdict or finding of guilty to one or more felony offenses, the district court shall direct the probation officer to make a presentence investigation and report. The district court shall consider the presentence investigation report prior to sentencing.

(b) If the defendant was convicted of an offense under 45-5-502, 45-5-503, 45-5-504, 45-5-505, 45-5-507, 45-5-625, 45-5-627, 45-5-601(3), 45-5-602(3), or 45-5-603(2)(c) or if the defendant was convicted under 46-23-507 and the offender was convicted of failure to register as a sexual offender pursuant to Title 46, chapter 23, part 5, the investigation must include a psychosexual evaluation of the defendant and a recommendation as to treatment of the defendant in the least restrictive environment, considering the risk the defendant presents to the community and the defendant’s needs, unless the defendant was sentenced under 46-18-219. The evaluation must be completed by a sex offender therapist who is a member of the Montana sex offender treatment association or has comparable credentials acceptable to the department of labor and industry. The psychosexual evaluation must be made available to the county attorney’s office, the defense attorney, the probation and parole officer, and the sentencing judge. All costs related to the evaluation must be paid by the defendant. If the defendant is determined by the district court to be indigent, all costs related to the evaluation are the responsibility of the district court and must be paid by the county or the state, or both, under Title 3, chapter 5, part 9.

*(c) If the defendant was convicted of an offense under 45-5-212(2)(b) or (2)(c), the investigation may include a mental health evaluation of the defendant and a recommendation as to treatment of the defendant in the least restrictive environment, considering the risk the defendant presents to the community and the defendant’s needs. The evaluation must be completed by a qualified psychiatrist, licensed clinical psychologist, advanced practice registered nurse, or other professional with comparable credentials acceptable to the department of labor and industry. The mental health evaluation must be made available to the county attorney’s office, the defense attorney, the probation and parole officer, and the sentencing judge. All costs related to the evaluation must be paid by the defendant. If the defendant is determined by the district court to be indigent, all costs related to the evaluation are the responsibility of the district court and must be paid by the county or the state, or both, under Title 3, chapter 5, part 9.*

~~(e)~~(d) When, pursuant to 46-14-311, the court has ordered a presentence investigation and a report pursuant to this section, the mental evaluation required by 46-14-311 must be attached to the presentence investigation report and becomes part of the report. The report must be made available to persons and entities as provided in 46-18-113.

(2) The court shall order a presentence investigation report unless the court makes a finding that a report is unnecessary. Unless the court makes that finding, a defendant convicted of any offense not enumerated in subsection (1) that may result in incarceration for 1 year or more may not be sentenced before a written presentence investigation report by a probation and parole officer is presented to and considered by the district court. The district court may order a presentence investigation for a defendant convicted of a misdemeanor only if the defendant was convicted of a misdemeanor that the state originally charged as a sexual or violent offense as defined in 46-23-502.

(3) The defendant shall pay to the department of corrections a \$50 fee at the time that the report is completed, unless the court determines that the defendant is not able to pay the fee within a reasonable time. The fee may be retained by the department and used to finance contracts entered into under 53-1-203(5).”

**Section 3. Applicability.** [This act] applies to proceedings begun after [the effective date of this act].

Approved May 1, 2013

## CHAPTER NO. 379

[SB 324]

AN ACT GENERALLY REVISING SUBDIVISION LAWS RELATED TO LEASE OR RENT; PROVIDING FOR THE REGULATION OF BUILDINGS CREATED FOR LEASE OR RENT ON A SINGLE TRACT; PROVIDING EXEMPTIONS FROM REVIEW FOR CERTAIN BUILDINGS; REQUIRING CERTAIN BUILDINGS CREATED FOR LEASE OR RENT TO BE REVIEWED BY THE DEPARTMENT OF ENVIRONMENTAL QUALITY OR LOCAL REVIEWING AUTHORITY FOR SANITATION COMPLIANCE; AUTHORIZING A LOCAL GOVERNMENT TO REVIEW THE CREATION OF BUILDINGS FOR LEASE OR RENT IN CERTAIN CASES; PROVIDING MINIMUM REQUIREMENTS FOR LOCAL GOVERNMENT REGULATIONS; AUTHORIZING THE ADOPTION OF ADDITIONAL CRITERIA FOR THE LOCAL REVIEW OF CERTAIN BUILDINGS; PROVIDING DEFINITIONS; PROVIDING PENALTIES; REVISING LOCAL SUBDIVISION REGULATIONS; AMENDING SECTIONS 76-3-103, 76-3-504, 76-4-125, 76-6-203, AND 76-7-203, MCA; REPEALING SECTIONS 76-3-202, 76-3-204, AND 76-3-208, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE.

WHEREAS, The Montana Subdivision and Platting Act provides for the local review of proposed subdivisions; and

WHEREAS, Title 76, chapter 3, part 2, provides miscellaneous exemptions from subdivision review for certain divisions of land and conveyances; and

WHEREAS, sections 76-3-202, 76-3-204, and 76-3-208, MCA, address the sale, lease, or rent or other conveyance of one or more parts of a building, structure, or other improvement; and

WHEREAS, section 76-3-204, MCA, provides that the sale, lease, rent, or other conveyance of one or more parts of a building, structure, or other improvement is not subject to subdivision review; and

WHEREAS, this exemption has been interpreted to exempt only one or more parts of a single building, structure, or improvement on a tract of record from subdivision review; and

WHEREAS, a strict interpretation of section 76-3-204, MCA, places an undue burden of undergoing full subdivision review on property owners who seek to lease or rent certain buildings; and

WHEREAS, it is the intent of the Legislature to provide an alternative process to subdivision review for the creation of buildings for lease or rent on tracts of land.

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

**Section 1. Definitions.** As used in [sections 1 through 8], the following definitions apply:

(1) “Building” means a structure or a unit of a structure with a roof supported by columns or walls for the permanent or temporary housing or enclosure of persons or property or for the operation of a business. Except as provided in 76-3-103(15) the term includes a recreational camping vehicle, mobile home, or cell tower. The term does not include a condominium or townhome.

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

(3) “Governing body” means the legislative authority for a city, town, county, or consolidated city-county government.

(4) “Landowner” means an owner of a legal or equitable interest in real property. The term includes an heir, successor, or assignee of the ownership interest.

(5) “Local reviewing authority” means a local department or board of health that is approved to conduct reviews under Title 76, chapter 4.

(6) “Supermajority” means:

(a) an affirmative vote of at least two-thirds of the present and voting members of a city or town council;

(b) a unanimous affirmative vote of the present and voting county commissioners in counties with three county commissioners;

(c) an affirmative vote of at least four-fifths of the present and voting county commissioners in counties with five commissioners;

(d) an affirmative vote of at least two-thirds of the present and voting county commissioners in counties with more than five commissioners; or

(e) an affirmative vote of at least two-thirds of the present and voting members of the governing body of a consolidated city-county government.

(7) “Tract” means an individual parcel of land that can be identified by legal description, independent of any other parcel of land, using documents on file in the records of the county clerk and recorder’s office.

**Section 2. Buildings for lease or rent — exemptions.** (1) A building created for lease or rent on a single tract is exempt from the provisions of [sections 1 through 8] if:

(a) the building is in conformance with applicable zoning regulations adopted pursuant to Title 76, chapter 2, parts 1 through 3, provided that the zoning contains the elements of [section 4]; or

(b) when applicable zoning regulations are not in effect:

(i) the building was in existence or under construction before [the effective date of this act];

(ii) the building is a facility as defined in 15-65-101 that is subject to the lodging facility use tax under Title 15, chapter 65, except for recreational camping vehicles or mobile home parks;

(iii) the building is created for lease or rent for farming or agricultural purposes;

(iv) the building is not served by water and wastewater and will not be leased or rented;

(v) the building is served by water and wastewater and the landowner records a notarized declaration with the clerk and recorder of the county in which the property is located stating that the proposed building will not be leased or rented. The declaration recorded pursuant to this subsection (1)(b)(v) runs with the land and is binding on the landowner and all subsequent landowners and successors in interest to the property. The declaration must include but is not limited to:

(A) the name and address of the landowner;

(B) a legal description of the tract upon which the proposed building will be located; and

(C) a specific description of the building on the tract of record.

(2) Any building that is exempt under subsection (1) from the provisions of [sections 1 through 8] and that is or will be served by water or wastewater must be in compliance with the provisions of [section 3].

(3) The exemption provided in subsection (1)(b)(i) is limited to the first three buildings created for lease or rent on a single tract.

**Section 3. Buildings for lease or rent — three or fewer buildings — application — review procedures.** (1) A landowner shall submit an application for the creation of the first three or fewer buildings for lease or rent on a single tract to the department or local reviewing authority for sanitation review if review is required by Title 76, chapter 4, or to the local board or department of health if review is required by Title 50.

(2) If the department or local reviewing authority approves the application, the landowner shall record the certificate of approval and any conditions for the approval of the application with the county clerk and recorder.

(3) If a building for lease or rent is created on a single tract on or after [the effective date of this act] and the tract is later subdivided or an exemption from subdivision review is used pursuant to Title 76, chapter 3, any building for lease or rent on the new tract is subject to the provisions of [sections 4 through 6].

**Section 4. Buildings for lease or rent — four or more buildings — regulations.** (1) A governing body shall adopt regulations for the administration and enforcement of the creation of four or more buildings for lease or rent on a single tract.

(2) The regulations adopted pursuant to this section must, at a minimum:

(a) list the materials that must be included in an application for the creation of four or more buildings for lease or rent;

(b) require a description of:

(i) property boundaries;

(ii) onsite and adjacent offsite streets, roads, and easements;

(iii) geographic features;

(iv) existing septic tanks and drainfields;

(v) existing wells; and



- (vi) existing and proposed buildings;
- (c) require adequate water supply and sewage and solid waste disposal facilities;
- (d) require an assessment of potential significant impacts on the surrounding physical environment and human population in the area to be affected, including conditions, if any, that may be imposed on the proposal to avoid or minimize potential significant impacts identified;
- (e) require adequate emergency medical, fire protection, and law enforcement services;
- (f) require access to the site; and
- (g) comply with applicable flood plain requirements.

(3) Prior to adopting regulations pursuant to this section, the governing body shall provide an opportunity for public hearing and comment on the proposed regulations. Notice of the public hearing must be published as provided in 7-1-2121 if the governing body is a county commission or as provided in 7-1-4127 if the governing body is a city commission or a town council and must be posted not less than 30 days before the public hearing in at least five public places, including but not limited to public buildings. Public comment must be addressed before the regulations are adopted.

**Section 5. Additional review criteria — four or more buildings for lease or rent.** (1) (a) Upon a majority vote, a governing body may increase the minimum number of buildings created for lease or rent that are subject to review by the governing body pursuant to [section 4]. The governing body may elect to increase the minimum number subject to review by the governing body for all buildings created for lease or rent or may limit the increase to specific types or uses of buildings created for lease or rent.

(b) For purposes of subsection (1)(a), the governing body shall adopt regulations pursuant to [section 4] identifying the number or types of buildings created for lease or rent that are subject to review by the governing body.

(2) Upon a supermajority vote, the governing body may adopt regulations pursuant to [section 4] for the purpose of reviewing four or more buildings for lease or rent that are in addition to the regulations provided in [section 4]. For purposes of this subsection, a governing body may adopt any regulations it considers necessary to protect public health, safety, or the general welfare.

**Section 6. Buildings for lease or rent — review procedure.** (1) Unless the buildings are exempt from review as provided in [section 2] or subject to review as provided in [section 3], an application for the creation of buildings for lease or rent on a single tract must be reviewed as provided in this section.

(2) An application pursuant to this section for the creation of buildings for lease or rent must be submitted for review to:

(a) the governing body or its agent or agency in which the buildings are proposed to be located; and

(b) the department or local reviewing authority if review by the department or local reviewing authority is required by Title 76, chapter 4 or to the local board or department of health if review is required by Title 50.

(3) (a) Upon receipt of an application and any applicable fees, the governing body or its agent or agency shall within 10 working days determine whether the application contains the required materials and sufficient information for review. The governing body or its agent or agency shall notify the applicant in writing as to whether the application is complete. If the application is

incomplete, the governing body shall identify any missing materials or insufficient information.

(b) After the governing body or its agent or agency has notified the applicant that the application is complete, the governing body shall approve, conditionally approve, or deny the application for the creation of buildings for lease or rent pursuant to this section within 60 working days. The applicant and the governing body may agree to extend the time for review in writing.

(c) Review and approval, conditional approval, or denial of an application for the creation of buildings for lease or rent pursuant to this section must be based upon the regulations in effect at the time an application is determined to be complete. If regulations change during the period that the application is determined to be complete, the determination of whether the application is complete must be based on the new regulations.

(4) The governing body may establish a reasonable fee to be paid by the landowner commensurate with the cost of reviewing applications submitted pursuant to this section.

(5) If the governing body denies, approves, or conditionally approves the proposed creation of buildings for lease or rent pursuant to this section, the governing body shall provide written notification to the landowner within the 60 working-day period provided in this section.

**Section 7. Actions against governing body and department.** (1) An applicant who has filed an application for the creation of buildings for lease or rent and who is aggrieved by a decision of the department or the local reviewing authority may request a hearing as provided in 76-4-126(1). For purposes of this subsection, the contested case provisions of the Montana Administrative Procedure Act, Title 2, chapter 4, part 6, apply to the proceeding.

(2) An applicant who has filed an application for the creation of buildings for lease or rent or a landowner with a property boundary contiguous to the tract on which the buildings are proposed to be located who is aggrieved by a decision of the governing body may, within 30 days of the date of the decision of the governing body, appeal to the district court in the county in which the property involved is located.

(3) For purposes of this section, “aggrieved” has the meaning provided in 76-3-625.

**Section 8. Violations — penalties.** (1) If any building is created in violation of [sections 1 through 8], the governing body may, in addition to assessing a fine or penalty not to exceed a maximum of \$500, initiate an action to:

- (a) prevent the unlawful creation of the building;
- (b) restrain, correct, or abate a violation; or
- (c) prevent the occupancy of the building.

(2) For the purposes of enforcing the provisions of [sections 1 through 8], the governing body shall attempt to obtain voluntary compliance from the landowner at least 30 days prior to initiating an action for a violation of [sections 1 through 8].

**Section 9.** Section 76-3-103, MCA, is amended to read:

**“76-3-103. Definitions.** As used in this chapter, unless the context or subject matter clearly requires otherwise, the following definitions apply:

(1) "Certificate of survey" means a drawing of a field survey prepared by a registered surveyor for the purpose of disclosing facts pertaining to boundary locations.

(2) "Cluster development" means a subdivision with lots clustered in a group of five or more lots that is designed to concentrate building sites on smaller lots in order to reduce capital and maintenance costs for infrastructure through the use of concentrated public services and utilities, while allowing other lands to remain undeveloped.

(3) "Dedication" means the deliberate appropriation of land by an owner for any general and public use, reserving to the landowner no rights that are incompatible with the full exercise and enjoyment of the public use to which the property has been devoted.

(4) "Division of land" means the segregation of one or more parcels of land from a larger tract held in single or undivided ownership by transferring or contracting to transfer title to ~~or possession of~~ a portion of the tract or properly filing a certificate of survey or subdivision plat establishing the identity of the segregated parcels pursuant to this chapter. The conveyance of a tract of record or an entire parcel of land that was created by a previous division of land is not a division of land.

(5) "Examining land surveyor" means a registered land surveyor appointed by the governing body to review surveys and plats submitted for filing.

(6) "Final plat" means the final drawing of the subdivision and dedication required by this chapter to be prepared for filing for record with the county clerk and recorder and containing all elements and requirements set forth in this chapter and in regulations adopted pursuant to this chapter.

(7) "Governing body" means a board of county commissioners or the governing authority of a city or town organized pursuant to law.

(8) "Immediate family" means a spouse, children by blood or adoption, and parents.

(9) "Minor subdivision" means a subdivision that creates five or fewer lots from a tract of record.

(10) "Planned unit development" means a land development project consisting of residential clusters, industrial parks, shopping centers, or office building parks that compose a planned mixture of land uses built in a prearranged relationship to each other and having open space and community facilities in common ownership or use.

(11) "Plat" means a graphical representation of a subdivision showing the division of land into lots, parcels, blocks, streets, alleys, and other divisions and dedications.

(12) "Preliminary plat" means a neat and scaled drawing of a proposed subdivision showing the layout of streets, alleys, lots, blocks, and other elements of a subdivision that furnish a basis for review by a governing body.

(13) "Public utility" has the meaning provided in 69-3-101, except that for the purposes of this chapter, the term includes county or consolidated city and county water or sewer districts as provided for in Title 7, chapter 13, parts 22 and 23, and municipal sewer or water systems and municipal water supply systems established by the governing body of a municipality pursuant to Title 7, chapter 13, parts 42, 43, and 44.

(14) "Subdivider" means a person who causes land to be subdivided or who proposes a subdivision of land.

(15) "Subdivision" means a division of land or land so divided that it creates one or more parcels containing less than 160 acres that cannot be described as a one-quarter aliquot part of a United States government section, exclusive of public roadways, in order that the title to ~~or possession~~ of the parcels may be sold, ~~rented, leased,~~ or otherwise ~~conveyed~~ *transferred* and includes any resubdivision and ~~further includes a condominium. or area, regardless of its size, that provides or will provide multiple space for recreational camping vehicles or mobile homes.~~ *The term also means an area, regardless of its size, that provides or will provide multiple spaces for rent or lease on which recreational camping vehicles or mobile homes will be placed.*

(16) (a) "Tract of record" means an individual parcel of land, irrespective of ownership, that can be identified by legal description, independent of any other parcel of land, using documents on file in the records of the county clerk and recorder's office.

(b) Each individual tract of record continues to be an individual parcel of land unless the owner of the parcel has joined it with other contiguous parcels by filing with the county clerk and recorder:

(i) an instrument of conveyance in which the aggregated parcels have been assigned a legal description that describes the resulting single parcel and in which the owner expressly declares the owner's intention that the tracts be merged; or

(ii) a certificate of survey or subdivision plat that shows that the boundaries of the original parcels have been expunged and depicts the boundaries of the larger aggregate parcel.

(c) An instrument of conveyance does not merge parcels of land under subsection (16)(b)(i) unless the instrument states, "This instrument is intended to merge individual parcels of land to form the aggregate parcel(s) described in this instrument" or a similar statement, in addition to the legal description of the aggregate parcels, clearly expressing the owner's intent to effect a merger of parcels."

**Section 10.** Section 76-3-504, MCA, is amended to read:

**"76-3-504. Subdivision regulations — contents.** (1) The subdivision regulations adopted under this chapter must, at a minimum:

(a) list the materials that must be included in a subdivision application in order for the application to be determined to contain the required elements for the purposes of the review required in 76-3-604(1);

(b) except as provided in 76-3-509, 76-3-609, or 76-3-616, require the subdivider to submit to the governing body an environmental assessment as prescribed in 76-3-603;

(c) establish procedures consistent with this chapter for the submission and review of subdivision applications and amended applications;

(d) prescribe the form and contents of preliminary plats and the documents to accompany final plats;

(e) provide for the identification of areas that, because of natural or human-caused hazards, are unsuitable for subdivision development. The regulations must prohibit subdivisions in these areas unless the hazards can be eliminated or overcome by approved construction techniques or other mitigation measures authorized under 76-3-608(4) and (5). Approved construction techniques or other mitigation measures may not include building regulations as defined in 50-60-101 other than those identified by the department of labor and industry as provided in 50-60-901.

(f) prohibit subdivisions for building purposes in areas located within the floodway of a flood of 100-year frequency, as defined by Title 76, chapter 5, or determined to be subject to flooding by the governing body;

(g) prescribe standards for:

(i) the design and arrangement of lots, streets, and roads;

(ii) grading and drainage;

(iii) subject to the provisions of 76-3-511, water supply and sewage and solid waste disposal that meet the:

(A) regulations adopted by the department of environmental quality under 76-4-104 for subdivisions that will create one or more parcels containing less than 20 acres; and

(B) standards provided in 76-3-604 and 76-3-622 for subdivisions that will create one or more parcels containing 20 acres or more and less than 160 acres; and

(iv) the location and installation of public utilities;

(h) provide procedures for the administration of the park and open-space requirements of this chapter;

(i) provide for the review of subdivision applications by affected public utilities and those agencies of local, state, and federal government identified during the preapplication consultation conducted pursuant to subsection (1)(q) or those having a substantial interest in a proposed subdivision. A public utility or agency review may not delay the governing body's action on the application beyond the time limits specified in this chapter, and the failure of any agency to complete a review of an application may not be a basis for rejection of the application by the governing body.

(j) when a subdivision creates parcels with lot sizes averaging less than 5 acres, require the subdivider to:

(i) reserve all or a portion of the appropriation water rights owned by the owner of the land to be subdivided and transfer the water rights to a single entity for use by landowners within the subdivision who have a legal right to the water and reserve and sever any remaining surface water rights from the land;

(ii) if the land to be subdivided is subject to a contract or interest in a public or private entity formed to provide the use of a water right on the subdivision lots, establish a landowner's water use agreement administered through a single entity that specifies administration and the rights and responsibilities of landowners within the subdivision who have a legal right and access to the water; or

(iii) reserve and sever all surface water rights from the land;

(k) (i) except as provided in subsection (1)(k)(ii), require the subdivider to establish ditch easements in the subdivision that:

(A) are in locations of appropriate topographic characteristics and sufficient width to allow the physical placement and unobstructed maintenance of open ditches or belowground pipelines for the delivery of water for irrigation to persons and lands legally entitled to the water under an appropriated water right or permit of an irrigation district or other private or public entity formed to provide for the use of the water right on the subdivision lots;

(B) are a sufficient distance from the centerline of the ditch to allow for construction, repair, maintenance, and inspection of the ditch; and

(C) prohibit the placement of structures or the planting of vegetation other than grass within the ditch easement without the written permission of the ditch owner.

(ii) Establishment of easements pursuant to this subsection (1)(k) is not required if:

(A) the average lot size is 1 acre or less and the subdivider provides for disclosure, in a manner acceptable to the governing body, that adequately notifies potential buyers of lots that are classified as irrigated land and may continue to be assessed for irrigation water delivery even though the water may not be deliverable; or

(B) the water rights are removed or the process has been initiated to remove the water rights from the subdivided land through an appropriate legal or administrative process and if the removal or intended removal is denoted on the preliminary plat. If removal of water rights is not complete upon filing of the final plat, the subdivider shall provide written notification to prospective buyers of the intent to remove the water right and shall document that intent, when applicable, in agreements and legal documents for related sales transactions.

(l) require the subdivider, unless otherwise provided for under separate written agreement or filed easement, to file and record ditch easements for unobstructed use and maintenance of existing water delivery ditches, pipelines, and facilities in the subdivision that are necessary to convey water through the subdivision to lands adjacent to or beyond the subdivision boundaries in quantities and in a manner that are consistent with historic and legal rights;

(m) require the subdivider to describe, dimension, and show public utility easements in the subdivision on the final plat in their true and correct location. The public utility easements must be of sufficient width to allow the physical placement and unobstructed maintenance of public utility facilities for the provision of public utility services within the subdivision.

(n) establish whether the governing body, its authorized agent or agency, or both will hold public hearings;

(o) establish procedures describing how the governing body or its agent or agency will address information presented at the hearing or hearings held pursuant to 76-3-605 and 76-3-615;

(p) establish criteria that the governing body or reviewing authority will use to determine whether a proposed method of disposition using the exemptions provided in 76-3-201 or 76-3-207 is an attempt to evade the requirements of this chapter. The regulations must provide for an appeals process to the governing body if the reviewing authority is not the governing body.

(q) establish a preapplication process that:

(i) requires a subdivider to meet with the authorized agent or agency, other than the governing body, that is designated by the governing body to review subdivision applications prior to the subdivider submitting the application;

(ii) requires, for informational purposes only, identification of the state laws, local regulations, and growth policy provisions, if a growth policy has been adopted, that may apply to the subdivision review process;

(iii) requires a list to be made available to the subdivider of the public utilities, those agencies of local, state, and federal government, and any other entities that may be contacted for comment on the subdivision application and the timeframes that the public utilities, agencies, and other entities are given to respond. If, during the review of the application, the agent or agency designated by the governing body contacts a public utility, agency, or other entity that was



not included on the list originally made available to the subdivider, the agent or agency shall notify the subdivider of the contact and the timeframe for response.

(iv) requires that a preapplication meeting take place no more than 30 days from the date that the authorized agent or agency receives a written request for a preapplication meeting from the subdivider; and

(v) establishes a time limit after a preapplication meeting by which an application must be submitted as provided in 76-3-604;

(r) ~~requires~~ *require* that the written decision required by 76-3-620 must be provided to the applicant within 30 working days following a decision by the governing body to approve, conditionally approve, or deny a subdivision-;

(s) *establish criteria for reviewing an area, regardless of its size, that provides or will provide multiple space for recreational camping vehicles or mobile homes.*

(2) In order to accomplish the purposes described in 76-3-501, the subdivision regulations adopted under 76-3-509 and this section may include provisions that are consistent with this section that promote cluster development.

(3) The governing body may establish deadlines for submittal of subdivision applications.”

**Section 11.** Section 76-4-125, MCA, is amended to read:

**“76-4-125. Review of subdivision application — land divisions excluded from review.** (1) Except as provided in subsection (2), an application for review of a subdivision must be submitted to the reviewing authority. The review by the reviewing authority must be as follows:

(a) At any time after the developer has submitted an application under the Montana Subdivision and Platting Act, the developer shall present a subdivision application to the reviewing authority. The application must include preliminary plans and specifications for the proposed development, whatever information the developer feels necessary for its subsequent review, any public comments or summaries of public comments collected as provided in 76-3-604(7), and information required by the reviewing authority. Subdivision fees assessed by the reviewing authority must accompany the application. If the proposed development includes onsite sewage disposal facilities, the developer shall notify the designated agent of the local board of health prior to presenting the subdivision application to the reviewing authority. The agent may conduct a preliminary site assessment to determine whether the site meets applicable state and local requirements.

(b) Within 5 working days after receipt of an application that is not subject to review by a local reviewing authority under 76-4-104, the department shall provide a written notice for informational purposes to the applicant if the application does not include a copy of the certification from the local health department required by 76-4-104(6)(j) or, if applicable, contain an approval from the local governing body under Title 76, chapter 3, together with any public comments or summaries of public comments collected as provided in 76-3-604(7)(a).

(c) If the reviewing authority denies an application and the applicant resubmits a corrected application within 30 days after the date of the denial letter, the reviewing authority shall complete review of the resubmitted application within 30 days after receipt of the resubmitted application. If the review of the resubmitted application is conducted by a local department or board of health that is certified under 76-4-104, the department shall make a

final decision on the application within 10 days after the local reviewing authority completes its review.

(d) Except as provided in 75-1-205(4) and 75-1-208(4)(b), the department shall make a final decision on the proposed subdivision within 55 days after the submission of a complete application and payment of fees to the reviewing authority unless an environmental impact statement is required, at which time this deadline may be increased to 120 days. The reviewing authority may not request additional information for the purpose of extending the time allowed for a review and final decision on the proposed subdivision. If the department approves the subdivision, the department shall issue a certificate of subdivision approval indicating that it has approved the plans and specifications and that the subdivision is not subject to a sanitary restriction.

(2) A subdivision excluded from the provisions of chapter 3 must be submitted for review according to the provisions of this part, except that the following divisions or parcels, unless the exclusions are used to evade the provisions of this part, are not subject to review:

(a) the ~~exclusions~~ *exclusion* cited in 76-3-201 and ~~76-3-204~~;

(b) divisions made for the purpose of acquiring additional land to become part of an approved parcel, provided that water or sewage disposal facilities may not be constructed on the additional acquired parcel and that the division does not fall within a previously platted or approved subdivision;

(c) divisions made for purposes other than the construction of water supply or sewage and solid waste disposal facilities as the department specifies by rule;

(d) divisions located within jurisdictional areas that have adopted growth policies pursuant to chapter 1 or within first-class or second-class municipalities for which the governing body certifies, pursuant to 76-4-127, that adequate storm water drainage and adequate municipal facilities will be provided; and

(e) subject to the provisions of subsection (3), a remainder of an original tract created by segregating a parcel from the tract for purposes of transfer if:

(i) the remainder is served by a public or multiple-user sewage system approved before January 1, 1997, pursuant to local regulations or this chapter; or

(ii) the remainder is 1 acre or larger and has an individual sewage system serving a discharge source that was in existence prior to April 29, 1993, and, if required when installed, the system was approved pursuant to local regulations or this chapter.

(3) Consistent with the applicable provisions of 50-2-116, a local health officer may require that, prior to the filing of a plat or a certificate of survey subject to review under this part for the parcel to be segregated from the remainder referenced in subsection (2)(e)(ii), the remainder include acreage or features sufficient to accommodate a replacement drainfield.”

**Section 12.** Section 76-6-203, MCA, is amended to read:

**“76-6-203. Types of permissible easements.** Easements or restrictions under this chapter may prohibit or limit any or all of the following:

(1) structures—construction or placing of buildings, camping trailers, housetrailer, mobile homes, roads, signs, billboards or other advertising, utilities, or other structures on or above the ground;

(2) landfill—dumping or placing of soil or other substance or material as landfill or dumping or placing of trash, waste, or unsightly or offensive materials;

- (3) vegetation—removal or destruction of trees, shrubs, or other vegetation;
- (4) loam, gravel, etc.—excavation, dredging, or removal of loam, peat, gravel, soil, rock, or other material substance;
- (5) surface use—surface use except for such purposes permitting the land or water area to remain predominantly in its existing condition;
- (6) acts detrimental to conservation—activities detrimental to drainage, flood control, water conservation, erosion control, soil conservation, or fish and wildlife habitat and preservation;
- (7) subdivision of land—subdivision of land as defined in 76-3-103; *and* 76-3-104, ~~and 76-3-202~~;
- (8) other acts—other acts or uses detrimental to such retention of land or water areas in their existing conditions.”

**Section 13.** Section 76-7-203, MCA, is amended to read:

**“76-7-203. Permissible easements.** (1) An environmental control easement under this chapter may prohibit or limit the following activities or uses:

- (a) constructing or placing of buildings, camping trailers, housetrailer, mobile homes, roads, or other structures on or above the ground;
- (b) dumping or placing of soil, debris, or other wastes or substances as landfill or dumping or placing of trash, waste, or unsightly or offensive materials;
- (c) removing or destroying trees, shrubs, or other vegetation or planting or allowing growth of specific types of vegetation, such as crops for human or animal consumption or undesirable vegetation;
- (d) excavating, dredging, or removing of gravel, soil, rock, or other materials or substances;
- (e) using the surface of the land in a particular manner, such as for agricultural, residential, commercial, or industrial uses;
- (f) subdividing the land, as described in 76-3-103; *and* 76-3-104, ~~and 76-3-202~~;
- (g) disturbing soil caps, soil surfaces, berms, drainage structures, or other structures or other activities that may cause erosion or migration of hazardous wastes or substances at or from the environmental control site;
- (h) drilling or using water wells for potable or nonpotable purposes;
- (i) other activities or uses detrimental to or interfering with the remediation or cleanup of the environmental control site or detrimental to the preservation of remedial structures, measures, or technologies employed at the environmental control site; and
- (j) other activities or uses that may result in a risk or threat to the public health, safety, or welfare or the environment.

(2) An environmental control easement under this chapter may include or require the following:

- (a) maintenance of environmental control site remedial structures or other remedial measures, such as soil surfaces, soil caps, berms, fences, or drainage improvements;
- (b) rights in the holder of the easement or others for continuing access to the site as necessary to implement, operate, maintain, and monitor remedial work and technologies, including operation and maintenance, and to ensure

implementation and enforcement of the requirements, restrictions, and limitations specified in the easement instrument;

(c) prompt notification to the holder of the easement or others of transfers of all or any portion of an environmental control site or interest in the site or of any proposed changes in land use at the site;

(d) compliance with all requirements of any applicable governmental order;

(e) arrangements for indemnification or for reimbursement of any costs and expenses of the easement holder or others or other methods of allocating costs and expenses for remedial actions, operations and maintenance, or other activities on the environmental control site or with respect to the site;

(f) other obligations that any federal public entity or other public body having jurisdiction over the property determines are necessary to implement, ensure noninterference with, or ensure the protection of remedial work performed under a governmental order; or

(g) other obligations that are necessary or advisable to reduce or eliminate risks or threats to the public health, safety, or welfare or the environment at environmental control sites.”

**Section 14. Repealer.** The following sections of the Montana Code Annotated are repealed:

76-3-202. Exemption for structures on complying subdivided lands.

76-3-204. Exemption for conveyances of one or more parts of a structure or improvement.

76-3-208. Subdivisions exempted from surveying and filing requirements but subject to review provisions.

**Section 15. Codification instruction.** [Sections 1 through 8] are intended to be codified as an integral part of Title 76, and the provisions of Title 76 apply to [sections 1 through 8].

**Section 16. Saving clause.** [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

**Section 17. 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 18. Effective date.** [This act] is effective September 1, 2013.

**Section 19. Applicability.** [This act] applies to buildings created for lease or rent on a single tract on or after [the effective date of this act].

Approved May 1, 2013

## CHAPTER NO. 380

[HB 2]

AN ACT APPROPRIATING MONEY TO VARIOUS STATE AGENCIES FOR THE BIENNIUM ENDING JUNE 30, 2015; AND PROVIDING AN EFFECTIVE DATE.

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

**Section 1. Short title.** [This act] may be cited as “The General Appropriations Act of 2013”.

**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 2015 biennium, are adopted as legislative intent.

**Section 3. Legislative intent.** It is the intent of the legislature that the appropriations for personal services contained in this bill for fiscal year 2014 and fiscal year 2015, except for the reductions contained in decision packages that remove an additional vacancy savings amount, are supported by only the number of FTE that are funded. It is the intent of the legislature that this net level of FTE is the level that will be used to calculate personal services funding in the next biennium.

**Section 4. 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 5. Appropriation control.** An appropriation item designated "Biennial" may be spent in either year of the biennium. An appropriation item designated "Restricted" may be used during the biennium only for the purpose designated by its title and as presented to the legislature. An appropriation item designated "One Time Only" or "OTO" may not be included in the present law base for the 2017 biennium. The office of budget and program planning shall establish a separate appropriation on the statewide accounting, budgeting, and human resource system for any item designated "Biennial", "Restricted", "One Time Only", or "OTO". The office of budget and program planning shall establish at least one appropriation on the statewide accounting, budgeting, and human resource system for any appropriation that appears as a separate line item in [this act].

**Section 6. Program definition.** As used in [this act], "program" has the same meaning as defined in 17-7-102, is consistent with the management and accountability structure established on the statewide accounting, budgeting, and human resource system, and is identified as a major subdivision of an agency ordinally numbered with an Arabic numeral.

**Section 7. Totals not appropriations.** The totals shown in [this act] are for informational purposes only and are not appropriations.

**Section 8. Effective date.** [This act] is effective July 1, 2013.

**Section 9. Appropriations.** The following money is appropriated for the respective fiscal years:

	Fiscal 2014		Fiscal 2015		Total
	General Fund	State Special Revenue	General Fund	State Special Revenue	
<b>LEGISLATIVE BRANCH (1104)</b>					
1. Legislative Services (20) (Biennial)	6,549,178	842,029	7,391,207	322,210	7,713,417
a. LSD Television MT Phase II (Restricted/OTO)	175,000	0	175,000	0	175,000
b. LSD Information Technology Upgrade Replacements (Restricted/OTO)	112,500	0	112,500	0	112,500
c. Participation in Capitol Complex Security Plan (Restricted/Biennial/OTO)	80,000	0	80,000	0	80,000
2. Legislative Committees and Activities (21) (Biennial)	683,156	0	683,156	0	683,156
3. Fiscal Analysis and Review (27) (Biennial)	1,848,932	0	1,848,932	0	1,848,932
4. Audit and Examination (28) (Biennial)	2,350,469	1,679,189	4,029,658	1,682,572	5,712,230
<b>Total</b>	<b>11,799,235</b>	<b>2,521,218</b>	<b>14,320,453</b>	<b>2,004,782</b>	<b>16,325,235</b>

Legislative Services includes a reduction in general fund of \$166,311 in fiscal year 2014 and \$167,463 in fiscal year 2015 and state special revenue of \$42,898 in fiscal year 2014 and \$43,083 in fiscal year 2015. The reduction is the equivalent of an additional 2% vacancy savings. The agency may allocate this reduction in funding among programs when developing 2015 biennium operating plans.

**CONSUMER COUNSEL (1112)**

1. Administration Program (01)	0	1,384,324	1,384,324	0	1,384,324
a. Unanticipated Caseload Contingency (Restricted/OTO)	0	0	0	0	0
<b>Total</b>	<b>0</b>	<b>1,384,324</b>	<b>1,384,324</b>	<b>0</b>	<b>1,384,324</b>



	Fiscal 2014			Fiscal 2015			Total
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue	
	0	250,000	0	0	250,000	0	250,000
<b>Total</b>	0	1,634,324	0	0	1,648,316	0	1,648,316
<b>GOVERNOR'S OFFICE (3101)</b>							
1. Executive Office Program (01)							
2,536,426	0	0	0	2,538,815	0	0	2,538,815
2. Executive Residence Operations (02)							
129,473	0	0	0	130,674	0	0	130,674
3. Air Transportation Program (03)							
244,376	0	0	0	245,649	0	0	245,649
a. Airplane Maintenance Expenses (OTO)							
90,000	0	0	0	0	0	0	0
4. Office of Budget and Program Planning (04)							
1,652,686	0	0	0	1,664,202	0	0	1,664,202
a. Legislative Audit (Restricted/Biennial)							
17,466	0	0	0	0	0	0	0
5. Office of Indian Affairs (05)							
173,624	0	0	0	173,196	0	0	173,196
6. Centralized Services (06)							
371,418	0	0	0	383,419	0	0	383,419
a. Legislative Audit (Restricted/Biennial)							
38,426	0	0	0	0	0	0	0
7. Lieutenant Governor (12)							
336,530	0	0	0	340,782	0	0	340,782
8. Citizens' Advocate Office (16)							
94,764	8,409	0	0	94,631	8,346	0	102,977

	Fiscal 2014			Fiscal 2015			Total
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue	
9. Mental Disabilities Board of Visitors (20)							
416,630	0	0	0	417,055	0	0	417,055
Total							
6,101,819	8,409	0	0	5,988,423	8,346	0	5,996,769
Executive Office Program includes a reduction in general fund of \$89,342 in fiscal year 2014 and \$89,575 in fiscal year 2015. The reduction is the equivalent of an additional 2% vacancy savings. The agency may allocate this reduction in funding among programs when developing 2015 biennium operating plans.							
<b>SECRETARY OF STATE (3201)</b>							
1. Business and Government Services (01)							
0	0	0	4,524,915	0	0	4,524,915	4,524,915
a. Legislative Audit (Restricted/Biennial)							
0	0	0	34,933	0	0	34,933	0
b. Help America Vote Act Interest (Biennial/OTO)							
0	0	128,000	0	0	0	128,000	128,000
c. Statewide Voter Registration System (Restricted)							
0	0	0	690,629	0	0	694,029	694,029
Total							
0	0	128,000	5,250,477	0	0	5,378,477	5,345,347
Business and Government Services includes a reduction in proprietary funds of \$63,589 in fiscal year 2014 and \$63,553 in fiscal year 2015. The reduction is the equivalent of an additional 2% vacancy savings. The agency may allocate this reduction in funding among programs when developing 2015 biennium operating plans.							
<b>COMMISSIONER OF POLITICAL PRACTICES (3202)</b>							
1. Administration (01)							
474,308	0	0	0	484,949	0	0	484,949
a. Legislative Audit (Restricted/Biennial)							

	Fiscal 2014			Fiscal 2015			Total
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue	
	7,685	0	0	0	0	0	0
b. Agency Legal Counsel (OTO)	71,503	0	0	71,458	0	0	71,458
c. Change in Agency Location (OTO)	34,630	0	0	0	0	0	0
<b>Total</b>	<b>588,126</b>	<b>0</b>	<b>0</b>	<b>556,407</b>	<b>0</b>	<b>0</b>	<b>556,407</b>
<b>OFFICE OF THE STATE AUDITOR (3401)</b>							
1. Central Management (01)	0	1,562,694	0	0	1,567,396	0	1,567,396
a. Legislative Audit (Restricted/Biennial)	0	8,384	0	0	0	0	0
b. IT System Upgrade (Restricted/OTO)	0	253,900	0	0	0	0	0
c. Continuing Education Central Management (Restricted/OTO)	0	33,915	0	0	33,915	0	33,915
2. Insurance Program (03)	0	5,183,686	0	0	5,209,252	0	5,209,252
a. Legislative Audit (Restricted/Biennial)	0	28,944	0	0	0	0	0
b. Montana Comprehensive Health Association (Restricted)	0	946,455	0	0	943,696	0	943,696
c. Insurance In-House Examinations (Restricted/OTO)	0	10,185	0	0	10,185	0	10,185
d. Captive Insurance FTE (OTO)	0	64,736	0	0	60,091	0	60,091



	Fiscal 2014			Fiscal 2015			Total
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue	
173,663	0	1,000	0	0	0	0	0
b. Overtime Pay for Timely Legislative Fiscal Notes (Restricted/OTO)	0	0	0	70,000	0	0	70,000
2. Information Management and Technology (02)	11,448,125	124,804	0	11,489,905	124,804	0	11,862,998
a. Ongoing System Maintenance and Support Increase (Restricted)	500,000	0	0	500,000	0	0	500,000
b. Enhance E-Services for Property and State Taxes (OTO)	304,790	0	0	0	0	0	0
3. Liquor Control Division (03)	0	0	2,467,380	0	0	2,437,330	2,437,330
a. Termination Payout (Restricted/Biennial)	0	0	60,000	0	0	0	0
b. Temporary and Overtime Pay (Restricted/Biennial)	0	0	130,000	0	0	0	0
4. Citizen Services and Resource Management (05)	3,404,557	211,838	0	3,397,550	212,123	0	3,646,250
a. Web-Based Application Portal for One-Stop Licensing (Restricted/OTO)	21,400	0	0	0	0	0	0
b. Web-Based Application Portal for One-Stop Licensing (Restricted)	11,500	0	0	11,500	0	0	11,500
5. Business and Income Taxes Division (07)	8,868,207	368,450	247,447	8,847,066	369,166	247,312	9,463,544
a. Tobacco Tax Compliance Program (Restricted)	0	179,876	0	0	179,609	0	179,609
b. Unclaimed Property Compliance Program (Restricted)	0	108,618	0	0	108,468	0	108,468
6. Property Assessment Division (08)							







	Fiscal 2014			Fiscal 2015			Total
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue	
	566,285	0	0	566,319	0	0	566,319
<b>Total</b>							
6,292,860	5,978,176	947,530	12,437,101	6,185,621	5,976,271	947,499	12,321,317

State Accounting Division includes a reduction in general fund of \$82,148 in fiscal year 2014 and \$82,197 in fiscal year 2015, federal special revenue of \$1 in fiscal year 2015, and proprietary funds of \$38,289 in fiscal year 2014 and \$38,310 in fiscal year 2015. Banking and Financial Division includes a reduction in state special revenue of \$95,259 in fiscal year 2014 and \$95,306 in fiscal year 2015. The reductions are the equivalent of an additional 2% vacancy savings. The agency may allocate these reductions in funding among programs when developing 2015 biennium operating plans.

If House Bill No. 38 is not passed and approved, State Information Technology Services Division is increased by \$943,612 in fiscal year 2014 and \$943,342 in fiscal year 2015 in state special revenue.

**DEPARTMENT OF COMMERCE (6501)**

1. Business Resources Division (51)	1,930,520	2,182,098	3,925,555	0	0	8,038,173	1,933,880	2,182,853	4,142,678	0	0	8,259,411
a. Legislative Audit (Restricted/Biennial)	3,448	1,150	3,066	0	0	7,664	0	0	0	0	0	0
b. Indian County Economic Development (OTO)	800,000	0	0	0	0	800,000	800,000	0	0	0	0	800,000
c. Primary Business Sector Training (Biennial/OTO)	600,000	800,000	0	0	0	1,400,000	600,000	800,000	0	0	0	1,400,000
d. Montana SBIR/STTR Program (Restricted/Biennial)	375,000	0	0	0	0	375,000	375,000	0	0	0	0	375,000
e. Biomedical Research Grant (Biennial/OTO)	1,000,000	0	0	0	0	1,000,000	0	0	0	0	0	0
f. MSU Bozeman — Montana Manufacturing Extension Center (Restricted/OTO)	50,000	0	0	0	0	50,000	50,000	0	0	0	0	50,000
g. Native Language Preservation (Restricted/Biennial/OTO)	1,000,000	0	0	0	0	1,000,000	1,000,000	0	0	0	0	1,000,000

	Fiscal 2014			Fiscal 2015			Total
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue	
2. Montana Promotion Division (52)	0	164,258	0	0	164,282	0	164,282
a. Legislative Audit (Restricted/Biennial)	0	36,229	0	0	0	0	0
b. Private Funds/Audit Adjustments (Restricted)	0	585,742	0	0	585,718	0	585,718
3. Community Development Division (60)	700,376	1,161,072	5,303,560	701,869	1,150,640	5,304,174	7,156,683
a. Legislative Audit (Restricted/Biennial)	1,875	2,946	1,160	0	0	0	0
b. Coal Board (Biennial)	0	2,148,386	0	0	1,770,425	0	1,770,425
c. Hard Rock Mining Reserve (Restricted)	0	100,000	0	0	100,000	0	100,000
4. Housing Division (74)	0	150,000	7,790,698	0	150,000	7,798,846	7,948,846
a. Legislative Audit (Restricted/Biennial)	0	0	3,639	0	0	0	0
5. Director's Office/Management Services Division (81)	0	0	550,000	0	0	550,000	550,000
<b>Total</b>	<b>6,461,219</b>	<b>7,331,881</b>	<b>17,577,678</b>	<b>5,460,749</b>	<b>6,903,918</b>	<b>17,795,698</b>	<b>30,160,365</b>

Business Resources Division includes a reduction in general fund of \$23,145 in fiscal year 2014 and \$23,155 in fiscal year 2015, state special revenue of \$14,536 in fiscal year 2014 and \$14,503 in fiscal year 2015, and federal special revenue of \$30,866 in fiscal year 2014 and \$30,883 in fiscal year 2015. The reduction is the equivalent of an additional 2% vacancy savings. The agency may allocate this reduction in funding among programs when developing 2015 biennium operating plans.

If Senate Bill No. 342 is not passed and approved, Native American Language Preservation is void.

	Fiscal 2014			Fiscal 2015			Total
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue	
<b>DEPARTMENT OF LABOR AND INDUSTRY (6602)</b>							
1. Workforce Services Division (01)							
0	9,137,219	22,393,970	0	0	9,137,421	22,410,064	31,547,485
a. Workforce Services Division Rent Adjustment (Restricted)							
3,246	4,458	13,863	0	3,246	4,458	13,863	21,567
b. Worker Training and Economic Development (OTO)							
0	641,146	0	0	0	641,655	0	641,655
2. Unemployment Insurance Division (02)							
0	3,847,656	9,689,157	0	0	3,847,656	9,837,415	13,685,071
3. Commissioner's Office/Centralized Services Division (03)							
183,517	221,626	384,295	0	183,242	221,581	383,786	788,609
4. Employment Relations Division (04)							
973,626	10,390,657	378,930	0	999,608	10,428,837	350,792	11,779,237
a. Rent Adjustment (Restricted)							
811	32,329	492	0	833	34,609	505	35,947
b. Human Rights Bureau (OTO)							
0	0	250,000	0	0	0	225,000	225,000
5. Business Standards Division (05)							
0	15,468,858	0	0	0	15,413,790	0	15,413,790
a. Weights and Measures Equipment (Restricted/Biennial)							
0	100,000	0	0	0	100,000	0	100,000
b. Business Standards Division -- Motor Pool Lease (Restricted)							
0	6,331	0	0	0	6,634	0	6,634
6. Office of Community Services (07)							
124,171	27,266	3,422,703	0	124,195	27,272	3,423,325	3,574,792
7. Workers' Compensation Court (09)							
0	649,765	0	0	0	650,621	0	650,621



	Fiscal 2014			Fiscal 2015			Total
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue	
1,636,659	2,000	12,709,264	0	1,643,639	2,000	12,749,499	14,395,138
a. Legislative Audit (Restricted/Biennial)							
2,456	0	26,189	0	0	0	0	0
6. Air National Guard Program (13)							
395,616	0	4,115,831	0	399,460	0	4,133,131	4,532,591
a. Legislative Audit (Restricted/Biennial)							
1,048	0	5,240	0	0	0	0	0
7. Disaster and Emergency Services (21)							
1,067,500	233,539	16,821,604	0	1,067,454	236,536	14,825,674	16,129,664
a. Legislative Audit (Restricted/Biennial)							
3,318	0	9,956	0	0	0	0	0
b. Federal Homeland Security Exercise/Evaluation (Restricted)							
27,330	0	0	0	27,290	0	0	27,290
c. Systems for State Emergency Coordination Center (Restricted)							
15,000	0	0	0	15,000	0	0	15,000
d. Disaster and Emergency Services Overtime (Restricted)							
19,488	0	0	0	19,488	0	0	19,488
8. Veterans' Affairs Program (31)							
881,470	864,951	0	0	885,664	763,010	0	1,648,674
a. Legislative Audit (Restricted/Biennial)							
4,192	0	0	0	0	0	0	0
b. Veterans' Outreach Services (Restricted/Biennial/OTO)							
180,000	0	0	0	180,000	0	0	180,000
<b>Total</b>							
6,086,587	1,100,490	37,573,891	0	6,079,430	1,001,546	35,593,467	42,674,443

Disaster and Emergency Services includes a reduction in general fund of \$59,763 in fiscal year 2014 and \$59,809 in fiscal year 2015, state special revenue of \$14,211 in fiscal year 2014 and \$14,214 in fiscal year 2015, and federal special revenue of \$160,814 in fiscal year 2014 and \$157,978 in fiscal year 2015. The reduction



	Fiscal 2014		Fiscal 2015		Total						
	General Fund	State Special Revenue	General Fund	State Special Revenue							
90,192,009	78,018,714	93,008,956	20,711,407	0	281,931,086	94,220,738	71,582,180	91,356,726	20,337,974	0	277,497,618
<b>TOTAL SECTION A</b>											

is the equivalent of an additional 2% vacancy savings. The agency may allocate this reduction in funding among programs when developing 2015 biennium operating plans.

	Fiscal 2014			Fiscal 2015			Total				
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue					
<b>B. HEALTH AND HUMAN SERVICES</b>											
<b>DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES (6901)</b>											
<b>Economic Security Services Branch (6902)</b>											
1. Disability Employment and Transitions (01)	5,602,510	980,372	21,448,273	0	28,031,155	5,673,164	997,760	21,566,859	0	0	28,237,783
2. Human and Community Services Division (02)	32,598,934	2,856,038	109,467,273	0	144,922,245	33,358,206	2,856,327	109,931,571	0	0	146,146,104
a. Offices of Public Assistance FTE (Restricted/OTO)	117,588	10,964	131,886	0	260,438	110,950	10,345	124,441	0	0	245,736
b. TANF WoRC Contracts 3% Increase	170,771	0	0	0	170,771	175,849	0	0	0	0	175,849
c. TANF CASA Programs (OTO)	0	0	150,000	0	150,000	0	0	150,000	0	0	150,000
d. Best Beginnings STARS (Restricted/Biennial/OTO)	0	0	1,200,000	0	1,200,000	0	0	1,200,000	0	0	1,200,000
3. Child and Family Services Division (03)	33,890,067	2,187,150	28,107,716	0	64,184,933	34,554,026	2,187,150	28,406,690	0	0	65,147,866
a. Guardianship Caseload (Restricted/OTO)	88,591	0	56,258	0	144,849	128,999	0	79,453	0	0	208,452
b. Reporting	1,000	0	0	0	1,000	0	0	0	0	0	0
c. Foster Care Caseload (Restricted)	729,288	0	176,017	0	905,305	1,088,638	0	143,751	0	0	1,232,389
d. Tribal Foster Care (Restricted/OTO)	200,000	0	0	0	200,000	200,000	0	0	0	0	200,000
e. Foster Care Stipend (Restricted/Biennial/OTO)	0	0	577,613	0	577,613	0	0	577,613	0	0	577,613

	Fiscal 2014			Fiscal 2015			Total
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue	
4. Child Support Enforcement Division (05)	2,846,378	818,346	7,858,935	0	0	0	11,523,659
Total	76,245,127	6,852,870	169,173,971	0	0	0	252,271,968

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 2015 biennium to cover a contingent FCC mandate, which would require states to provide either video or internet protocol relay services for people with severe hearing, mobility or speech impairments.

The department of public health and human services must use \$171,610 in fiscal year 2014 and \$346,652 in fiscal year 2015 of funds in the Disability Employment and Transitions Division to raise provider rates by 2% in fiscal year 2014 and by an additional 2% in fiscal year 2015.

The department of public health and human services must use \$489,482 in fiscal year 2014 and \$988,754 in fiscal year 2015 of funds in the Human and Community Services Division to raise provider rates by 2% in fiscal year 2014 and by an additional 2% in fiscal year 2015.

If legislation authorizing a statutory appropriation for SNAP benefits is not passed and approved, the appropriation for the Human and Community Services Division is increased by \$190,942,034 federal funds each year.

Funding for Offices of Public Assistance FTE may be expended only by the Human and Community Services Division.

Best Beginnings STARS funding may be used only by the Early Childhood Services Bureau to enhance the Best Beginnings STARS quality incentive programs.

Best Beginnings STARS, Prevent Jail Suicide, and Montana State Hospital Overtime Pay are funded from a federal children's health insurance program reauthorization grant. If grant funds are insufficient to fund all appropriations, the funding shall be allocated in the following order of priority:

- (1) Montana State Hospital Overtime Pay;
- (2) Prevent Jail Suicide; and
- (3) Best Beginnings STARS.

The department of public health and human services must use \$310,724 in fiscal year 2014 and \$627,662 in fiscal year 2015 of funds in the Child and Family Services Division to raise provider rates by 2% in fiscal year 2014 and by an additional 2% in fiscal year 2015.



	Fiscal 2014			Fiscal 2015		
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue
a. CHIMES Medicaid/HMK and TEAMS (Restricted/OTO)	11,552,729	1,165,416	19,753,775	11,248,543	1,164,041	19,419,146
	329,953	15,789	3,093,584	282,428	20,406	3,434,834
b. MACWIS Planning Completion (Biennial/OTO)	0	113,750	61,250	0	113,750	61,250
4. Management and Fair Hearings Division (16)	401,954	25,286	593,823	401,744	25,261	593,616
<b>Total</b>	<b>18,180,265</b>	<b>2,491,189</b>	<b>34,289,126</b>	<b>17,651,085</b>	<b>2,475,321</b>	<b>34,050,125</b>

The Business and Financial Services Division includes a reduction in funding of \$4,718 general fund, \$1,897 state special revenue, and \$7,721 federal special revenue in fiscal year 2014 and \$4,678 general fund, \$1,881 state special revenue, and \$7,656 federal special revenue in fiscal year 2015. The agency may allocate this reduction in funding among divisions when developing 2015 biennium operating plans.

Business and Financial Services Division includes a reduction in general fund of \$236,085 in fiscal year 2014 and \$235,874 in fiscal year 2015, state special revenue of \$95,235 in fiscal year 2014 and \$96,890 in fiscal year 2015, and federal special revenue of \$325,716 in fiscal year 2014 and \$324,711 in fiscal year 2015. The reduction is the equivalent of an additional 2% vacancy savings. The agency may allocate this reduction in funding among programs when developing 2015 biennium operating plans.

The Quality Assurance Division is appropriated funding for the 2015 biennium in an amount not to exceed \$210,208 of state special revenue fund share and \$396,734 of federal special revenue share from the recovery audit contract to pay recovery audit costs. Payments to the contractor are contingent upon the amount of funds recovered and may not exceed 12.5% of the amount recovered.

The department of public health and human services must use the biennial appropriation of \$350,000 in fiscal year 2014 and fiscal year 2015 in the Technology Services Division to complete the planning process for the Montana adult and child welfare information system (MACWIS) including a complete plan for funding the development of the MACWIS system for presentation to the 2015 Legislature.

Funding for the CHIMES Medicaid/HMK and TEAMS systems may only be used by the Technology Services Division for the maintenance and operations contract and project management of the eligibility determination systems for CHIMES Medicaid/HMK, Chimes SNAP, CHIMES TANF, and TEAMS systems.

**Public Health and Safety (6907)**

1. Public Health and Safety Division (07)

	Fiscal 2014			Fiscal 2015			Total
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue	
3,833,072	16,607,808	42,615,129	0	3,836,184	16,607,638	42,431,294	62,875,116
a. Poison Control Hotline (Restricted/OTO)	0	0	0	182,400	0	0	182,400
b. Title X	0	2,305,688	0	0	0	2,306,322	2,306,322
<b>Total</b>	<b>3,833,072</b>	<b>16,607,808</b>	<b>44,920,817</b>	<b>4,018,584</b>	<b>16,607,638</b>	<b>44,737,616</b>	<b>65,363,838</b>
Title X monies may be used only for purposes allowed by federal law.							
<b>Medicaid and Health Services Branch (6911)</b>							
1. Developmental Services Division (10)	22,344,873	592,794	10,522,770	21,770,346	592,794	10,519,024	32,882,164
a. Expand Children's Services (Restricted)	56,666	0	111,334	113,501	0	222,499	336,000
b. Room and Board for Seriously Emotionally Disturbed Children (Restricted)	650,000	0	0	650,000	0	0	650,000
c. Medicaid Services — Developmental Services	58,560,732	6,040,146	167,623,509	62,652,972	6,040,146	183,759,835	252,452,953
2. Health Resources Division (11)	6,767,389	22,489,104	76,064,934	8,050,414	23,553,800	83,494,788	115,099,002
a. Hospital Utilization Fee (Restricted)	0	22,587,587	44,081,020	0	22,589,588	44,079,019	66,668,607
b. Medicaid Services — Health Resources	121,927,937	22,013,821	318,614,532	129,155,462	23,001,840	337,215,478	489,372,780
3. Medicaid and Health Services Management (12)	2,137,832	91,668	16,953,871	2,824,223	93,007	15,382,287	18,299,517
4. Senior and Long-Term Care Division (22)							





	Fiscal 2014			Fiscal 2015			Total
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue	
d. Medicaid Services — Addictive and Mental Disorders	0	0	125,000	0	0	125,000	125,000
10,658,340	8,717,204	40,310,010	0	59,685,554	11,341,262	8,956,844	62,330,130
e. Montana State Hospital Overtime Pay (Biennial)	0	0	1,000,000	0	0	1,000,000	1,000,000
<b>Total</b>	<b>345,064,588</b>	<b>127,478,324</b>	<b>884,030,459</b>	<b>0</b>	<b>1,356,573,366</b>	<b>362,421,766</b>	<b>1,429,342,736</b>

The department of public health and human services must use \$107,826 in fiscal year 2014 and \$217,807 in fiscal year 2015 of funds in Developmental Services Division to raise nonmedicaid provider rates by 2% in fiscal year 2014 and by an additional 2% in fiscal year 2015.

Targeted Case Management for Youth With Serious Emotional Disturbances may be used only to increase rates for children's mental health case management services to a level no less than the current fiscal year 2013 targeted case management rate for adults with severe disabling mental illness. This rate increase is in addition to and may not supplant or be supplanted by any other rate increase approved by the legislature for provider rates.

Expand Children's Services may be used only to screen additional children into the developmental disabilities comprehensive waiver to reduce the waiting list.

Medicaid Services -- Developmental Services includes \$2,811,336 in fiscal year 2014 and \$2,867,563 in fiscal year 2015 that may be used only to increase rates for children's mental health case management services to a level no less than the current fiscal year 2013 targeted case management rate for adults with severe disabling mental illness. This rate increase is in addition to and may not supplant or be supplanted by any other rate increase approved by the legislature for provider rates.

Medicaid Services -- Developmental Services includes \$1,985,352 in fiscal year 2014 and \$4,010,410 in fiscal year 2015 that may be used only to increase provider rates for developmental disabilities medicaid core services above the rate paid in fiscal year 2013. This rate increase is in addition to and may not supplant or be supplanted by any other rate increase approved by the legislature for provider rates.

Medicaid Services — Developmental Services, Medicaid Services — Health Resources, Medicaid Services — Senior and Long-Term Care, and Medicaid Services — Addictive and Mental Disorders may be used only to pay for medicaid services for eligible medicaid enrollees for expenses recorded as benefits and claims in the state accounting system and may not be transferred to other uses in the department.

The department of public health and human services must use the following amounts of money in the following appropriations to raise medicaid provider rates, except those medicaid services funded by the federal children's health insurance grant, by 2% in fiscal year 2014 and by 2% in fiscal year 2015:

- (1) Medicaid Services — Developmental Services, \$3,755,335 in fiscal year 2014 and \$7,585,778 in fiscal year 2015;

	Fiscal 2014			Fiscal 2015			Total
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue	

- (2) Medicaid Services — Health Resources, \$4,650,249 in fiscal year 2014 and \$9,389,047 in fiscal year 2015;
- (3) Medicaid Services — Senior and Long-Term Care, \$4,392,560 in fiscal year 2014 and \$8,872,971 in fiscal year 2015; and
- (4) Medicaid Services — Addictive and Mental Disorders, \$1,097,758 in fiscal year 2014 and \$2,217,499 in fiscal year 2015.

The department of public health and human services must use \$317,812 in fiscal year 2014 and \$641,984 in fiscal year 2015 of funds in Health Resources Division to raise provider rates for those services funded from the federal children's health insurance program grant and for providers who are not paid by a third-party administrator by 2% in fiscal year 2014 and by an additional 2% in fiscal year 2015.

The department of public health and human services must use \$209,887 in fiscal year 2014 and \$423,971 in fiscal year 2015 of funds in Senior and Long-Term Care Division to raise nonmedicaid provider rates by 2% in fiscal year 2014 and by an additional 2% in fiscal year 2015.

County Nursing Home Intergovernmental Transfer 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 Intergovernmental Transfer 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 counties participating in the intergovernmental transfer program for nursing facilities.

Personal Services Meal Preparation may be used only to provide personal assistance services for persons receiving medicaid services administered by the Senior and Long-Term Care Division.

Home and Community-Based Waiver may be used only to increase the number of service slots for medicaid services administered by the Senior and Long-Term Care Division. This funding may be used only to expand services above the level of additional service slots funded in the Money Follows the Person grant for elderly and physically disabled medicaid-eligible persons.

Direct Care Provider Rate Increase may be used only to raise provider rates for medicaid services to allow for continuation of wage increases or lump-sum payments to workers who provide direct care and ancillary services.

Southwest Montana Veterans' Home is contingent on approval and receipt of federal funding to support construction of the southwest Montana veterans' home.

~~Nursing Home Rate Increase may be used only to raise nursing home rates for medicaid services above the level paid in fiscal year 2012 and may be used only to augment any other rate increase for nursing home medicaid services funded in this act.~~

	<u>Fiscal 2014</u>		<u>Fiscal 2015</u>				
	<u>General Fund</u>	<u>State Special Revenue</u>	<u>Federal Special Revenue</u>	<u>Proprietary</u>	<u>Other</u>	<u>Total</u>	<u>Total</u>
Short-Term Housing Assistance may be used only to provide financial assistance for housing for persons transitioning from medicaid-funded facility-based care to community services through the Money Follows the Person grant program. Short-Term Housing Assistance may be used only to assist a person until that person is eligible for other housing assistance programs.							
Partially Restore Community Waiver Services may be used only to fund services that were reduced in fiscal year 2014.							
The department of public health and human services must use \$263,962 in fiscal year 2014 and \$533,203 in fiscal year 2015 of funds in Addictive and Mental Disorders Division to raise nonmedicaid provider rates by 2% in fiscal year 2014 and by an additional 2% in fiscal year 2015.							
Mental Health Crisis Jail Diversion Services and One-Time Mental Health Crisis Jail Diversion Services may be used only to fund grants to counties to develop mental health crisis jail diversion services in accordance with 53-21-1203.							
Prevent Jail Suicide may be used only for a grant program with the goal of preventing jail suicides in detention centers.							
<b>TOTAL SECTION B</b>	<b>444,971,206</b>	<b>153,836,329</b>	<b>1,134,135,802</b>	<b>0</b>	<b>0</b>	<b>1,732,943,337</b>	<b>463,882,314</b>
							<b>156,736,321</b>
							<b>1,187,126,776</b>
							<b>0</b>
							<b>1,807,745,411</b>

	Fiscal 2014			Fiscal 2015			Total
	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	
<b>C. NATURAL RESOURCES AND TRANSPORTATION</b>							
<b>DEPARTMENT OF FISH, WILDLIFE, AND PARKS (5201)</b>							
1. Information Services Division (01)							
0 4,358,326	10,692	0	0	4,369,018	0	4,360,173	10,692
2. Fisheries Division (03)							
0 7,832,020	9,444,836	0	0	17,276,856	0	7,846,959	9,469,792
a. Aquatic Invasive Species Funding (OTO)							
309,125	0	0	0	309,125	309,125	0	0
b. Fishing Land Access (OTO)							
0 10,000	0	0	0	10,000	0	10,000	0
c. Contracted Services for Operation and Maintenance at Fishing Access Sites (Restricted/Biennial/OTO)							
0 400,000	0	0	0	400,000	0	0	0
<del>d. Reporting (Restricted/Biennial/OTO)</del>							
0 1,000	0	0	0	1,000	0	0	0
3. Law Enforcement Division (04)							
0 9,393,902	382,838	0	0	9,776,740	0	9,410,971	383,666
a. Warden Salary Adjustments (Restricted)							
0 286,720	0	0	0	286,720	0	544,791	0
4. Wildlife Division (05)							
0 10,059,399	8,089,482	0	0	18,148,881	0	10,160,813	8,016,047
a. Game Damage (Restricted/OTO)							
0 11,500	0	0	0	11,500	0	11,500	0
b. Grizzly Bear Study (Restricted/OTO)							
0 300,000	0	0	0	300,000	0	0	0
5. Parks Division (06)							
0 7,472,974	165,869	0	0	7,638,843	0	7,488,490	166,199
a. Parks Operations and Maintenance (Restricted)							
0 7,654,689	0	0	0	7,654,689	0	0	0

	Fiscal 2014			Fiscal 2015			Total
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue	
	0	82,000	0	0	82,000	0	82,000
b. Parks Reservation System (Restricted/OTO)	0	50,000	0	0	100,000	0	100,000
c. Parks Equipment (OTO)	0	200,000	0	0	200,000	0	200,000
d. Snowmobile Program (Restricted/Biennial)	0	210,000	0	0	210,000	0	210,000
6. Communication and Education Division (08)	0	2,651,372	730,453	0	2,655,950	731,148	3,387,098
a. Shooting Ranges Funding (Restricted)	0	312,402	0	0	312,402	0	312,402
7. Management and Finance (09)	0	9,304,587	62,661	0	9,318,104	61,779	9,379,883
a. Legislative Audit (Restricted/Biennial)	0	83,140	14,671	0	0	0	0
8. Fish and Wildlife Admin (12)	0	3,859,609	168,388	0	3,867,338	168,221	4,035,559
<b>Total</b>	309,125	56,878,951	19,069,890	309,125	56,576,491	19,007,544	75,893,160

Contracted Services for Operations and Maintenance at Fishing Access Sites is restricted to contracted services for operations and maintenance, including but not limited to general upkeep, weed management, garbage pickup, and maintaining current sites prior to any purchases. If House Bill No. 401 is not passed and approved, then Contracted Services for Operation and Maintenance at Fishing Access Sites is void.

Reporting is restricted for the purpose of reporting to the environmental quality council and the joint appropriations subcommittee on natural resources and transportation. The Department of Fish, Wildlife, and Parks shall report to the environmental quality council by June 30, 2014, and to the 2015 session joint appropriations subcommittee on natural resources and transportation regarding the progress of maintenance of fishing access sites.

Warden Salary Adjustments is to be used for the department's warden salary increases for the 2015 biennium, based on a 5.82% increase calculated on salary data in the 2013 biennium. If House Bill No. 401 is not passed and approved, then Warden Salary Adjustments is void.



	Fiscal 2014			Fiscal 2015			Total
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue	
Wildlife Division includes a reduction in state special revenue of \$519,403 in fiscal year 2014 and \$522,032 in fiscal year 2015 and federal special revenue of \$213,635 in fiscal year 2014 and \$211,731 in fiscal year 2015. The reduction is the equivalent of an additional 2% vacancy savings. The agency may allocate this reduction in funding among programs when developing 2015 biennium operating plans.							
If House Bill No. 404 is passed and approved with a fund switch of \$1,259,209 for fiscal year 2014 and fiscal year 2015 from the wildlife habitat acquisition account to the hunting access account, the Wildlife Division is appropriated \$1,259,209 in state special revenue from the hunting account for hunting access and is restricted for the use of land contract expenditures.							
<b>DEPARTMENT OF ENVIRONMENTAL QUALITY (5301)</b>							
1. Central Management Program (10)							
305,432	1,201,531	325,572	0	1,892,535	305,682	1,161,938	365,148
2. Planning, Prevention, and Assistance Division (20)							
2,630,738	3,153,571	7,105,018	0	12,889,327	2,631,807	3,154,171	7,111,817
a. Database Development (Restricted/Biennial/OTO)							
0	150,000	0	0	150,000	0	0	0
3. Enforcement Division (30)							
517,710	461,409	360,048	0	1,339,167	518,091	461,071	359,786
4. Remediation Division (40)							
0	5,518,252	5,480,540	0	10,998,792	0	5,520,163	5,483,936
a. Orphan Share Feasibility Study (Restricted/Biennial/OTO)							
0	425,000	0	0	425,000	0	425,000	0
b. Beal and Basin Reclamation (Restricted/Biennial)							
0	201,416	0	0	201,416	0	201,416	0
c. Additional Leaking Underground Storage Tank Expenses (OTO)							
0	400,000	0	0	400,000	0	0	0
5. Permitting and Compliance Division (50)							
1,768,951	16,781,018	6,634,628	0	25,184,597	1,770,115	16,800,790	6,627,243
a. Hard Rock Reclamation (Restricted/Biennial)							
0	2,812,946	0	0	2,812,946	0	2,812,946	0

	Fiscal 2014			Fiscal 2015			Total
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue	
b. Zortman/Landusky Additional Funding (Restricted/Biennial/OTO)	0	250,000	0	0	250,000	0	250,000
c. Opencut Mining Program Database (Restricted/Biennial/OTO)	0	100,000	0	0	0	0	0
d. Industrial Energy and Minerals Bureau Systems Specialist (OTO)	0	81,753	0	0	77,298	0	77,298
e. Opencut Science Specialist (OTO)	0	43,214	0	0	40,216	0	40,216
6. Petroleum Tank Release Compensation Board (90)	0	618,052	0	0	618,042	0	618,042
<b>Total</b>	5,222,831	32,198,162	19,905,806	5,225,695	31,523,051	19,947,930	56,696,676

The Planning, Prevention, and Assistance 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.

Permitting and Compliance Division includes a reduction in general fund of \$33,957 in fiscal year 2014 and \$33,712 in fiscal year 2015, state special revenue of \$290,347 in fiscal year 2014 and \$281,120 in fiscal year 2015, and federal special revenue of \$232,124 in fiscal year 2014 and \$242,060 in fiscal year 2015. The reduction is the equivalent of an additional 2% vacancy savings. The agency may allocate this reduction in funding among programs when developing 2015 biennium operating plans.

If federal funds are received to help meet the annual shortfall in operating and maintenance costs at the Zortman-Landusky mine sites, this orphan share spending authority will be reduced by the same amount.

The department is appropriated up to \$1,000,000 of the funds recovered under the petroleum tank compensation board subrogation program in the 2015 biennium for the purpose of paying contract expenses related to the recovery of funds.

**DEPARTMENT OF TRANSPORTATION (5401)**

1. General Operations Program (01) (Biennial)	0	23,373,012	283,582	0	23,307,456	282,800	23,590,256
---	---	------------	---------	---	------------	---------	------------

	Fiscal 2014			Fiscal 2015			Total
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue	
a. Legislative Audit (Restricted/Biennial)	0	171,169	0	0	0	0	0
2. Construction Program (02) (Biennial)	0	79,700,873	390,684,643	0	79,820,096	390,654,517	470,474,613
3. Maintenance Program (03) (Biennial)	0	125,245,389	7,668,289	0	120,562,566	7,668,298	128,230,864
4. Motor Carrier Services Division (22) (Biennial)	0	8,452,234	3,046,851	0	8,186,555	3,048,922	11,235,477
a. Scale Site Repair (Restricted/OTO)	0	14,158	0	0	14,158	0	14,158
b. CVIEW & CCAMS Projects (Biennial/OTO)	0	51,117	51,116	0	0	0	0
5. Aeronautics Program (40) (Biennial)	0	1,668,553	64,217	0	1,670,483	64,217	1,734,700
a. Lincoln Airport Runway Improvements (Restricted/OTO)	0	16,667	150,000	0	0	0	0
b. Aeronautics State System Plan (Biennial)	0	15,000	135,000	0	15,000	135,000	150,000
c. Aeronautics Grants, Loans & Pavement Preservation (Biennial)	0	143,851	0	0	143,851	0	143,851
6. Rail, Transit, and Planning Division (50) (Biennial)	0	6,730,763	25,450,591	0	6,735,085	24,815,425	31,550,510
a. Pollution Prevention & Abatement (Restricted)	0	320,000	0	0	320,000	0	320,000
b. Rail Service Competition Council	0	50,000	0	0	50,000	0	50,000
<b>Total</b>							



	Fiscal 2014			Fiscal 2015			Total
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue	
0	688,818	743,354	0	0	688,805	741,986	1,430,791
a. Designated Surveillance Area Vet and Compliance Specialist (OTO)	133,447	0	0	133,447	0	0	133,447
b. Designated Surveillance Area Brucellosis Testing (OTO)	373,168	0	0	373,168	0	0	373,168
4. Milk and Egg Program (05)	0	401,265	28,490	0	405,251	28,490	433,741
5. Brands Enforcement Division (06)	2,943	3,216,020	0	2,943	3,227,143	0	3,230,086
a. Brands Overtime (Restricted)	0	55,979	0	0	55,979	0	55,979
6. Meat and Poultry Inspection Program (10)	593,002	5,718	594,513	594,784	5,717	596,295	1,196,796
a. Meat Inspector Training (OTO)	4,161	0	4,161	4,161	0	4,161	8,322
b. Meat Inspector Field Supplies (OTO)	6,725	0	6,725	0	0	0	0
c. Meat Inspector (OTO)	19,636	0	19,636	19,636	0	19,636	39,272
<b>Total</b>	<b>1,507,983</b>	<b>7,907,822</b>	<b>1,396,879</b>	<b>1,497,575</b>	<b>7,879,303</b>	<b>1,390,568</b>	<b>10,767,446</b>

Centralized Services Program includes a reduction in state special revenue of \$116,334 in fiscal year 2014 and \$116,408 in fiscal year 2015. Meat and Poultry Inspection Program includes a reduction in general fund of \$18,130 in fiscal year 2014 and \$18,141 in fiscal year 2015 and federal special revenue of \$16,619 in fiscal year 2014 and \$16,630 in fiscal year 2015. The reduction is the equivalent of an additional 2% vacancy savings. The agency may allocate this reduction in funding among programs when developing 2015 biennium operating plans.

**DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION (5706)**

- 1. Centralized Services (21)

	Fiscal 2014				Fiscal 2015							
	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total
3,375,121	1,685,156	268,252	0	0	0	5,328,529	3,418,502	1,618,584	262,042	0	0	5,299,128
a. Legislative Audit (Restricted/Biennial)	122,264	0	0	0	0	122,264	0	0	0	0	0	0
2. Oil and Gas Conservation Division (22)	0	1,774,033	111,470	0	0	1,885,503	0	1,775,693	111,470	0	0	1,887,163
a. Education (Restricted/Biennial)	0	700,000	0	0	0	700,000	0	700,000	0	0	0	700,000
b. Procedure Manual and Field Inspections System (Restricted/Biennial/OTO)	0	120,000	0	0	0	120,000	0	0	0	0	0	0
c. Board of Oil and Gas Conservation Regulatory Program Adjustments (OTO)	0	40,360	0	0	0	40,360	0	40,452	0	0	0	40,452
d. Board of Oil and Gas Conservation Underground Injection Control Program Adjustments (OTO)	0	28,130	0	0	0	28,130	0	28,130	0	0	0	28,130
e. Board of Oil and Gas Conservation Enhanced Oil Recovery Study (OTO)	0	178,976	0	0	0	178,976	0	169,717	0	0	0	169,717
f. Compliance and Field Inspections (OTO)	0	196,178	0	0	0	196,178	0	196,178	0	0	0	196,178
g. Board of Oil and Gas Inspectors Personal Services (Restricted)	0	100,000	0	0	0	100,000	0	100,000	0	0	0	100,000
3. Conservation and Resource Development Division (23)	1,002,489	8,709,493	274,966	0	0	9,986,948	1,004,541	8,709,590	274,966	0	0	9,989,097
a. CARDD Operating Adjustment (Restricted/OTO)	0	171,700	23,300	0	0	195,000	0	171,700	23,300	0	0	195,000
b. Regional Water Administration Funds (Restricted/OTO)	0	47,500	0	0	0	47,500	0	47,500	0	0	0	47,500
c. Yellowstone River Conservation District Council (Restricted/OTO)	0	75,000	0	0	0	75,000	0	0	0	0	0	0
d. Sheridan County Conservation District (Restricted/OTO)	0	75,000	0	0	0	75,000	0	0	0	0	0	0



	Fiscal 2014				Fiscal 2015				Total			
	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue		Federal Special Revenue	Proprietary	Other
e. Conservation District Support (Restricted/OTO)	0	23,000	0	0	0	23,000	0	23,000	0	0	0	23,000
f. MT Salinity Drilling Equipment (Restricted/OTO)	0	287,000	0	0	0	287,000	0	287,000	0	0	0	287,000
g. MT Salinity Technical Assistance (Restricted/OTO)	0	112,000	0	0	0	112,000	0	0	0	0	0	0
h. MSU Montana Water Center (Restricted/OTO)	0	40,000	0	0	0	40,000	0	40,000	0	0	0	40,000
i. Drinking Water Loan Forgiveness (Restricted/OTO)	0	400,000	0	0	0	400,000	0	0	0	0	0	0
j. <del>Montana Rural Water Systems (OTO)</del>	0	200,000	0	0	0	200,000	0	200,000	0	0	0	200,000
k. Montana Grass Conservation Commission (OTO)	0	235,000	0	0	0	235,000	0	235,000	0	0	0	235,000
4. Water Resources Division (24)	3,500	0	0	0	0	3,500	3,500	0	0	0	0	3,500
a. Stream Gaging (Restricted/OTO)	8,558,218	5,789,762	228,418	0	0	14,576,398	8,571,523	3,784,741	228,479	0	0	12,584,743
b. Flood Plain Mapping (OTO)	28,726	0	0	0	0	28,726	29,700	0	0	0	0	29,700
5. Forestry and Trust Lands (35)	0	100,000	0	0	0	100,000	0	100,000	0	0	0	100,000
a. Narrow Band Radios (Restricted/OTO)	10,409,771	14,983,754	1,089,908	0	0	26,483,433	10,420,285	15,002,655	1,091,162	0	0	26,514,052
b. Trust Land Management Division Land Transaction Funds (OTO)	86,353	42,533	0	0	0	128,886	86,353	42,533	0	0	0	128,886
c. Trust Land Management Division MSU Morrill Trust Projects (Biennial/OTO)	0	204,069	0	0	0	204,069	0	204,069	0	0	0	204,069

	Fiscal 2014			Fiscal 2015			Total
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue	
	80,000	0	0	80,000	0	0	80,000
<b>Total</b>							
	23,666,442	36,243,644	1,996,314	23,614,354	33,476,542	1,991,419	59,082,315

During the 2015 biennium, up to \$1 million of funds currently in or to be deposited in the Broadwater replacement and renewal account is appropriated to the department for repairing or replacing equipment at the Broadwater hydropower facility.

During the 2015 biennium, up to \$100,000 of interest earned on the Broadwater water users account is appropriated to the department for the purpose of repair, improvement, or rehabilitation of the Broadwater-Missouri diversion project.

During the 2015 biennium, up to \$2,200,000 of funds currently in or to be deposited in the state project hydropower earnings account is appropriated for the purpose of repairing, improving, or rehabilitating department state water projects.

The department is appropriated up to \$600,000 for the 2015 biennium from the natural resources operations account established in 15-38-301 for the purchase of prior liens on property held as loan security as provided in 85-1-615.

The department is appropriated up to \$200,000 for the 2015 biennium from the coal bed methane protection account established in 76-15-904 for potential landowner or water right holder claims for emergency loss of water related to coal bed methane development.

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.

If House Bill No. 556 is not passed and approved, Yellowstone River Conservation District Council, Sheridan County Conservation District, Conservation District Support, MT Salinity Drilling Equipment, MT Salinity Technical Assistance, and MSU Montana Water Center funding is void.

Forestry and Trust Lands includes a reduction in general fund of \$296,118 in fiscal year 2014 and \$296,363 in fiscal year 2015, state special revenue of \$345,471 in fiscal year 2014 and \$345,757 in fiscal year 2015, and federal special revenue of \$63,454 in fiscal year 2014 and \$63,506 in fiscal year 2015. The reduction is the equivalent of an additional 2% vacancy savings. The agency may allocate this reduction in funding among programs when developing 2015 biennium operating plans.

**DEPARTMENT OF AGRICULTURE (6201)**

1. Central Management Division (15)	97,504	753,317	105,866	128,169	0	1,084,856	97,483	753,207	106,082	128,979	0	1,085,751
-------------------------------------	--------	---------	---------	---------	---	-----------	--------	---------	---------	---------	---	-----------



	Fiscal 2014			Fiscal 2015			Total
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue	
<b>JUDICIARY (2110)</b>							
1. Supreme Court Operations (01)	9,699,483	241,555	120,882	9,802,413	241,556	120,841	10,164,810
a. Legislative Audit (Restricted/Biennial)	45,412	0	0	0	0	0	0
b. Courtroom Technology (Biennial/OTO)	222,450	0	0	0	0	0	0
c. Increase Information Technology Staff (OTO)	171,517	0	0	162,712	0	0	162,712
d. Court Help (Biennial/OTO)	325,000	0	0	324,842	0	0	324,842
e. Judicial Standards (Restricted/Biennial)	25,000	0	0	0	0	0	0
2. Law Library (03)	870,647	0	0	874,238	0	0	874,238
3. District Court Operations (04)	25,552,692	149,018	0	25,701,710	149,018	0	25,707,116
4. Water Courts Supervision (05)	0	2,110,902	0	0	2,108,515	0	2,108,515
5. Clerk of Court (06)	469,943	0	0	470,668	0	0	470,668
<b>Total</b>	<b>37,382,144</b>	<b>2,501,475</b>	<b>120,882</b>	<b>37,192,971</b>	<b>2,499,089</b>	<b>120,841</b>	<b>39,812,901</b>
<b>CRIME CONTROL DIVISION (4107)</b>							
1. Justice System Support Service (01)							

D. JUDICIAL BRANCH, LAW ENFORCEMENT, AND JUSTICE

	Fiscal 2014				Fiscal 2015			
	General Fund	State Special Revenue	Federal Special Revenue	Total	General Fund	State Special Revenue	Federal Special Revenue	Total
a. Pass-Through Grants (Biennial)	1,411,695	13,852	552,229	1,977,776	1,410,767	13,844	551,596	1,976,207
b. Juvenile Detention (Biennial)	0	138,321	5,498,350	5,636,671	0	138,321	5,498,350	5,636,671
Total	931,923	0	0	931,923	931,923	0	0	931,923
Total	2,343,618	152,173	6,050,579	8,546,370	2,342,690	152,165	6,049,946	8,544,801

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 2013 biennium are authorized to continue and are appropriated in fiscal year 2014 and fiscal year 2015.

**DEPARTMENT OF JUSTICE (4110)**

1. Legal Services Division (01)	6,043,502	189,998	412,411	6,645,911	6,033,578	189,998	412,405	6,635,981
a. Child and Family Ombudsman (Biennial)	125,000	0	0	125,000	125,000	0	0	125,000
b. Major Litigation — Montana v. Wyoming Water Litigation (Restricted/Biennial/OTO)	1,000,000	0	0	1,000,000	1,000,000	0	0	1,000,000
2. Office of Consumer Protection (02)	0	867,076	0	867,076	0	870,964	0	870,964
3. Gambling Control Division (07)	0	2,799,826	1,143,591	3,943,417	0	2,806,505	1,146,319	3,952,824
4. Motor Vehicle Division (12)	7,978,597	10,133,100	586,467	18,698,164	7,997,520	10,564,503	0	19,153,282
5. Montana Highway Patrol (13)	0	34,282,166	0	34,282,166	0	34,352,953	0	34,352,953

	Fiscal 2014			Fiscal 2015			Total
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue	
a. Bakken Highway Patrol Officer Outfitting (OTO)	0	276,700	0	0	0	0	0
6. Division of Criminal Investigation (18)	6,589,330	3,879,868	687,352	0	0	0	11,178,898
a. Child Abuse Prevention (Restricted/OTO)	100,000	0	0	0	0	0	100,000
b. POST Contracted Legal Costs (Restricted)	50,000	0	0	50,000	0	0	50,000
c. Senate Bill 43 Investigator for Investigations at the Montana Developmental Center (Restricted)	97,064	0	0	97,064	0	0	97,064
7. Central Services Division (28)	460,077	897,127	0	26,061	899,790	24,849	1,385,608
a. Legislative Audit (Restricted/Biennial)	25,309	48,049	0	0	0	0	0
8. Information Technology Services Division (29)	3,708,491	141,476	2,652	14,856	0	0	3,866,862
9. Forensic Science Division (32)	3,690,901	342,099	0	0	4,033,000	342,368	4,030,620
a. Forensic Science Division Equipment (Restricted/Biennial/OTO)	50,000	0	0	0	0	0	50,000
<b>Total</b>	<b>29,918,271</b>	<b>53,857,485</b>	<b>1,102,415</b>	<b>1,770,975</b>	<b>86,649,146</b>	<b>1,102,408</b>	<b>86,850,056</b>

If House Bill No. 76 is not passed and approved, Child and Family Ombudsman is void.

Motor Vehicle Division includes a reduction in general fund of \$397,535 in fiscal year 2014 and \$399,973 in fiscal year 2015, state special revenue of \$171,421 in fiscal year 2014 and \$174,974 in fiscal year 2015, and proprietary funds of \$4,792 in fiscal year 2014. The reduction is the equivalent of an additional 2% vacancy savings. The agency may allocate this reduction in funding among programs when developing 2015 biennium operating plans.



	Fiscal 2014			Fiscal 2015			Total
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue	
1. Public Service Regulation Program (01)	0	3,557,165	65,607	0	3,595,361	65,607	3,660,968
a. Legislative Audit (Restricted/Biennial)	0	20,960	0	0	0	0	0
b. Pay Retirement Benefits (Restricted/Biennial)	0	92,800	0	0	0	0	0
<b>Total</b>	0	3,670,925	65,607	0	3,595,361	65,607	3,660,968

Division of Criminal Investigation includes \$387,811 in state special revenue in fiscal year 2014 and \$377,162 in state special revenue in fiscal year 2015 that is contingent upon passage and approval of House Bill No. 218 in a form that allows a direct appropriation of the oil and gas impact account for the purpose of funding costs of criminal investigators in the Bakken energy development impacted area of the state. If House Bill No. 218 is not passed and approved in a form that allows a direct appropriation of the oil and gas impact account for this purpose, state special revenue in Division of Criminal Investigation is reduced by \$387,811 in fiscal year 2014 and by \$377,162 in fiscal year 2015.

**PUBLIC SERVICE COMMISSION (4201)**

**OFFICE OF STATE PUBLIC DEFENDER (6108)**

1. Office of State Public Defender (01)	23,400,417	190,751	0	0	23,591,168	23,515,752	186,942	0	0	23,702,694
a. Legislative Audit (Restricted/Biennial)	54,145	0	0	0	54,145	0	0	0	0	0
b. Attorney Career Ladder (Restricted)	1,209,927	0	0	0	1,209,927	1,209,848	0	0	0	1,209,848
c. Capital Case Defense (Restricted/Biennial/OTO)	250,000	0	0	0	250,000	250,000	0	0	0	250,000
2. Office of Appellate Defender (02)										

Public Service Regulation Program includes a reduction in state special revenue of \$49,888 in fiscal year 2014 and \$49,950 in fiscal year 2015. The reduction is the equivalent of an additional 2% vacancy savings.

	Fiscal 2014			Fiscal 2015			Total
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue	
a. Attorney Career Ladder (Restricted)	1,216,705	90,793	0	1,219,033	86,984	0	1,306,017
72,453	0	0	0	72,448	0	0	72,448
<b>Total</b>	<b>26,203,647</b>	<b>281,544</b>	<b>0</b>	<b>26,267,081</b>	<b>273,926</b>	<b>0</b>	<b>26,541,007</b>
Office of State Public Defender includes a reduction in general fund of \$271,617 in fiscal year 2014 and \$271,550 in fiscal year 2015. The reduction is the equivalent of an additional 2% vacancy savings. The agency may allocate this reduction in funding among programs when developing 2015 biennium operating plans.							
<b>DEPARTMENT OF CORRECTIONS (6401)</b>							
<b>1. Administration and Support Services (01)</b>							
18,330,908	692,539	0	66,167	18,345,453	691,166	0	19,099,630
a. Legislative Audit (Restricted/Biennial)	108,291	0	0	108,291	0	0	108,291
b. Outside Medical Inflationary Increase (Restricted/Biennial)	1,027,622	0	0	1,027,622	0	0	1,027,622
c. Montana State Prison Door Control System (Restricted/Biennial/OTO)	48,632	0	0	48,632	0	0	48,632
d. Montana State Prison Water Telemetry System (Restricted/Biennial/OTO)	50,000	0	0	50,000	0	0	50,000
e. Vocational Training (Restricted/Biennial/OTO)	159,618	0	0	159,618	0	0	159,618
f. Inmate Adult Educational Assessment Software (Restricted/OTO)	20,000	0	0	20,000	0	0	20,000
g. Montana State Prison Employee Training Lab (Restricted/Biennial/OTO)	15,750	0	0	15,750	0	0	15,750
<b>2. Adult Community Corrections (02)</b>	<b>61,056,337</b>	<b>1,475,211</b>	<b>0</b>	<b>61,210,977</b>	<b>1,475,211</b>	<b>0</b>	<b>62,686,188</b>

	Fiscal 2014			Fiscal 2015			Total
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue	
a. Per Diem for Adult Pre-release Centers (Restricted)	439,357	0	0	878,714	0	0	878,714
b. Per Diem for Adult Treatment (Restricted)	245,811	0	0	602,323	0	0	602,323
c. Reentry Coordination (Restricted)	0	25,000	0	0	25,000	0	25,000
3. Secure Custody Facilities (03)	78,908,107	104,816	0	79,973,365	104,816	0	80,078,181
a. Montana Women's Prison Supplies (Restricted/Biennial/OTO)	25,000	0	0	35,000	0	0	35,000
b. Montana State Prison Supplies and Equipment (Restricted/Biennial/OTO)	110,000	0	0	30,000	0	0	30,000
c. Montana State Prison Van Replacement (Restricted/Biennial/OTO)	110,000	0	0	0	0	0	0
4. Montana Correctional Enterprises (04)	824,496	2,515,468	0	826,693	2,515,498	0	3,342,191
5. Youth Services (05)	17,787,983	1,081,784	16,005	17,817,228	1,081,784	16,005	18,915,017
a. Riverside Safety and Security Equipment (Restricted/Biennial/OTO)	100,000	0	0	0	0	0	0
<b>Total</b>	<b>179,367,912</b>	<b>5,894,818</b>	<b>16,005</b>	<b>180,767,375</b>	<b>5,893,475</b>	<b>16,005</b>	<b>186,739,866</b>

Administration and Support Services includes appropriations of \$8,050,772 in general fund in each year for outside medical costs that are biennial.

Administration and Support Services includes a reduction in general fund of \$685,990 in fiscal year 2014 and \$684,700 in fiscal year 2015. The reduction is the equivalent of an additional 2% vacancy savings. The agency may allocate this reduction in funding among programs when developing 2015 biennial operating plans.



	Fiscal 2014			Fiscal 2015			Total
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue	
<b>E. EDUCATION</b>							
<b>OFFICE OF SUPERINTENDENT OF PUBLIC INSTRUCTION (3501)</b>							
1. OPI Administration (06)							
10,033,158	257,048	16,145,599	0	26,435,805	10,048,526	257,109	16,150,388
a. Disaster/Data Maintenance (Restricted/OTO)	45,324	0	0	45,324	0	0	0
b. Chapter 55 Amendment (Restricted/OTO)	92,513	0	0	92,513	88,793	0	0
c. Montana Digital Academy (Restricted/Biennial/OTO)	715,000	0	0	715,000	750,000	0	0
d. National Board Certified Teachers (Restricted/OTO)	27,000	0	0	27,000	57,000	0	0
e. Audiological Services (Restricted/Biennial/OTO)	68,186	0	0	68,186	68,186	0	0
f. Striving Readers Administration (Restricted/Biennial/OTO)	0	393,458	0	393,458	0	0	393,458
g. OPI Staffing Information Systems (OTO)	155,422	0	0	155,422	148,717	0	0
h. School-Based Mental Health (OTO)	109,725	0	0	109,725	105,959	0	0
2. Distribution to Public Schools (09)	0	150,164,220	0	150,164,220	0	0	151,724,220
a. BASE Aid	565,029,971	0	0	565,029,971	580,680,837	0	0
b. At-Risk Payment	5,044,500	0	0	5,044,500	5,149,426	0	0
c. Special Education							

	Fiscal 2014			Fiscal 2015			Total
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue	
	42,017,992	0	0	42,891,966	0	0	42,891,966
d. Transportation	12,316,253	0	0	12,416,253	0	0	12,416,253
e. In-State Treatment	787,800	0	0	787,800	0	0	787,800
f. Career and Technical Education	1,500,000	0	0	1,500,000	0	0	1,500,000
g. Adult Basic Education	525,000	0	0	525,000	0	0	525,000
h. Gifted and Talented	250,000	0	0	250,000	0	0	250,000
i. School Foods	663,861	0	0	663,861	0	0	663,861
j. Reimbursement Block Grants	58,569,130	0	0	66,334,425	0	0	66,334,425
k. State Tuition Payments	785,658	0	0	824,941	0	0	824,941
l. Advancing Agricultural Education	128,960	0	0	128,960	0	0	128,960
m. Chapter 55 Professional Development and Stipends (Restricted/OTO)	250,000	0	0	250,000	0	0	250,000
n. School Technology (Restricted/OTO)	1,000,000	0	0	0	0	0	0
o. School Facility Debt Service (Restricted/Biennial)	0	8,586,000	0	0	8,586,000	0	8,586,000
p. Traffic Safety Distribution (Restricted/Biennial)	0	750,000	0	0	750,000	0	750,000
q. Novice Traffic Education Reimbursement							



	Fiscal 2014			Fiscal 2015			Total
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue	
r. Striving Readers Competency and Literacy (Restricted)\(OTO)	0	1,017,254	0	0	831,210	0	831,210
s. State School Oil and Natural Gas Impact Account (Restricted/Biennial)	0	7,475,743	0	0	0	7,475,743	7,475,743
Total	0	1,017,254	0	0	831,210	0	831,210

700,115,453 11,610,302 174,179,020 0 0 885,904,775 723,670,650 11,124,319 175,743,809 0 0 910,538,778

OPI Administration includes a reduction in general fund of \$86,615 in fiscal year 2014 and \$86,736 in fiscal year 2015, state special revenue of \$4,331 in fiscal year 2014 and \$4,337 in fiscal year 2015, and federal special revenue of \$125,592 in fiscal year 2014 and \$125,768 in fiscal year 2015. The reduction is the equivalent of an additional 2% vacancy savings. The agency may allocate this reduction in funding among programs when developing 2015 biennium operating plans.

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.

All revenue up to \$1.8 million in the traffic education account for distribution to schools under the provisions of 20-7-506 and 61-5-121 is appropriated as provided in Title 20, chapter 7, part 5.

All appropriations for federal special revenue programs in state level activities and in local education activities and all general fund appropriations in local education activities are biennial.

Novice Traffic Education Reimbursement is void if House Bill No. 178 is not passed and approved.

**BOARD OF PUBLIC EDUCATION (5101)**

1. K-12 Education (01)	192,710	167,999	0	0	360,709	192,932	168,186	0	0	361,118
a. Legislative Audit (Restricted/Biennial)	16,418	0	0	0	16,418	0	0	0	0	0
Total	209,128	167,999	0	0	377,127	192,932	168,186	0	0	361,118

	Fiscal 2014			Fiscal 2015			Total
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue	
<b>SCHOOL FOR THE DEAF AND BLIND (5113)</b>							
1. Administration Program (01)							
425,199	2,800	0	0	423,849	2,940	0	426,789
a. Legislative Audit (Restricted/Biennial)							
20,261	0	0	0	0	0	0	0
2. General Services Program (02)							
474,666	0	0	0	475,564	0	0	475,564
3. Student Services (03)							
1,498,102	0	23,000	0	1,499,950	0	23,000	1,522,950
4. Education (04)							
3,862,627	260,280	48,760	0	3,855,651	260,280	48,760	4,164,691
a. Professional Development (Restricted/OTO)							
25,000	0	0	0	25,000	0	0	25,000
b. Extracurricular Compensation (Restricted)							
26,938	0	0	0	26,938	0	0	26,938
c. Upgrade Equipment — Lending Library (Biennial/OTO)							
25,000	0	0	0	0	0	0	0
<b>Total</b>	<b>6,357,793</b>	<b>263,080</b>	<b>71,760</b>	<b>6,306,952</b>	<b>263,220</b>	<b>71,760</b>	<b>6,641,932</b>
<b>MONTANA ARTS COUNCIL (5114)</b>							
1. Promotion of the Arts (01)							
465,226	220,123	0	0	476,907	215,923	0	692,830
a. Legislative Audit (Restricted/Biennial)							
20,960	0	0	0	0	0	0	0
b. Federal Funds (Biennial)							
0	0	697,430	0	0	0	684,122	684,122

	Fiscal 2014			Fiscal 2015			Total
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue	
c. Arts in Education Grants (Biennial/OTO)							
55,000	0	0	0	0	0	0	0
d. Arts in Education — Box Elder Fine Arts Glass Blowing (Restricted/Biennial/OTO)							
35,000	0	0	0	0	0	0	0
<b>Total</b>	576,186	220,123	697,430	476,907	215,923	684,122	1,376,952
<p>Arts in Education — Box Elder Fine Arts Glass Blowing includes general fund of \$35,000 as a restricted, biennial, one-time-only appropriation to the Montana arts council for the 2015 biennium to issue a grant to the Box Elder schools fine arts glass blowing program. At least \$30,000 of the grant must be allocated for propane and glass costs and up to \$5,000 may be allocated to reimburse participating schools for travel expenses. The grant must be used to supplement local funding for the program.</p>							
<b>MONTANA STATE LIBRARY COMMISSION (5115)</b>							
1. Statewide Library Resources (01)							
2,786,134	1,800,386	364,870	0	2,790,572	1,799,683	364,873	4,955,128
a. Legislative Audit (Restricted/Biennial)							
20,960	0	0	0	20,960	0	0	0
b. Water Information System (Restricted/OTO)							
72,472	0	0	0	72,472	0	0	72,362
c. Talking Book Library Transition (Restricted/OTO)							
25,000	0	0	0	25,000	0	0	0
d. Distribution to Local Libraries (Restricted/OTO)							
292,936	0	0	0	292,936	0	0	292,936
e. Library Services and Technology Act Grants (Biennial)							
0	0	1,300,000	0	0	0	200,000	200,000
<b>Total</b>	3,207,502	1,800,386	1,664,870	3,155,870	1,799,683	564,873	5,520,426

	Fiscal 2014			Fiscal 2015			Total
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue	
1. Administration Program (01)	964,702	96,839	86,920	242,458	86,932	239,382	1,374,490
a. Legislative Audit (Restricted/Biennial)	0	0	0	0	0	0	0
2. Research Center (02)	38,426	0	0	38,426	0	0	0
1,057,146	112,732	0	34,102	1,056,849	112,781	34,102	1,203,732
a. Research Program Shelving (Restricted/Biennial/OTO)	300,000	0	0	102,000	0	0	102,000
3. Museum Program (03)	523,177	397,573	0	2,707	397,795	2,707	920,761
a. Original Governor's Mansion Repair (Restricted/Biennial/OTO)	75,000	0	0	0	0	0	27,000
4. Publications (04)	140,267	0	0	284,827	0	285,587	426,545
5. Education Program (05)	284,435	103,670	0	21,690	103,590	21,690	409,601
6. Historic Preservation Program (06)	35,203	0	633,267	10,077	0	10,130	678,075
<b>Total</b>	<b>3,418,356</b>	<b>710,814</b>	<b>720,187</b>	<b>595,861</b>	<b>710,577</b>	<b>593,598</b>	<b>5,142,204</b>

If House Bill No. 38 is not passed and approved, Statewide Library Resources is decreased by \$954,062 in fiscal year 2014 and \$953,359 in fiscal year 2015 in state special revenue.

**MONTANA HISTORICAL SOCIETY (51117)**

Administration Program includes a reduction in general fund of \$47,152 in fiscal year 2014 and \$44,010 in fiscal year 2015, state special revenue of \$2,089 in fiscal year 2014 and \$2,253 in fiscal year 2015, federal special revenue of \$9,950 in fiscal year 2014 and \$9,938 in fiscal year 2015, and proprietary funds of \$6,545 in fiscal year 2014 and \$9,552 in fiscal year 2015. The reduction is equivalent of an additional 2% vacancy savings. The agency may allocate this reduction in funding among programs when developing 2015 biennium operating plans.

	Fiscal 2014				Fiscal 2015							
	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total
<b>MONTANA UNIVERSITY SYSTEM, INCLUDING OFFICE OF THE COMMISSIONER OF HIGHER EDUCATION AND EDUCATIONAL UNITS AND AGENCIES (5100)</b>												
1. OCHE — Administration Program (01)				75,093	0	2,951,707	2,556,529	0	334,065	74,290	0	2,964,884
2,538,144	0	338,470	338,470									
a. Legislative Audit (Restricted/Biennial)												
41,919	0	0	0	0	0	41,919	0	0	0	0	0	0
2. OCHE — Student Assistance Program (02)												
9,860,514	149,530	0	0	0	10,010,044	10,529,816	149,530	0	0	0	0	10,679,346
a. GSL/Student Assistance Fund Allocation (OTO)												
2,587,890	0	0	0	0	2,587,890	2,587,890	0	0	0	0	0	2,587,890
b. Quality Educator Loan Forgiveness (Restricted/OTO)												
243,110	0	0	0	0	243,110	243,110	0	0	0	0	0	243,110
c. Veterans' Success (Restricted/Biennial/OTO)												
500,000	0	0	0	0	500,000	500,000	0	0	0	0	0	500,000
3. OCHE — Improving Teacher Quality (03)												
0	0	392,117	392,117	0	392,117	0	0	0	342,580	0	0	342,580
12,439,325	0	0	0	0	12,439,325	12,440,785	0	0	0	0	0	12,440,785
4. OCHE — Community College Assistance (04) (Biennial)												
12,439,325	0	0	0	0	12,439,325	12,440,785	0	0	0	0	0	12,440,785
a. Legislative Audit (Restricted/Biennial)												
73,852	0	0	0	0	73,852	0	0	0	0	0	0	0
b. Workforce Development Programs (OTO)												
500,000	0	0	0	0	500,000	500,000	0	0	0	0	0	500,000
5. OCHE — Educational Outreach and Diversity (06)												
90,971	0	4,449,177	4,449,177	0	4,540,148	90,782	0	4,451,804	0	0	0	4,542,586
6. OCHE — Workforce Development Program (08)												
90,067	0	6,186,975	6,186,975	0	6,277,042	90,067	0	6,185,867	0	0	0	6,275,934
7. OCHE — Appropriation Distribution Transfers (09)												
145,004,305	19,496,720	0	0	0	164,501,025	146,828,116	20,003,477	0	0	0	0	166,831,593

	Fiscal 2014				Fiscal 2015							
	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total
a. Legislative Audit (Restricted/Biennial)	530,974	0	0	0	0	530,974	0	0	0	0	0	0
b. Workforce Development and 2-Year Education (OTO)	500,000	0	0	0	0	500,000	500,000	0	0	0	0	500,000
c. Veterinary Medicine (Biennial/OTO)	500,000	0	0	0	0	500,000	500,000	0	0	0	0	500,000
d. Energy and Natural Resources Doctoral Program (Biennial/OTO)	300,000	0	0	0	0	300,000	300,000	0	0	0	0	300,000
e. Bio-Energy Research Center (Biennial/OTO)	200,000	0	0	0	0	200,000	200,000	0	0	0	0	200,000
f. Agricultural Experiment Station	12,941,928	0	0	0	0	12,941,928	12,977,684	0	0	0	0	12,977,684
<del>g. Agricultural Experiment Station—Montana Seed Lab (OTO)</del>	<del>125,000</del>	<del>0</del>	<del>0</del>	<del>0</del>	<del>0</del>	<del>125,000</del>	<del>125,000</del>	<del>0</del>	<del>0</del>	<del>0</del>	<del>0</del>	<del>125,000</del>
h. Extension Service	5,389,931	0	0	0	0	5,389,931	5,406,536	0	0	0	0	5,406,536
<del>i. Extension Service—Schutter Diagnostic Laboratory (OTO)</del>	<del>200,000</del>	<del>0</del>	<del>0</del>	<del>0</del>	<del>0</del>	<del>200,000</del>	<del>200,000</del>	<del>0</del>	<del>0</del>	<del>0</del>	<del>0</del>	<del>200,000</del>
j. Extension Service—Local Government Center (OTO)	100,000	0	0	0	0	100,000	100,000	0	0	0	0	100,000
k. Forest & Conservation Experiment Station	977,138	0	0	0	0	977,138	976,330	0	0	0	0	976,330
l. Bureau of Mines and Geology	3,514,146	841,886	0	0	0	4,356,032	3,511,549	841,886	0	0	0	4,353,435
m. Coal and Mine Data Records (Restricted/OTO)	0	300,000	0	0	0	300,000	0	300,000	0	0	0	300,000
n. Fire Services Training School	673,555	0	0	0	0	673,555	674,760	0	0	0	0	674,760

	Fiscal 2014			Fiscal 2015			Total
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue	
8. Tribal College Assistance Program (11) (Biennial)							
842,085	0	0	0	842,085	0	0	842,085
a. Increase Tribal College Assistance (OTO)							
184,442	0	0	0	184,442	0	0	184,442
9. OCHE — Guaranteed Student Loan (12)							
0	0	45,840,514	0	45,840,514	0	45,840,513	45,840,513
a. Legislative Audit (Restricted/Biennial)							
0	0	15,720	0	15,720	0	0	0
10. OCHE — Board of Regents (13)							
69,087	0	0	0	69,087	0	0	69,169
Total							
201,025,383	20,788,136	57,222,973	75,093	202,934,650	21,294,893	57,154,829	281,458,662

Items designated as OCHE—Administration (01), OCHE Student Assistance (02), Improving Teacher Quality (03), Educational Outreach and Diversity (06), Workforce Development (08), Appropriation Distribution Transfers (09) [excluding Agriculture Experiment Station, Extension Service, Forest and Conservation Experiment Station, Bureau of Mines and Geology, and Fire Services Training School] Guaranteed Student Loan (12), and the Board of Regents (13) are a single biennial lump-sum appropriation.

General fund money, state and federal special revenue and proprietary fund revenue appropriated to the board of regents are included in all Montana university system programs. All other public funds received by units of the Montana university system (other than plant funds appropriated in House Bill No. 5, relating to long-range building) are appropriated to the board of regents and may be expended under the provisions of 17-7-138(2). The board of regents shall allocate the appropriations to individual university system units, as defined in 17-7-102(13), according to board policy.

The Montana university system, except the office of the commissioner of higher education and the community colleges, shall provide the office of budget and program planning and the legislative fiscal division banner access to the entire university system's banner information system, except for information pertaining to individual students or individual employees that is protected by Article II, sections 9 and 10, of the Montana constitution, 20-25-515, or the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. 1232g.

The Montana university system shall provide the electronic data required for entering human resource data for the current unrestricted operating funds into the Montana Budgeting and Reporting System (MBARS). The salary and benefit data provided must reflect approved board of regents operating budgets.



General Fund	Fiscal 2014			Total	Fiscal 2015			Total
	State Special Revenue	Federal Special Revenue	Proprietary		Other	General Fund	State Special Revenue	

OCHE — Administration program includes a reduction in general fund of \$44,320 in fiscal year 2014 and \$44,307 in fiscal year 2015, federal special revenue of \$80,406 in fiscal year 2014 and \$80,399 in fiscal year 2015, and proprietary funds of \$1,176 in fiscal year 2014 and \$1,176 in fiscal year 2015. The reduction is the equivalent of an additional 2% vacancy savings. The agency may allocate this reduction in funding among programs when developing 2015 biennium operating plans.

Veterans' Success in OCHE — Student Assistance Program may be used only to provide space and services to meet veterans' needs for access to and completion of postsecondary education.

The variable cost of education for each full-time equivalent student at the community colleges is \$2,314 each year of the 2015 biennium. The general fund appropriation for OCHE—Community College Assistance (04) provides 50.8% of the fixed costs of education plus 50.8% of the variable cost of education for each full-time equivalent student in each year of the 2015 biennium. The remaining percentage of the budget must be paid from funds other than those appropriated for OCHE—Community College Assistance.

The general fund appropriation for OCHE — Community College Assistance is calculated to fund education in the community colleges for an estimated 2,288 resident FTE students each year of the 2015 biennium. 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.

Total audit costs are estimated to be \$145,378 for the community colleges for the biennium. The general fund appropriation for each community college provides 50.8% of the total audit costs in the 2015 biennium. The remaining 49.2% of these costs must be paid from funds other than those appropriated for OCHE — Community College Assistance—Legislative Audit. Audit costs charged to the community colleges for the biennium may not exceed \$55,000 for Dawson, \$44,520 for Miles and \$45,858 for Flathead Valley community college.

Revenue anticipated to be received by the Montana university system units and colleges includes interest earnings and other revenues of \$956,891 for each year of the 2015 biennium. These amounts are appropriated for current unrestricted operating expenses as a biennial lump-sum appropriation and are in addition to the funds shown in OCHE—Appropriation Distribution Transfers.

Anticipated interest earnings and other revenue of \$8,500 each year of the 2015 biennium is appropriated to the agricultural experiment station for current unrestricted operating expenses. This amount is in addition to that shown in OCHE — Appropriation Distribution Transfers.

Anticipated interest earnings of \$1,500 each year of the 2015 biennium is appropriated to the extension service for current unrestricted operating expenses. This amount is in addition to that shown in OCHE — Appropriation Distribution Transfers.

Anticipated interest revenue of \$800 in each year of the 2015 biennium is appropriated to the forestry and conservation experiment station for current unrestricted operating expenses. This amount is in addition to that shown in OCHE — Appropriation Distribution Transfers.

		Fiscal 2014			Fiscal 2015			Total		
General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total
<p>Anticipated sales revenue of \$40,000 each year in the 2015 biennium is appropriated to the bureau of mines and geology for current unrestricted operating expenses. This amount is in addition to that shown in OCHE — Appropriation Distribution Transfers.</p>										
<p>Anticipated interest revenue of \$200 each year of the 2015 biennium is appropriated to the fire services training school for current unrestricted operating expenses. This amount is in addition to that shown in OCHE — Appropriation Distribution Transfers.</p>										
<p>Total audit costs are estimated to be \$530,974 for the university system educational units and public service/research agencies, other than the office of the commissioner of higher education. Audit costs charged to the educational units and public service/research agencies for the 2015 biennium may not exceed \$265,487 for the University of Montana and \$265,487 for Montana State University.</p>										
<p>OCHE — Appropriation Distribution Transfers includes \$1,442,114 in fiscal year 2014 and \$1,384,114 in fiscal year 2015 that must be transferred to the energy conservation program account and used to retire the general obligation bonds sold to fund energy improvements or repay loans received for energy improvements through the state energy conservation program. The costs of this transfer in each year of the 2015 biennium are as follows: University of Montana-Missoula, \$468,859 each year; University of Montana- Western, \$147,867 each year; University of Montana-Montana Tech, \$32,099 each year; Helena College, \$64,104 each year; Montana State University-Bozeman \$383,410 in fiscal year 2014 and \$325,410 in fiscal year 2015; Montana State University- Billings \$170,542 each year; Montana State University-Northern, \$85,336 each year; and Great Falls College, \$86,500 each year of the biennium.</p>										

The Montana university system shall pay \$88,506 for the 2015 biennium in current funds in support of the Montana natural resource information system (NRIS) located at the Montana state library. Quarterly payments must be made upon receipt of the bills from the state library, up to the total amount appropriated.

<b>TOTAL SECTION E</b>											
914,912,801	35,560,840	234,556,240	670,954	0	1,185,700,835	939,856,271	35,576,801	234,939,112	667,888	0	1,211,040,072
<b>TOTAL STATE FUNDING</b>											
1,756,967,347	726,576,253	1,941,036,172	23,783,776	0	4,448,373,548	1,806,027,868	714,352,705	1,991,862,264	23,420,801	0	4,535,663,638

**Section 10. Rates.** Internal service fund type fees and charges established by the legislature for the 2015 biennium in compliance with 17-7-123(1)(f)(ii) are as follows:

	<u>Fiscal 2014</u>	<u>Fiscal 2015</u>
<b>DEPARTMENT OF REVENUE – 5801</b>		
1. Citizen Services and Resource Management Division		
Delinquent Account Collection Fee (percent of amount collected)	5%	5%
<b>DEPARTMENT OF ADMINISTRATION — 6101</b>		
1. Director's Office		
a. Management Services		
Total Allocation of Costs, excluding portion of unit for HR	\$1,269,878	\$1,269,232
Portion of Unit for Human Resources Charges Per FTE of User Programs	\$606	\$603
2. State Accounting Division		
a. SABHRS Finance and Budget Bureau		
SABHRS Services Fee (total allocation of costs)	\$3,689,397	\$3,346,369
b. Warrant Writer		
Mailer	\$0.67693	\$0.67112
Nonmailer	\$0.24493	\$0.24912
Emergency	\$9.88544	\$9.88963
Duplicates	\$7.08394	\$7.08812
Externals		
Externals - Payroll	\$0.18730	\$0.19149
Externals - Other	\$0.12394	\$0.12260
Direct Deposit		
Direct Deposit - Mailer	\$0.70654	\$0.69520
Direct Deposit - No Advice Printed	\$0.12394	\$0.12260
Unemployment Insurance		
Mailer - Print Only	\$0.12099	\$0.12652
Direct Deposit - No Advice Printed	\$0.03618	\$0.03614
3. General Services Division		
a. Facilities Management Bureau		
Office Rent (per sq. ft.)	\$8.434	\$8.217
Warehouse Rent (per sq. ft.)	\$4.625	\$4.637
Grounds Maintenance (per sq. ft)	\$0.491	\$0.493
Project Management - In-house	15%	15%
Project Management - contracted	5%	5%
<p>\$2,393,219 of revenue collected related to Facilities Management rates is to be deposited into a State Special Revenue Fund. These types of projects are appropriated in HB 5 for major maintenance projects on the Capitol Complex.</p>		
b. Print and Mail Services		
Internal Printing		
Impression Cost		
1-20	\$0.0800	\$0.0800
21-100	\$0.0360	\$0.0360

101-1000	\$0.0200	\$0.0200
1001-5000	\$0.0080	\$0.0080
5000+	\$0.0040	\$0.0040
Color Copy		
8 ½ x 11	\$0.25	\$0.25
11 x 17	\$0.50	\$0.50
Ink		
Black per Sheet	\$0.0002	\$0.0002
Color	\$15.00	\$15.00
Special Mix	\$25.00	\$25.00
Large Format Color per ft.	\$12.70	\$12.70
Collating Machine	\$0.0080	\$0.0080
Collating Hand	\$0.60	\$0.60
Stapling Hand	\$0.018	\$0.018
Stapling In-line	\$0.012	\$0.012
Saddle Stitch	\$0.036	\$0.036
Folding (base + per sheet)	\$12.00 + \$0.006	\$12.00 + 0.006
Folding Rt Angle (base + per sheet)	\$12.00 + \$0.006	\$12.00 + 0.006
Folding In-line	\$0.036	\$0.036
Punching Standard 3-hole	\$0.0012	\$0.0012
Punching Nonstandard (base + per sheet)	\$3.60 + \$0.0012	\$3.60 + 0.0012
Cutting	\$0.66	\$0.66
Padding	\$0.0024	\$0.0024
Scoring, perf, num (setup + duplicating rate)	\$6.00 + Dup Rate	\$6.00 + Dup Rate
Perfect Binding (setup + per sheet)	\$18.00 + \$0.66	\$18.00 + \$0.66
Spiral Binding	\$0.69	\$0.69
Laminating		
8 ½ x 11	\$0.57	\$0.57
11 x 17	\$0.85	\$0.85
Tape Binding	\$0.60	\$0.60
Tabs	\$0.60	\$0.60
Transparencies	\$0.60	\$0.60
Shrink Wrapping	\$0.30	\$0.30
Hand Work Production	\$0.60	\$0.60
Overtime	\$24.00	\$24.00
Desktop	\$50.00	\$50.00
Scan	\$9.52	\$9.52
Proof	\$0.25	\$0.25
Programming	\$50.00	\$50.00
File Transfer	\$25.00	\$25.00
Variable Data	\$0.020	\$0.020
Mainframe Printing	\$0.069	\$0.069
CD Duplicating	\$1.75	\$1.75
DVD Duplicating	\$3.50	\$3.50

Ch. 380	MONTANA SESSION LAWS 2013	1580
CTP Plates		
8 ½ x 11	\$9.20	\$9.20
11 x 17	\$10.35	\$10.35
External Printing		
Percent of Invoice markup	6.73%	6.73%
Photocopy Pool		
Percent of Invoice markup	15.9%	15.9%
Inventory		
Percent of Invoice markup	15.0%	15.0%
Mail Preparation		
Tabbing	\$0.021	\$0.021
Labeling	\$0.021	\$0.021
Ink Jet	\$0.034	\$0.034
Inserting	\$0.030	\$0.030
Waymark	\$0.069	\$0.069
Permit Mailings	\$0.069	\$0.069
Mail Operations		
Machinable	\$0.043	\$0.043
Nonmachinable	\$0.100	\$0.100
Seal Only	\$0.020	\$0.020
Postcards	\$0.060	\$0.060
Certified Mail	\$0.614	\$0.614
Registered Mail	\$0.614	\$0.614
International Mail	\$0.500	\$0.500
Flats	\$0.140	\$0.140
Priority	\$0.614	\$0.614
Express Mail	\$0.614	\$0.614
USPS Parcels	\$0.500	\$0.500
Insured Mail	\$0.614	\$0.614
Media Mail	\$0.307	\$0.307
Standard Mail	\$0.200	\$0.200
Postage Due	\$0.061	\$0.061
Fee Due	\$0.061	\$0.061
Tapes	\$0.245	\$0.245
Express Services	\$0.500	\$0.500
Interagency Mail	\$314,750 yearly	\$314,750 yearly
Postal Contract (Capitol)	\$38,976 yearly	\$38,976 yearly
c. Central Stores Program		
Markup as a Percentage of Retail Cost of Goods Sold	2%	2%
4. Information Technology Services Division		
Rates Maintained/Based Upon Financial Transparency Model (FTM)		
Operations of the Division	30-Day Working Capital Reserve	
5. Health Care and Benefits Division		
Because state employee benefit plans require a large number of individual contributions for a variety of benefit options, because the portion of the contributions paid by the state is statutorily established in 2-18-703, and because the employee and		

retiree-paid portion of those contributions must be adjusted from time to time to meet the requirements of 2-18-812(1) to maintain state employee group benefit plans on an actuarially sound basis, the legislature defines "rates and fees" for state employee programs to mean the state contribution toward employee group benefits provided for in 2-18-703 and the employee contribution toward group benefits necessary to meet the requirements of 2-18-812(1).

a. Workers' Compensation Management Program		
Administrative Fee (per payroll warrant per pay period)	\$0.82	\$0.82
b. Flexible Spending Account Program		
	\$2.26	\$2.26
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)	\$570.00	\$570.00
Six-Day Management Series (per participant)	\$440.00	\$440.00
Four-Day Administrative Series (per participant)	\$333.00	\$333.00
Contract Courses		
Full-Day Training (flat fee)	\$830.00	\$830.00
Half-Day Training (flat fee)	\$570.00	\$570.00
b. Human Resources Information System Fee		
Per payroll warrant advice per pay period	\$8.13	\$8.15
7. Risk Management & Tort Defense		
Auto Liability, Comprehensive, and Collision (total allocation to agencies)	\$1,248,500	\$1,248,500
Aviation (total allocation to agencies)	\$169,961	\$169,981
General Liability (total allocation to agencies)	\$8,100,000	\$8,100,000
Property/Miscellaneous (total allocations to agencies)	\$5,040,000	\$5,040,000

#### 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)		
	\$5,109,144	\$5,234,796
2. Director's Office/Management Services		
a. Management Services Indirect Charge Rate		
State	14.65%	14.65%
Federal	14.65%	14.65%

#### DEPARTMENT OF LABOR AND INDUSTRY – 6602

##### 1. Centralized Services Division

a. Office of Information Technology	\$192 a month per FTE	
b. Cost Allocation Plan	8%	8%
c. Office of Legal Services	\$95	\$95

#### DEPARTMENT OF FISH, WILDLIFE, & PARKS — 5201

##### 1. Vehicle and Aircraft Rates

Per Mile Rates		
a. Sedans	\$0.46	\$0.46

Ch. 380	MONTANA SESSION LAWS 2013	1582	
	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	\$0.075
	b. 21-100	\$0.055	\$0.060
	c. 101 - 1,000	\$0.050	\$0.056
	d. 1,001- 5,000	\$0.045	\$0.050
	e. color copies	\$0.250	\$0.250
	Bindery		
	a. Collating (per sheet)	\$0.010	\$0.010
	b. Hand Stapling (per set)	\$0.020	\$0.020
	c. Saddle Stitch (per set)	\$0.035	\$0.035
	d. Folding (per set)	\$0.010	\$0.010
	e. Punching (per set)	\$0.005	\$0.005
	f. Cutting (per minute)	\$0.600	\$0.600
3.	Warehouse Overhead Rate	25%	25%

**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

Tier one

a.	Class 02 (small utilities)		
	Per Hour Assigned	\$0.990	\$1.090
	Per Mile Operated	\$0.203	\$0.204
b.	Class 03 (hybrid SUV)		
	Per Hour Assigned	\$1.872	\$1.890
	Per Mile Operated	\$0.186	\$0.186
c.	Class 04 (large utilities)		
	Per Hour Assigned	\$1.655	\$1.700
	Per Mile Operated	\$0.280	\$0.281
d.	Class 05 (hybrid sedans)		
	Per Hour Assigned	\$1.522	\$1.547
	Per Mile Operated	\$0.112	\$0.113
e.	Class 06 (midsize compacts)		
	Per Hour Assigned	\$0.999	\$1.025
	Per Mile Operated	\$0.159	\$0.159



f. Class 07 (small pickups)		
Per Hour Assigned	\$0.686	\$0.703
Per Mile Operated	\$0.231	\$0.232
g. Class 11 (large pickups)		
Per Hour Assigned	\$0.963	\$0.947
Per Mile Operated	\$0.262	\$0.261
h. Class 12 (vans – all types)		
Per Hour Assigned	\$1.203	\$1.272
Per Mile Operated	\$0.226	\$0.227
Tier two (contingent \$4.00/gallon)		
a. Class 02 (small utilities)		
Per Hour Assigned	\$0.990	\$1.090
Per Mile Operated	\$0.229	\$0.230
b. Class 03 (hybrid SUV)		
Per Hour Assigned	\$1.872	\$1.890
Per Mile Operated	\$0.208	\$0.209
c. Class 04 (large utilities)		
Per Hour Assigned	\$1.655	\$1.700
Per Mile Operated	\$0.317	\$0.318
d. Class 05 (hybrid sedans)		
Per Hour Assigned	\$1.522	\$1.547
Per Mile Operated	\$0.126	\$0.127
e. Class 06 (midsize compacts)		
Per Hour Assigned	\$0.999	\$1.025
Per Mile Operated	\$0.178	\$0.179
f. Class 07 (small pickups)		
Per Hour Assigned	\$0.686	\$0.703
Per Mile Operated	\$0.259	\$0.260
g. Class 11 (large pickups)		
Per Hour Assigned	\$0.963	\$0.947
Per Mile Operated	\$0.295	\$0.294
h. Class 12 (vans – all types)		
Per Hour Assigned	\$1.203	\$1.272
Per Mile Operated	\$0.254	\$0.255
Tier three (contingent \$4.50/gallon)		
a. Class 02 (small utilities)		
Per Hour Assigned	\$0.990	\$1.090
Per Mile Operated	\$0.255	\$0.256
b. Class 03 (hybrid SUV)		
Per Hour Assigned	\$1.872	\$1.890
Per Mile Operated	\$0.231	\$0.232
c. Class 04 (large utilities)		
Per Hour Assigned	\$1.655	\$1.700
Per Mile Operated	\$0.353	\$0.354

d. Class 05 (hybrid sedans)		
Per Hour Assigned	\$1.522	\$1.547
Per Mile Operated	\$0.141	\$0.141
e. Class 06 (midsize compacts)		
Per Hour Assigned	\$0.999	\$1.025
Per Mile Operated	\$0.198	\$0.199
f. Class 07 (small pickups)		
Per Hour Assigned	\$0.686	\$0.703
Per Mile Operated	\$0.287	\$0.288
g. Class 11 (large pickups)		
Per Hour Assigned	\$0.963	\$0.947
Per Mile Operated	\$0.328	\$0.326
h. Class 12 (vans – all types)		
Per Hour Assigned	\$1.203	\$1.272
Per Mile Operated	\$0.283	\$0.284

2. Equipment Program  
 All of Program Operations 60-day working capital reserve

**DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION — 5706**

1. Air Operations Program		
a. Bell UH-1H	\$1,225	\$1,225
b. Bell Jet Ranger	\$515	\$515
c. Cessna 180 Series	\$175	\$175

**DEPARTMENT OF JUSTICE – 4110**

1. Agency Legal Services		
a. Attorney (per hour)	\$95.50	\$95.50
b. Investigator (per hour)	\$55.50	\$55.50

**DEPARTMENT OF CORRECTIONS - 6401**

1. Vocational Education Program		
a. Labor Charge for Motor Vehicle Maintenance (per hour)	\$27.45	\$28.45
b. Supply Fee as a Percentage of Actual Costs of Parts	5%	5%
c. Parts	Actual Cost	Actual Cost
2. Food Factory		
a. Cook/Chill Rate — Hot/Cold Base Tray Price (no delivery)	\$2.14	\$2.32
b. Cook/Chill Rate – Hot Base Tray Price	\$1.08	\$1.18
c. Delivery Charge Per Mile	\$0.50	\$0.50
d. Delivery Charge Per Hour	\$35.00	\$35.00
e. Spoilage Percentage All Customers	5%	5%
f. Detention Center Trays	\$2.72	\$2.92
g. Accessory Package	\$0.16	\$0.16
h. Bulk Food	Actual Cost	Actual Cost
i. Overhead Charge		
Montana State Hospital	11%	11%
Montana State Prison	76%	76%
Treasure State Correctional Training Center	13%	13%

## 3. License Plates

a. License Plates – Cost per set	\$6.20	\$6.20
----------------------------------	--------	--------

**OFFICE OF PUBLIC INSTRUCTION - 3501**

## 1. OPI Indirect Cost Pool

a. Unrestricted Rate	17.5%	17.5%
b. Restricted Rate	17%	17%

Approved May 3, 2013

**Note:** The striking of language in section 9 was done by Governor's line item veto dated May 3, 2013.

**CHAPTER NO. 381**

[HB 5]

AN ACT APPROPRIATING MONEY FOR CAPITAL PROJECTS FOR THE BIENNIUM ENDING JUNE 30, 2015; PROVIDING FOR OTHER MATTERS RELATING TO THE APPROPRIATIONS; PROVIDING FOR A TRANSFER OF FUNDS FROM THE STATE GENERAL FUND TO THE LONG-RANGE BUILDING PROGRAM ACCOUNT; PROVIDING RULEMAKING AUTHORITY; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

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

**Section 1. Definitions.** For the purposes of [sections 1 through 10], unless otherwise stated, the following definitions apply:

(1) "Authority only" means approval provided by the legislature to expend money that does not require an appropriation, including grants, donations, auxiliary funds, proprietary funds, and university funds.

(2) "Capital project" means the acquisition of land or improvements or the planning, capital construction, environmental cleanup, renovation, furnishing, or major repair projects authorized in [sections 1 through 10].

(3) "LRBP" means the long-range building program account in the capital projects fund type.

(4) "Other funding sources" means money other than LRBP money, state special revenue fund, or federal special revenue money that accrues to an agency under the provisions of law.

(5) "SBECF funds" means funds from the state building energy conservation program account in the capital projects fund type.

**Section 2. Capital projects appropriations and authorizations.** (1) The following money is appropriated to the department of administration for the indicated capital projects from the indicated sources. Funds not requiring legislative appropriation are included for the purpose of authorization. The department of administration is authorized to transfer the appropriations, authority, or both among the necessary fund types for these projects:

Agency/Project	LRBP Fund	State Special Revenue	Federal Special Revenue	Other Funding Sources	Authority Only	Total
----------------	--------------	-----------------------------	-------------------------------	-----------------------------	-------------------	-------

## DEPARTMENT OF ADMINISTRATION

Repair Corrections Department						
Parking Structure	450,000					450,000
Install Safety Handrails in Capitol	200,000	200,000				400,000

State special revenue funds consist of general services division internal service funds. If a donation is received by the department of administration from the Montana capitol restoration

foundation to install safety handrails in the capitol, then the amount of the donation is authorized and the appropriation of LRBP funds is reduced by a like amount.

Upgrade Scott Hart HVAC system,  
Phase 2 1,500,000 1,500,000

State special revenue funds consist of general services division internal service funds.

MONTANA SCHOOL FOR THE DEAF AND BLIND

Building Repairs and Improvements,  
MSDB, Great Falls 195,000 195,000

DEPARTMENT OF JUSTICE

Upgrade Water Supply  
System - Montana Law  
Enforcement Academy 400,000 400,000

Construct Butte Justice Center,  
Butte 1,600,000 1,600,000 3,200,000

DEPARTMENT OF FISH, WILDLIFE, AND PARKS

Hatchery Maintenance 575,000 575,000

Administrative Facilities Repair  
and Maintenance 1,325,000 1,325,000

DEPARTMENT OF MILITARY AFFAIRS

Vault Modifications, Statewide 780,000 780,000

Upgrade Sewer/Water Service,  
AFRC, Kalispell 250,000 750,000 1,000,000

Replace Readiness Center, Malta 400,000 15,000,000 15,400,000

Improvements at the Montana  
Military Museum 150,000 150,000

DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES

Repair Sewage Collection System,  
Warm Springs 1,520,000 1,520,000

DEPARTMENT OF TRANSPORTATION

Equipment/Office Buildings,  
Statewide 5,200,000 5,200,000

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

Major Repairs & Small Projects,  
Statewide 300,000 300,000

Repair Unit Residences, Statewide 100,000 100,000

MONTANA UNIVERSITY SYSTEM

Replace Roof or other renovations,  
Great Falls College-MSU 1,000,000 1,000,000

Construct Automotive Technology  
Center, MSU-Northern 4,900,000 3,000,000 7,900,000

Main Hall Renovation, Phase 3,  
UM-Western 4,000,000 500,000 4,500,000

Construct Natural Resources  
Research Center Addition,  
Montana Tech 5,000,000 5,000,000 10,000,000

Construct Jabs Hall, MSU-Bozeman 20,000,000 20,000,000

Construct Athlete Academic  
Center, UM-Missoula 2,500,000 2,500,000

Construct Gilkey Executive  
Education Center, UM-Missoula 9,300,000 9,300,000

Construct Mansfield Library  
Student Success, UM-Missoula 3,200,000 3,200,000

Construct Science and  
Instructional Tech Building  
Addition, MSU-Billings 10,000,000 5,000,000 15,000,000

Construct Missoula College UM,  
UM-Missoula 29,000,000 3,000,000 32,000,000

(2) The \$400,000 of LRBP funds contained in subsection (1) for the replacement of the Malta readiness center must be utilized for the acquisition of land for the facility. The appropriation of \$15,000,000 of federal special revenue funds for this project is contingent upon the department of military affairs completing the acquisition of land by June 30, 2015. If land is not acquired by this date, the \$400,000 reverts to the general fund.

**Section 3. Capital improvements.** (1) The following money is appropriated to the department of fish, wildlife, and parks in the indicated amounts for the purpose of making capital improvements to statewide facilities. Funds not requiring legislative appropriation are included for the purpose of authorization:

Agency/Project	LRBP Fund	State Special Revenue	Federal Special Revenue	Other Funding Sources	Authority Only	Total
Parks Program		3,084,000	1,200,000			4,284,000
Grant to the City of Missoula for the Design and Construction of Lighted and Paved RUX Path (Restricted)		100,000				100,000
State special revenue consists of department of transportation highway nonrestricted revenue fund, number 02349. Funds for this project are restricted to the use of the RUX project and are payable for reimbursements. The department shall report on the progress of this project to the 2015 long-range planning subcommittee. Any funds not required for the completion of this project must be reverted to the highway nonrestricted revenue fund upon completion of the project.						
Future Fisheries		790,000				790,000
FAS Site Protection		1,050,000	800,000			1,850,000
Upland Game Bird Program		746,000				746,000
Grant Programs/Federal Projects		218,000	5,000,000			5,218,000
Wildlife Habitat Maintenance		970,000				970,000
Dam Maintenance		50,000				50,000
Community Fishing Ponds		50,000				50,000
Forest Management Project		32,000				32,000

(2) Authority is being granted to the Montana university system in the amount of \$3,000,000 and to the department of administration in the amount of \$2,000,000 for the purpose of making capital improvements to campus facilities. Authority-only funds may include federal special revenue, donations, grants, and higher education funds. All costs for the operations and maintenance of any new improvements constructed under this authorization must be paid by the Montana university system from nonstate sources:

Agency/Project	LRBP Fund	State Special Revenue	Federal Special Revenue	Other Funding Sources	Authority Only	Total
General Spending Authority, MUS All Campuses					5,000,000	5,000,000

(3) The following money is appropriated to the department of military affairs in the indicated amount for the purpose of making capital improvements to statewide facilities. All costs for the operation and maintenance of any new improvements constructed with these funds must be paid by the department of military affairs from nonstate sources:

Agency/Project	LRBP Fund	State Special Revenue	Federal Special Revenue	Other Funding Sources	Authority Only	Total
Federal Spending Authority			2,500,000			2,500,000

(4) The following money is appropriated to the department of transportation in the indicated amount for the purpose of making capital improvements as indicated:

Agency/Project	LRBP Fund	State Special Revenue	Federal Special Revenue	Other Funding Sources	Authority Only	Total
Statewide Maintenance, Repair and Small Projects		2,100,000				2,100,000

(5) The following money is appropriated for the indicated capital projects to the department of environmental quality and the department of administration from state building energy conservation funds and other indicated sources. Funds not requiring legislative appropriation are included for the purpose of authorization. The department of administration is authorized to transfer the appropriations, authority, or both among the necessary fund types for these projects:

Agency/Project	LRBP Fund	State Special Revenue	Federal Special Revenue	Other Funding Sources	Authority Only	Total
DEPARTMENT OF ADMINISTRATION						
Repair and Upgrade Capitol HVAC Systems		1,400,000				1,400,000

State special revenue funds consist of SBECP funds in the amount of \$500,000 and of general services division internal service funds in the amount of \$900,000.

#### DEPARTMENT OF ENVIRONMENTAL QUALITY

Energy Improvements, Statewide		1,900,000				1,900,000
--------------------------------	--	-----------	--	--	--	-----------

State special revenue funds consist of SBECP funds.

#### DEPARTMENT OF CORRECTIONS

Repair and Upgrade Building Systems, Pine Hills Youth Correctional Facility	511,000	500,000				1,011,000
---	---------	---------	--	--	--	-----------

State special revenue funds consist of SBECP funds.

Renovate Laundry Facilities, Montana State Prison, Deer Lodge		600,000			600,000	1,200,000
---	--	---------	--	--	---------	-----------

State special revenue funds consist of SBECP funds.

Authority-only funds consist of proprietary funds.

**Section 4. Land acquisition appropriations.** (1) The following money is appropriated to the department of fish, wildlife, and parks in the indicated amounts for purposes of land acquisition, land leasing, easement purchase, or development agreements. ~~When considering the acquisition of habitat in accordance with 87-1-241, the department of fish, wildlife, and parks may consider only term agreements.~~

Agency/Project	LRBP Fund	State Special Revenue	Federal Special Revenue	Other Funding Sources	Authority Only	Total
Habitat Montana		9,930,000				9,930,000
Fishing Access Site Acquisition		230,000	100,000			330,000
Bighorn Sheep Habitat		210,000				210,000

(2) The following funds in the indicated amounts are appropriated to the Montana university system for the purpose of land acquisition. The state may not enter into an agreement for the acquisition of land until the authority-only funds have been obtained.

Land Acquisition, Great Falls College-MSU	750,000				750,000	1,500,000
--	---------	--	--	--	---------	-----------

**Section 5. Planning and design.** The department of administration may proceed with the planning and design of capital projects prior to the receipt of other funding sources. The department may use interentity loans in accordance with 17-2-107 to pay planning and design costs incurred before the receipt of funding from another funding source.

**Section 6. Capital projects — contingent funds.** If a capital project is financed in whole or in part with appropriations contingent upon the receipt of funding from another funding source, the department of administration may not let the project for bid until the agency has submitted a financial plan for approval by the director of the department of administration. A financial plan may not be approved by the director if:

(1) the level of funding provided under the financial plan deviates substantially from the funding level provided in [section 2] for that project; or

(2) the scope of the project is substantially altered or revised from the preliminary plans presented for that project in the 2015 biennium long-range building program presented to the 63rd legislature.

**Section 7. Review by department of environmental quality.** The department of environmental quality shall review capital projects authorized in [section 2] for potential inclusion in the state building energy conservation program under Title 90, chapter 4, part 6. When a review shows that a capital project will result in energy improvements, that project must be submitted to the energy conservation program for funding consideration. Funding provided under the energy conservation program guidelines must be used to offset or add to the authorized funding for the project, and the amount will be dependent on the annual utility savings resulting from the facility improvement. Agencies must be notified of potential funding after the review.

**Section 8. Conditions of projects.** The legislature authorizes construction of the Butte-Silver Bow emergency operations center, to be occupied and operated by the consolidated government of Butte-Silver Bow in conjunction with the Butte justice center, if a long-term lease agreement is signed between the state of Montana and the consolidated government of Butte-Silver Bow ensuring payment of all operating and maintenance costs of the consolidated government of Butte-Silver Bow for its portion of the facility for the life of the building, until the term of the lease is altered, or until the building is sold.

**Section 9. Fund transfer.** The department of administration shall transfer the amount of \$49,550,000 from the state general fund to the long-range building program account in the capital projects fund type in fiscal year 2014.

**Section 10. Legislative consent.** The appropriations authorized in [sections 1 through 9] constitute legislative consent for the capital projects contained in [sections 1 through 9] within the meaning of 18-2-102.

**Section 11. Severability.** If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

**Section 12. Effective date.** [This act] is effective on passage and approval.

Approved May 6, 2013

**Note:** The striking of language in section 4 was done by Governor's line item veto dated May 6, 2013.



**CHAPTER NO. 382**

[HB 6]

AN ACT IMPLEMENTING THE RENEWABLE RESOURCE GRANT AND LOAN PROGRAM; APPROPRIATING MONEY TO THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION FOR GRANTS UNDER THE RENEWABLE RESOURCE GRANT AND LOAN PROGRAM; APPROPRIATING MONEY TO THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION TO IMPLEMENT COMPACTS FOR THE BLACKFEET TRIBE AND THE FORT BELKNAP INDIAN COMMUNITY OF THE FORT BELKNAP RESERVATION; PRIORITIZING PROJECT GRANTS AND AMOUNTS; ESTABLISHING CONDITIONS FOR GRANTS; PROVIDING FOR A GENERAL FUND TRANSFER; PROVIDING A TRANSFER FROM THE ORPHAN SHARE ACCOUNT; AND PROVIDING AN EFFECTIVE DATE.

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

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

- (a) \$350,000 to be used for emergency projects as follows:
  - (i) \$100,000 for emergency projects to be awarded by the department over the course of the biennium; and
  - (ii) \$250,000 for the Ten Mile/Pleasant Valley Sewer District;
- (b) \$1,062,000 to be used for planning grants to be awarded by the department over the course of the biennium;
- (c) \$300,000 to be used for irrigation development grants to be awarded by the department over the course of the biennium;
- (d) \$100,000 to be used for water project private grants to be awarded by the department over the course of the biennium;
- (e) \$200,000 to be used for development of the state water plan;
- (f) \$200,000 to be used for grants to build organizational capacity;
- (g) \$1,273,686 to be used for five grants to Jefferson County for the following Big Pipestone/Jefferson River Slough Watershed Restoration projects:
  - (i) Landowner #24 Ranch Channel Restoration, \$760,500;
  - (ii) Riparian Management Plan Development, \$15,500;
  - (iii) Beaver Management Planning, \$21,240;
  - (iv) Landowner #7 Channel Restoration, \$299,596; and
  - (v) Jefferson Slough Hydrology and Sedimentology Stations, \$176,850;
- (h) \$3 million to be deposited in the Peoples Creek minimum flow account provided for in 85-20-1007 for implementation of the Fort Belknap Indian Community-Montana water rights compact; and
- (i) \$14 million to be deposited in the Blackfeet Tribe water rights compact infrastructure account provided for in 85-20-1505 for water-related infrastructure projects within the exterior boundaries of the Blackfeet Indian reservation as provided for in 85-20-1505.

(2) There is appropriated from the natural resources projects state special revenue account established in 15-38-302 to the department of natural resources and conservation \$8,967,632 for grants to political subdivisions and

local governments during the biennium ending June 30, 2015. The funds referred to in this subsection must be awarded by the department to the named entities for the described purposes and in the grant amounts listed in subsection (4), subject to the conditions set forth in [sections 1 through 4] and the contingencies described in the renewable resource grant and loan program January 2013 report to the 63rd legislature. The legislature, pursuant to 85-1-605, approves the grants listed in subsection (4).

(3) Funds must be awarded up to the amounts approved in subsection (4) in the following order of priority. Funds not accepted or used by these projects may be provided for any renewable resource programs projects authorized under this section or for reclamation and development program projects authorized by the 63rd legislature in House Bill No. 7. If at any time a grant sponsor determines that a project will not begin before June 30, 2015, the sponsor shall notify the department of natural resources and conservation.

(4) The following are the prioritized grant projects:

**RENEWABLE RESOURCE GRANT AND LOAN PROGRAM**

Applicant/Project	Amount
Deer Lodge Valley Conservation District (Racetrack Water Users Association: Water Efficiency and Energy Conservation Project - Phase 1)	\$100,000
South Wind Water and Sewer District (South Wind Water and Sewer District Improvements)	\$100,000
Craig County Water and Sewer District (Craig Wastewater System Improvements)	\$100,000
Forsyth, City of (Forsyth Wastewater System Improvements)	\$100,000
Clinton Irrigation District (Clark Fork Diversion Rehabilitation Project)	\$100,000
Beaverhead County Conservation District (Swamp Creek Siphon Project)	\$100,000
Miles City, City of (Miles City Wastewater System Improvements, Phase 2)	\$100,000
Alberton, Town of (Alberton Wastewater Project)	\$100,000
Richland County (Richland County-Savage Wastewater System Improvements)	\$100,000
Dawson County (Dawson County-West Glendive Wastewater System Improvements)	\$100,000
Fort Benton, City of (Fort Benton Wastewater System Improvements)	\$100,000
Belt, Town of (Belt Wastewater System Improvements)	\$100,000
Vaughn Cascade County Water and Sewer District (Vaughn Wastewater System Improvements)	\$100,000
Malta Irrigation District (Dodson South Canal Head Gate Replacement Project)	\$100,000
Park County (Park County Fairgrounds Wastewater System Improvements)	\$100,000

Ch. 382	MONTANA SESSION LAWS 2013	1592
Bitter Root Irrigation District (BRID Siphon 1 - Phase 4 Improvements Project)		\$100,000
Cut Bank, City of (Cut Bank Wastewater System Improvements)		\$100,000
Ward Irrigation District (Ward Irrigation District Lost Horse Creek/ Ward Canal Improvements)		\$100,000
Glendive, City of (Glendive Wastewater System Improvements)		\$100,000
Harlowton, City of (Harlowton Wastewater System Improvements)		\$100,000
Lockwood Irrigation District (Lockwood ID Intake Canal Headgate Replacement Project)		\$100,000
Sweet Grass County Conservation District (Pioneer Ditch Company Irrigation Diversion Rehabilitation Project)		\$100,000
Glen Lake Irrigation District (Glen Lake Irrigation District Rolling Hills Section of the Main Canal Rehabilitation Project)		\$100,000
Hill County (Beaver Creek Dam Outlet Works Rehabilitation)		\$98,321
Winnett, Town of (Winnett Wastewater)		\$100,000
DNRC Water Resources Division (East Fork Rock Creek Main Canal Lining Project)		\$99,939
Boulder, City of (Boulder Wastewater System Improvements)		\$100,000
White Sulphur Springs, City of (White Sulphur Springs Wastewater Improvements Project - Phase 1)		\$100,000
Helena Valley Irrigation District (Helena Valley ID Pump Automation Project)		\$100,000
Buffalo Rapids Irrigation Project District 1 (Buffalo Rapids 1 Lateral 20.6 Conversion Project)		\$100,000
Whitefish, City of (City of Whitefish Nutrient Reduction Plan)		\$100,000
Fort Peck Tribes (Fort Peck Tribes Phase 2 Lateral L-2M Rehabilitation Project)		\$100,000
Flathead County (Bigfork Stormwater Project - Phase IV)		\$100,000
Three Forks, City of (Three Forks Wastewater System Improvements)		\$100,000
Libby, City of (Libby Flower Creek Dam Water System Improvements)		\$100,000
Frenchtown Irrigation District (Frenchtown Irrigation District: Main Canal Lining Project)		\$99,978

1593	MONTANA SESSION LAWS 2013	Ch. 382
	DNRC Water Resources Division (Replacement Headgates for the Deadman's Basin Supply Canal Project)	\$100,000
	DNRC Water Resources Division (Cooney Dam Outlet Canal Weir Replacement and Automated Instrumentation Project)	\$100,000
	Deer Lodge Valley Conservation District (Kohrs and Manning Ditch Company Infrastructure Improvements)	\$100,000
	DNRC Flathead Basin Commission (Aquatic Invasive Species Prevention Project, Aquatic Invasive Species Prevention Project)	\$100,000
	Dutton, Town of (Dutton Water System Improvements)	\$100,000
	Fairfield, Town of (Fairfield Wastewater System Improvements)	\$100,000
	Buffalo Rapids Irrigation Project District 2 (Buffalo Rapids 2 Terry Pump Station Discharge Line)	\$100,000
	Choteau, City of (Choteau Wastewater System Improvements, Phase 2)	\$100,000
	Daly Ditches Irrigation District (Daly Ditches Irrigation District Preservation and Conservation of Resources)	\$100,000
	Toston Irrigation District (Toston ID Toston Canal Rehabilitation Project)	\$100,000
	Gallatin County Conservation District (Darlington Creek Enhancement Project at Cobblestone Fishing Access)	\$100,000
	Missoula County Conservation District (Missoula Conservation District Orchard Homes Ditch Company Intake Improvements Project)	\$100,000
	Missoula Irrigation District (Missoula Irrigation District Water Conservation Project)	\$100,000
	Valier, Town of (Valier Wastewater System Improvements)	\$100,000
	Fort Belknap Indian Community (Fort Belknap Main Canal A Underdrain Rehabilitation Project)	\$100,000
	Bozeman, City of (Bozeman Creek at Bogert Park Enhancement Project)	\$100,000
	Hamilton, City of (Hamilton Wastewater System Improvements, Phase 2)	\$100,000
	Lodge Grass, Town of (Lodge Grass Wastewater System Improvements)	\$100,000
	Pondera County Conservation District (Pondera County Canal and Reservoir Company KB2 Canal Rehabilitation Project)	\$100,000
	Manhattan, Town of (Manhattan Water System Improvements)	\$100,000

Ch. 382	MONTANA SESSION LAWS 2013	1594
Greenfields Irrigation District (Muddy Creek Wastewater and Erosion Reduction)		\$100,000
University of Montana (An Algae Bioremediation System for Acidic Industrial Wastewaters)		\$99,882
Black Eagle-Cascade County Water & Sewer District (Black Eagle Wastewater System Improvements)		\$99,407
Stevensville, City of (Stevensville Wastewater System Improvements, Phase 2)		\$100,000
Havre, City of (City of Havre Wastewater System Improvements)		\$100,000
Elk Meadows County Water District (Elk Meadows Ranchettes County Water District Water System Improvements)		\$100,000
Cascade, Town of (Cascade Water System Improvements)		\$100,000
Moore, Town of (Moore Wastewater System Improvements)		\$100,000
Sweet Grass County Conservation District (Big Timber Creek Channel Stabilization Project - Phase II)		\$100,000
Roundup, City of (Roundup Water System Improvements)		\$100,000
Garfield County Conservation District (CMR Range Monitoring Pilot Project)		\$99,994
Jefferson Valley Conservation District (Jefferson Canal Headgate Improvements)		\$100,000
Philipsburg, Town of (Philipsburg Water System Improvements)		\$100,000
Carbon County Conservation District (Phase 2, Ground Water Surface Water Interaction, Phase 2, Ground Water and Surface Water Interaction in the Rock Creek Watershed)		\$100,000
Sunny Hills Suburban County Water District (Sunny Hills WSD Water System Improvements)		\$100,000
Drummond, Town of (Drummond Wastewater System Improvements)		\$100,000
Big Horn County Conservation District (Evaluating the Influence of Irrigation on Ground Water Quality and Quantity in Northern Big Horn County)		\$100,000
Joliet, Town of (Joliet Wastewater System Improvements)		\$100,000
Malta, City of (Malta Water System Improvements)		\$100,000
Gallatin County (Grayling Creek Stream and Riparian Restoration and Parade Rest Guest Ranch Irrigation Project)		\$75,000
Lower Musselshell County Conservation District (East Brewer Irrigation Check Structure Rehabilitation and Southside Canal Lining)		\$100,000

1595	MONTANA SESSION LAWS 2013	Ch. 382
Madison County		
(Moore's Creek Culvert Replacement)		\$100,000
DNRC Water Resources Division		
(2012 Infill Drilling and Piezometer Installation Project: East Fork, Fred Burr, Martinsdale, Middle Creek, and Tongue River Dams)		\$95,580
Hamilton, City of		
(Hamilton Water System Improvements, Well 5)		\$100,000
Plevna, Town of		
(Plevna Water System Improvements)		\$100,000
Stillwater Conservation District		
(Assessing the Ground Water Resources of the Bedrock Aquifers in Stillwater County)		\$100,000
Sweet Grass County		
(Greycliff Reach Yellowstone River Stabilization Project)		\$100,000
EmKayan County Water and Sewer District		
(EmKayan WSD Water System Improvements, Phase 2)		\$100,000
Chinook, City of		
(Chinook Water System Improvements)		\$100,000
Eureka, Town of		
(Eureka Water Treatment Improvement Project)		\$100,000
Broadwater County Conservation District		
(Big Springs Ditch Water Conservation and Spawning Bed Project)		\$100,000
Pinesdale, Town of		
(Pinesdale Water System Improvements)		\$100,000
Jefferson County		
(Big Pipestone Creek Remediation)		\$99,531
Fort Shaw Irrigation District		
(Fort Shaw ID A-System Modification)		\$100,000

(5) To the entities listed in this section, this appropriation constitutes a valid obligation of these funds for purposes of encumbering the funds during the biennium ending June 30, 2015, pursuant to 17-7-302.

**Section 2. Coordination of fund sources for grants to political subdivisions and local governments.** A project sponsor listed under [section 1(4)] may not receive funds from both the reclamation and development grants program and the renewable resource grant and loan program for the same project during the same biennium.

**Section 3. Condition of grants.** Disbursement of funds under [sections 1 through 4] for grants is subject to the following conditions that must be met by project sponsors:

(1) approval of a scope of work and budget for the project by the department of natural resources and conservation. Changes in the project scope of work or budget that reduce the public or natural resource benefits as presented in department reports and applicant testimony to the 63rd legislature may result in a proportional reduction in the grant amount.

(2) satisfactory completion of conditions described in the recommendation section of the project narrative of the renewable resource grant and loan program report to the legislature for the biennium ending June 30, 2015, or, in

the case of grants issued under [section 1(1)], completion of conditions specified at the time of written notification of approved grant authority;

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

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

**Section 4. Appropriations established.** For any entity of state government that receives a grant under [sections 1 through 3], an appropriation is established for the amount of the grant listed in [section 1(4)]. Grants to entities from prior bienniums are reauthorized for completion of contract work.

**Section 5. Transfer of funds.** By July 15, 2013, the state treasurer shall transfer to the natural resources projects state special revenue account established in 15-38-302:

(1) \$20,473,686 from the general fund; and

(2) \$250,000 from the orphan share state special revenue account established in 75-10-743.

**Section 6. Notification to tribal governments.** The secretary of state shall send a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell Chippewa tribe.

**Section 7. Coordination instruction.** If House Bill No. 14 is passed and approved and provides for funding for the projects outlined in [section 1(1)(h) or (1)(i) of this act], the appropriations made in [section 1(1)(h) or (1)(i) of this act] must be reduced by the amounts appropriated in House Bill No. 14 and the difference must revert to the general fund.

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

**Section 9. Effective date.** [This act] is effective July 1, 2013.

Approved May 6, 2013

## CHAPTER NO. 383

[HB 10]

AN ACT APPROPRIATING MONEY FOR INFORMATION TECHNOLOGY CAPITAL PROJECTS FOR THE BIENNIUM ENDING JUNE 30, 2015; PROVIDING FOR MATTERS RELATING TO THE APPROPRIATIONS; PROVIDING FOR A TRANSFER OF FUNDS FROM THE GENERAL FUND TO THE LONG-RANGE INFORMATION TECHNOLOGY PROGRAM ACCOUNT; PROVIDING FOR THE DEVELOPMENT AND ACQUISITION OF NEW INFORMATION TECHNOLOGY SYSTEMS FOR THE DEPARTMENT OF ADMINISTRATION, THE COMMISSIONER OF POLITICAL PRACTICES, THE DEPARTMENT OF ENVIRONMENTAL QUALITY, THE DEPARTMENT OF TRANSPORTATION, THE SECRETARY OF STATE, AND THE LEGISLATIVE BRANCH; AND PROVIDING AN EFFECTIVE DATE.

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

**Section 1. Definitions.** For the purposes of [sections 1 through 5], the following definitions apply:



(1) "Chief information officer" has the meaning provided in 2-17-506.

(2) "Information technology" has the meaning provided in 2-17-506.

(3) "Information technology capital project" means a group of interrelated information technology activities that are planned and executed in a structure sequence to create a unique product or service.

(4) "LRITP" means the long-range information technology program account in the capital projects fund type.

**Section 2. Appropriations and authorizations.** (1) All business application systems funded under this section must have a plan approved by the chief information officer for the design, definition, creation, storage, and security of the data associated with the application system. The security aspects of the plan must address but are not limited to authentication and granting of system privileges, safeguards against unauthorized access to or disclosure of sensitive information, and, consistent with state records retention policies, plans for the removal of sensitive data from the system when it is no longer needed. It is the intent of this subsection (1) that specific consideration be given to the potential sharing of data with other state agencies in the design, definition, creation, storage, and security of the data.

(2) Funds may not be released for a project until the chief information officer and budget director approve the plans described in subsection (1).

(3) The following money is appropriated to the department of administration to be used only for the indicated information technology capital projects:

Agency/Project	LRITP	State Special Revenue	Federal Special Revenue	Proprietary	Total
<b>DEPARTMENT OF ADMINISTRATION</b>					
Public Safety Communications System Maintenance and Operations	3,000,000				3,000,000
Computerized Maintenance Management System				350,000	350,000
Statewide Data Protection	2,000,000				2,000,000
Electronic Records Management/ Electronic Content Management Matching Grants	1,000,000				1,000,000
<b>COMMISSIONER OF POLITICAL PRACTICES</b>					
Campaign Reporting Service/ Database Rewrite	502,400				502,400
<b>DEPARTMENT OF ENVIRONMENTAL QUALITY</b>					
Remediation Information Management System	700,000	1,060,000	40,000		1,800,000
<b>DEPARTMENT OF TRANSPORTATION</b>					
Maintenance Management System		2,000,000			2,000,000
<b>SECRETARY OF STATE</b>					
Information Management System PHASE 2	4,078,385				4,078,385

**Section 3. Fund transfer.** The amount of \$11,451,785 is transferred from the general fund to the LRITP on July 1, 2013.

**Section 4. Legislative branch information technology capital projects appropriation.** (1) There is appropriated to the legislative services division \$6,146,000 from the LRITP for the session systems replacement project in the legislative branch.

(2) Before encumbering any funds appropriated in subsection (1), the executive director of the legislative services division shall submit a plan, as described in [section 2(1)], to the chief information officer. The chief information officer shall promptly review the plan and, if necessary, make timely recommendations to the executive director of the legislative services division regarding implementation of the plan.

(3) As part of the reporting requirements to the legislative council required under 5-2-503, the executive director of the legislative services division shall include an update on the implementation of projects funded under this section.

**Section 5. 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 6. Effective date.** [This act] is effective July 1, 2013.

Approved May 6, 2013

## CHAPTER NO. 384

[HB 11]

AN ACT APPROPRIATING MONEY TO THE DEPARTMENT OF COMMERCE FOR FINANCIAL ASSISTANCE TO LOCAL GOVERNMENT INFRASTRUCTURE PROJECTS THROUGH THE TREASURE STATE ENDOWMENT PROGRAM; AUTHORIZING GRANTS FROM THE TREASURE STATE ENDOWMENT STATE SPECIAL REVENUE ACCOUNT; PLACING CONDITIONS UPON GRANTS AND FUNDS; APPROPRIATING MONEY TO THE DEPARTMENT OF COMMERCE FOR EMERGENCY GRANTS; APPROPRIATING MONEY TO THE DEPARTMENT OF COMMERCE FOR INFRASTRUCTURE PLANNING GRANTS; APPROPRIATING MONEY FROM THE TREASURE STATE ENDOWMENT REGIONAL WATER SYSTEM STATE SPECIAL REVENUE ACCOUNT TO THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION FOR FINANCIAL ASSISTANCE TO REGIONAL WATER AUTHORITIES FOR REGIONAL WATER PROJECTS; PROVIDING FOR A TRANSFER OF FUNDS FROM THE STATE GENERAL FUND TO THE TREASURE STATE ENDOWMENT STATE SPECIAL REVENUE ACCOUNT; PROVIDING FOR A TRANSFER OF FUNDS FROM THE STATE GENERAL FUND TO THE TREASURE STATE ENDOWMENT REGIONAL WATER SYSTEM SPECIAL REVENUE ACCOUNT; AND PROVIDING AN EFFECTIVE DATE.

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

**Section 1. Appropriation from treasure state endowment state special revenue account.** (1) There is appropriated to the department of commerce \$33,983,538 for the biennium beginning July 1, 2013, from the treasure state endowment state special revenue account to finance grants authorized by this section.

(2) The funds appropriated in this section must be used by the department to make grants to the governmental entities listed in subsection (3) for the described purposes and in amounts not to exceed the amounts set out in subsection (3). The grants authorized in this section are subject to the conditions set forth in [sections 2 and 3] and described in the treasure state endowment program 2015 biennium report to the 63rd legislature. The legislature,

pursuant to 90-6-710, authorizes the grants for the projects listed in subsection (3). The department shall commit funds to projects listed in subsection (3), up to the amounts authorized, based on the manner of disbursement set forth in [section 3] until the funds deposited into the treasure state endowment state special revenue account during the biennium beginning July 1, 2013, are expended.

(3) The following applicants and projects are authorized for grants and listed in the order of their priority:

Bridge Applicant	Grant Amount
1. Missoula County	\$480,372
2. Lewis & Clark County	\$231,493
3. Granite County	\$376,004
4. Carbon County	\$455,675
5. Ravalli County	\$212,489
6. Powell County	\$320,940
7. Judith Basin County	\$235,211
8. Blaine County	\$254,000
9. Anaconda-Deer Lodge Co.	\$312,104
10. Jefferson County	\$381,882
11. Stillwater County	\$205,028
12. Park County	\$109,955
13. Glacier County	\$281,927
14. Big Horn County	\$237,462
15. Chouteau County	\$178,920
16. Yellowstone County	\$218,439
Other Infrastructure Applicant (project type)	Grant Amount
1. Craig County WSD (wastewater)	\$750,000
2. Glendive, City of (wastewater)	\$750,000
3. Manhattan, Town of (water)	\$750,000
4. Cascade, Town of (water)	\$750,000
5. Pinesdale, Town of (water)	\$750,000
6. Musselshell County WSD (water)	\$450,125
7. Valier, Town of (wastewater)	\$750,000
8. Hill County-North Havre (wastewater)	\$211,500
9. Hot Springs, Town of (water)	\$592,550
10. Chinook, City of (water)	\$750,000
11. Roundup, City of (water)	\$500,000
12. Dawson County-West Glendive (wastewater)	\$750,000
13. Seeley Lake Sewer District (wastewater)	\$750,000
14. Three Forks, City of (wastewater)	\$750,000
15. Libby, City of (water)	\$750,000
16. South Wind WSD (wastewater)	\$750,000
17. Richland County-Savage (wastewater)	\$750,000
18. Amsterdam/Churchill Sewer District (wastewater)	\$750,000
19. Philipsburg, Town of (water)	\$550,000

20.	Dutton, Town of (water)	\$408,500
21.	Fort Benton, City of (wastewater)	\$750,000
22.	Moore, Town of (wastewater)	\$625,000
23.	Forsyth, City of (wastewater)	\$500,000
24.	Vaughn County WSD (wastewater)	\$750,000
25.	Choteau, City of (wastewater)	\$750,000
26.	Boulder, City of (wastewater)	\$625,000
27.	Polson, City of (water)	\$625,000
28.	Cut Bank, City of (wastewater)	\$625,000
29.	White Sulphur Springs, City of (wastewater)	\$460,500
30.	Conrad, City of (water)	\$625,000
31.	Winnett, Town of (wastewater)	\$750,000
32.	Malta, City of (water)	\$500,000
33.	Harlowton, City of (wastewater)	\$625,000
34.	Stevensville, Town of (wastewater)	\$750,000
35.	Lodge Grass, Town of (wastewater)	\$750,000
36.	Harlem, City of (wastewater)	\$625,000
37.	Winifred, Town of (wastewater)	\$500,000
38.	Havre, City of (wastewater)	\$500,000
39.	Fairfield, Town of (wastewater)	\$625,000
40.	Miles City, City of (wastewater)	\$500,000
41.	Drummond, Town of (wastewater)	\$750,000
42.	Alberton, Town of (wastewater)	\$292,000
43.	Eureka, Town of (water)	\$550,000
44.	Shelby, City of (stormwater)	\$625,000
45.	Belt, Town of (wastewater)	\$625,000
46.	Joliet, Town of (wastewater)	\$154,200
47.	Hamilton, City of (wastewater)	\$322,262
48.	Plevna, Town of (water)	\$500,000

(4) If sufficient funds are available, this section constitutes a valid obligation of funds to the grant recipients listed in subsection (3) for purposes of encumbering the treasure state endowment state special revenue account funds during the biennium beginning July 1, 2013, pursuant to 17-7-302. However, a grant recipient's entitlement to receive funds is dependent on the grant recipient's compliance with the conditions described in [section 3(1)] and on the availability of funds.

(5) Funding for projects in subsection (3) will be provided only as long as there are sufficient funds available from the amount that was deposited into the treasure state endowment state special revenue account during the biennium beginning July 1, 2013. Funding for these projects will be made available in the order that the grant recipients satisfy the conditions described in [section 3(1)]. However, any of the projects listed in subsection (3) that have not completed the conditions described in [section 3(1)] by September 30, 2014, must be reviewed by the next regular session of the legislature to determine if the authorized grant should be withdrawn.

(6) Grant recipients shall complete all of the conditions described in [section 3(1)] by September 30, 2016, or any obligation to the grant recipient will cease.

**Section 2. Approval of grants — completion of biennial appropriation.** (1) The legislature, pursuant to 90-6-701, authorizes grants for the projects identified in [section 1(3)], the emergency infrastructure projects in [section 5], and for the infrastructure planning grants in [section 6].

(2) The authorization of these grants completes a biennial appropriation from the treasure state endowment special revenue account provided for in 17-5-703(3)(c).

**Section 3. Condition of grants — disbursements of funds.** (1) The disbursement of grant funds for the projects specified in [section 1(3)] is subject to completion of the following conditions:

(a) The grant recipient shall document that other matching funds required for completion of the project are firmly committed.

(b) The grant recipient must have a project management plan that is approved by the department of commerce.

(c) The grant recipient must be in compliance with the auditing and reporting requirements provided for in 2-7-503 and have established a financial accounting system that the department can reasonably ensure conforms to generally accepted accounting principles. Tribal governments shall comply with auditing and reporting requirements provided for in OMB Circular A-133.

(d) The grant recipient shall satisfactorily comply with any conditions described in the application (project) summaries section of the treasure state endowment program 2015 biennium report to the 63rd legislature.

(e) The grant recipient shall satisfy other specific requirements considered necessary by the department of commerce to accomplish the purpose of the project as evidenced by the application to the department.

(f) The grant recipient shall execute a grant agreement with the department of commerce.

(2) With the exception of bridges, all projects must adhere to the design standards required by the department of environmental quality. Recipients of treasure state endowment program funds that are not subject to the department of environmental quality design standards must adhere to generally accepted industry standards, such as Recommended Standards for Wastewater Facilities or Recommended Standards for Water Works, published by the Great Lakes-Upper Mississippi River Board of State and Provincial Public Health and Environmental Managers, latest edition.

(3) Recipients of treasure state endowment program funds are subject to the requirements of the department of commerce as described in the most recent edition of the treasure state endowment program project administration manual, adopted by the department through the administrative rulemaking process.

**Section 4. Other powers and duties of department.** (1) The department of commerce shall disburse grant funds on a reimbursement basis as grant recipients incur eligible project expenses.

(2) If actual project expenses are lower than the projected expense of the project, the department may, at its discretion:

(a) reduce the amount of grant funds to be provided to grant recipients in proportion to all other project funding sources;

(b) authorize the use of the remaining authorized grant amounts for the construction of additional infrastructure components directly related to the approved project that will further enhance the overall system; or

(c) reduce the amount of grant funds to be provided so that the grant recipient's projected average residential user rates do not become lower than their target rate as determined by the department.

(3) If the grant recipient obtains a greater amount of grant funds than was contained in the treasure state endowment program application, the department may reduce the amount of the treasure state endowment program grant funds to be provided to ensure that the grant recipient continues to meet the threshold requirements contained in program guidelines for receiving the larger treasure state endowment program grant.

**Section 5. Appropriations from treasure state endowment state special revenue account for emergency grants.** There is appropriated to the department of commerce \$100,000 for the biennium beginning July 1, 2013, from the interest earnings of the treasure state endowment state special revenue account for the purpose of providing local governments, as defined in 90-6-701, with emergency grants for infrastructure projects, as defined in 90-6-701.

**Section 6. Appropriations from treasure state endowment state special revenue account for infrastructure planning grants.** There is appropriated to the department of commerce \$900,000 for the biennium beginning July 1, 2013, from the interest earnings of the treasure state endowment state special revenue account for the purpose of providing local governments, as defined in 90-6-701, with infrastructure planning grants for infrastructure projects as defined in 90-6-701.

**Section 7. Appropriation from treasure state endowment regional water system special revenue account.** (1) There is appropriated \$17,000,000 to the department of natural resources and conservation for the biennium beginning July 1, 2013, from the treasure state endowment regional water system special revenue account to finance the state's share of regional water system projects authorized in subsection (2) and as set forth in 90-6-715.

(2) The Fort Peck-Dry Prairie rural water authority and the Rocky Boys-North Central Montana regional water authority are authorized to receive the funds appropriated in subsection (1).

(3) A regional water authority's receipt of funds is dependent on the authority's compliance with the conditions described in [section 9(1)].

(4) This section constitutes a valid obligation of funds to the regional water authorities listed in subsection (2) for purposes of encumbering the treasure state endowment regional water system special revenue account funds received during the biennium beginning July 1, 2013, under 17-7-302.

**Section 8. Approval of funds — completion of appropriation.** (1) The legislature, pursuant to 90-6-715, authorizes funds for the regional water authorities identified in [section 7(2)].

(2) The authorization of these funds completes an appropriation from the treasure state endowment regional water system special revenue account provided for in 17-5-703(3)(d).

**Section 9. Conditions — manner of disbursements of funds.** (1) The disbursement of funds under [sections 7 and 8] is subject to completion of the following conditions:

(a) The regional water authority shall execute an agreement with the department of natural resources and conservation.

(b) The regional water authority must have a project management plan that is approved by the department.



(c) The regional water authority shall establish a financial accounting system that the department can reasonably ensure conforms to generally accepted accounting principles.

(d) The regional water authority shall provide the department with a detailed preliminary engineering report.

(2) The department shall disburse funds on a reimbursement basis as the regional water authority incurs eligible project expenses.

**Section 10. Fund transfer.** The state treasurer shall transfer from the state general fund by June 30, 2015:

(1) the amount of \$13,300,000 to the treasure state endowment account in the state special revenue fund; and

(2) the amount of \$8,400,000 to the treasure state endowment regional water system account in the state special revenue fund.

**Section 11. Notification to tribal governments.** The secretary of state shall send a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell Chippewa tribe.

**Section 12. Effective date.** [This act] is effective July 1, 2013.

Approved May 6, 2013

## CHAPTER NO. 385

[HB 13]

AN ACT GENERALLY REVISING LAWS GOVERNING STATE EMPLOYEE COMPENSATION; CLARIFYING BENEFITS FOR LAID-OFF EMPLOYEES; APPROPRIATING FUNDS TO IMPLEMENT PAY REVISIONS AND FOR PERSONAL SERVICES CONTINGENCIES; REQUIRING REPORTING ON THE IMPLEMENTATION OF PAY INCREASES; AMENDING SECTIONS 2-18-301, 2-18-303, AND 2-18-703, MCA; AND PROVIDING AN EFFECTIVE DATE.

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

**Section 1.** Section 2-18-301, MCA, is amended to read:

**“2-18-301. Intent of part — rules.** (1) It is the intent of the legislature that compensation plans for state employees, excluding those employees excepted under 2-18-103 or 2-18-104, be based, ~~in part,~~ on an analysis and comparison of the *municipal and state government labor market markets in North Dakota, South Dakota, Idaho, and Wyoming* as provided by the department ~~in a biennial salary survey~~ from the national compensation association of state governments salary survey and other information relative to the state government salaries and compensation in those states. ~~The salary survey must be submitted~~ For the biennium beginning July 1, 2013, the department shall determine this information before pay raises are implemented. For legislative sessions following the biennium beginning July 1, 2013, the department shall submit to the office of budget and program planning as a part of the information required by 17-7-111.:

(a) *an analysis of how Montana government employee salaries and other compensation compare to the municipal and state government salaries in North Dakota, South Dakota, Idaho, and Wyoming; and*

(b) *an analysis of the labor market as determined by the department in a biennial salary survey.*



(2) Pay adjustments, if any, provided for in 2-18-303 supersede any other plan or systems established through collective bargaining after the adjournment of the legislature.

(3) Total funds required to implement the pay increases, if any, provided for in 2-18-303 for any employee group or bargaining unit may not be increased through collective bargaining over the amount appropriated by the legislature.

(4) The department shall administer the pay program established by the legislature on the basis of competency, internal equity, and competitiveness to ~~external labor markets~~ *the municipal and state government labor markets in North Dakota, South Dakota, Idaho, and Wyoming. The intent is to bring all pay bands to the same relationship percentage of the market rate midpoint salary comparison* when fiscally able.

(5) The broadband pay plan must consist of nine pay bands. Each pay band must contain a salary range with a minimum salary and a maximum salary.

(6) Based on the biennial salary survey, the department shall:

(a) identify current market rates for all occupations;

(b) establish salary ranges for each pay band; and

(c) recommend competitive pay zones *with the municipal and state government labor markets in North Dakota, South Dakota, Idaho, and Wyoming using the national compensation association of state governments salary survey and other relevant information for those states.*

(7) The department may promulgate rules not inconsistent with the provisions of this part, collective bargaining statutes, or negotiated contracts to carry out the purposes of this part.

(8) Nothing in this part prohibits the board of regents from engaging in negotiations with the collective bargaining units representing the classified staff of the university system.”

**Section 2.** Section 2-18-303, MCA, is amended to read:

**“2-18-303. Procedures for administering broadband pay plan.** (1) On the first day of the first complete pay period in fiscal year ~~2010~~ *2014*, each employee is entitled to the amount of the employee’s base salary as it was on June 30, ~~2009~~ *2013*.

(2) An employee’s base salary may be no less than the minimum salary of the pay band to which the employee’s position is allocated.

(3) ~~All full-time employees whose base pay is \$45,000 or less annually will receive a one-time lump-sum payment of \$450 for the first full pay period after July 1, 2009. All part-time employees who are regularly scheduled to work 20 hours or more per week and whose base pay is \$21.635 per hour or less will receive a one-time lump-sum payment of \$225 for the first full pay period after July 1, 2009. Funds appropriated under [section 3(1)] must be used to increase the base pay for each employee. The base pay of employees must be increased as determined by the executive branch, including those subject to the provisions of Title 39, chapter 31, with particular attention to the lower pay bands and those who did not receive a base pay increase during the biennium beginning July 1, 2011.~~

(4) (a) (i) A member of a bargaining unit may not receive the pay adjustment provided for in subsection (3) until the employer’s collective bargaining representative receives written notice that the employee’s collective bargaining unit has ratified a collective bargaining agreement.

(ii) If ratification of a collective bargaining agreement, as required by subsection (4)(a)(i), is not completed by the date on which a legislatively authorized pay increase is implemented, members of the bargaining unit must continue to receive the compensation that they were receiving until an agreement is ratified.

(b) Methods of administration consistent with the purpose of this part and necessary to properly implement the pay adjustments provided for in this section may be provided for in collective bargaining agreements.

(5) (a) Montana highway patrol officer base salaries must be established through the broadband pay plan. Before January 1 of each odd-numbered year, the department shall, after seeking the advice of the Montana highway patrol, conduct a salary survey to be used in establishing the base salary for existing and entry-level highway patrol officer positions. The county sheriff's offices in the following consolidated governments and counties are the labor market for purposes of the survey: Butte-Silver Bow, Cascade, Yellowstone, Missoula, Lewis and Clark, Gallatin, Flathead, and Dawson. The base salary for existing and entry-level highway patrol officer positions must then be determined by the department of justice, using the results of the salary survey and the department of justice pay plan guidelines. Base or biennial salary increases under this subsection are exclusive of and not in addition to any increases otherwise awarded to other state employees after July 1, 2006.

(b) To the extent that the plan applies to employees within a collective bargaining unit, the implementation of the plan is a negotiable subject under 39-31-305.

(c) The department of justice shall submit the salary survey to the office of budget and program planning as a part of the information required by 17-7-111.

(d) The salary survey and plan must be completed at least 6 months before the start of each regular legislative session."

**Section 3.** Section 2-18-703, MCA, is amended to read:

**"2-18-703. Contributions.** (1) Each agency, as defined in 2-18-601, and the state compensation insurance fund shall contribute the amount specified in this section toward the group benefits cost.

(2) For employees defined in 2-18-701 and for members of the legislature, the employer contribution for group benefits is ~~\$626~~ ~~\$733~~ a month from January 2009 2011 through December 2009 2013, ~~\$679~~ ~~\$806~~ a month from January 2010 2014 through December 2010 2014, and ~~\$733~~ ~~\$887~~ for January 2011 2015 and for each succeeding month. For employees of the Montana university system, the employer contribution for group benefits is ~~\$626~~ ~~\$806~~ a month from July 2008 2013 through June 2009 2014, ~~\$679~~ and ~~\$887~~ a month from July 2009 2014 through June 2010, and ~~\$733~~ for July 2010 and for each succeeding month. If a state employee is terminated to achieve a reduction in force, the continuation of contributions for group benefits beyond the termination date is subject to negotiation under 39-31-305 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.

(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 4. Appropriations.** (1) The following money for the indicated fiscal years is appropriated to the listed agencies to implement the adjustments provided in 2-18-303:

Fiscal Year 2014	General Fund	State Special	Federal Special	Proprietary
Legislative Branch	\$397,735	\$52,500		
Consumer Counsel		\$18,922		
Judicial Branch	\$859,838	\$50,113	\$1,821	
Executive Branch	\$9,060,825	\$7,918,525	\$5,737,675	\$2,049,016
MUS	\$6,665,150	\$3,703	\$157,792	\$2,437
Total	\$16,983,548	\$8,043,763	\$5,897,289	\$2,051,453

## Fiscal Year 2015

	General Fund	State Special	Federal Special	Proprietary
Legislative Branch	\$808,775	\$142,820		
Consumer Counsel		\$51,293		
Judicial Branch	\$2,360,621	\$137,768	\$5,008	
Executive Branch	\$20,939,617	\$19,036,495	\$14,600,371	\$5,265,622
MUS	\$16,907,439	\$10,373	\$441,075	\$6,715
Total	\$41,016,452	\$19,378,749	\$15,046,453	\$5,272,336

(2) The following money is appropriated for the biennium to the office of budget and program planning, from the designated state fund, to be distributed to agencies when personnel vacancies do not occur, retirement costs exceed agency resources, or other contingencies arise:

General Fund	State Special	Federal Special	Proprietary
\$1,000,000	\$600,000	\$125,000	\$25,000

(3) By June 30, 2015, any funds not expended for the purpose of increasing employee pay pursuant to 2-18-303 must revert to the fund from which it was appropriated.

(4) The following money is appropriated for the biennium beginning July 1, 2013, to the Legislative Services Division to be used when retirement costs exceed agency resources or other contingencies arise:

General Fund
\$100,000

**Section 5. Reporting of implementation of pay increase.** By December 31, 2013, and December 31, 2014, each agency shall submit to the legislative finance committee and the legislative fiscal analyst a report in an electronic format on the implementation of pay increases under 2-18-303 and the impacts of them on the lower pay bands.

**Section 6. Effective date.** [This act] is effective July 1, 2013.

Approved May 6, 2013

## CHAPTER NO. 386

[HB 97]

AN ACT REVISING THE COMPENSATION USED TO DETERMINE RETIREMENT BENEFITS IN CERTAIN PUBLIC RETIREMENT SYSTEMS; PLACING A CAP ON THE EARNINGS THAT MAY BE INCLUDED IN THE HIGHEST OR FINAL AVERAGE COMPENSATION USED TO DETERMINE A RETIREMENT BENEFIT UNDER THE PUBLIC EMPLOYEES', JUDGES', HIGHWAY PATROL OFFICERS', SHERIFFS', GAME WARDENS' AND PEACE OFFICERS', MUNICIPAL POLICE OFFICERS', AND FIREFIGHTERS' UNIFIED RETIREMENT SYSTEMS; AMENDING SECTIONS 19-2-303, 19-2-1005, 19-3-108, 19-5-101, 19-6-101, 19-7-101, 19-8-101, 19-9-104, AND 19-13-104, MCA; AND PROVIDING AN EFFECTIVE DATE.

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

**Section 1.** Section 19-2-303, MCA, is amended to read:

**"19-2-303. Definitions.** Unless the context requires otherwise, for each of the retirement systems subject to this chapter, the following definitions apply:

(1) "Accumulated contributions" means the sum of all the regular and any additional contributions made by a member in a defined benefit plan, together with the regular interest on the contributions.

(2) "Active member" means a member who is a paid employee of an employer, is making the required contributions, and is properly reported to the board for the most current reporting period.

(3) "Actuarial cost" means the amount determined by the board in a uniform and nondiscriminatory manner to represent the present value of the benefits to be derived from the additional service to be credited based on the most recent actuarial valuation for the system and the age, years until retirement, and current salary of the member.

(4) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the mortality table and interest rate assumptions adopted by the board.

(5) "Actuarial liabilities" means the excess of the present value of all benefits payable under a defined benefit retirement plan over the present value of future normal costs in that retirement plan.

(6) "Actuary" means the actuary retained by the board in accordance with 19-2-405.

(7) "Additional contributions" means contributions made by a member of a defined benefit plan to purchase various types of optional service credit as allowed by the applicable retirement plan.

(8) "Annuity" means:

(a) in the case of a defined benefit plan, equal and fixed payments for life that are the actuarial equivalent of a lump-sum payment under a retirement plan and as such are not benefits paid by a retirement plan and are not subject to periodic or one-time increases; or

(b) in the case of the defined contribution plan, a payment of a fixed sum of money at regular intervals.

(9) "Banked holiday time" means the hours reported for work performed on a holiday that the employee may use for equivalent time off or that may be paid to the employee as specified by the employer's policy.

(10) "Benefit" means:

(a) the service retirement benefit, early retirement benefit, or disability retirement or survivorship benefit payment provided by a defined benefit retirement plan; or

(b) a payment or distribution under the defined contribution retirement plan, including a disability payment under 19-3-2141, for the exclusive benefit of a plan member or the member's beneficiary or an annuity purchased under 19-3-2124.

(11) "Board" means the public employees' retirement board provided for in 2-15-1009.

(12) "Contingent annuitant" means:

(a) under option 2 or 3 provided for in 19-3-1501, one natural person designated to receive a continuing monthly benefit after the death of a retired member; or

(b) under option 4 provided for in 19-3-1501, a natural person, charitable organization, estate, or trust that may receive a continuing monthly benefit after the death of a retired member.

(13) "Covered employment" means employment in a covered position.

(14) "Covered position" means a position in which the employee must be a member of the retirement system except as otherwise provided by law.

(15) "Defined benefit retirement plan" or "defined benefit plan" means a plan within the retirement systems provided for pursuant to 19-2-302 that is not the defined contribution retirement plan.

(16) "Defined contribution retirement plan" or "defined contribution plan" means the plan within the public employees' retirement system established in 19-3-103 that is provided for in chapter 3, part 21, of this title and that is not a defined benefit plan.

(17) "Department" means the department of administration.

(18) "Designated beneficiary" means the person, charitable organization, estate, or trust for the benefit of a natural person designated by a member or payment recipient to receive any survivorship benefits, lump-sum payments, or benefit from a retirement account upon the death of the member or payment recipient, including annuities derived from the benefits or payments.

(19) "Direct rollover" means a payment by the plan to the eligible retirement plan specified by the distributee.

(20) "Disability" or "disabled" means a total inability of the member to perform the member's duties by reason of physical or mental incapacity. The disability must be incurred while the member is an active member and must be one of permanent duration or of extended and uncertain duration, as determined by the board on the basis of competent medical opinion.

(21) "Distributee" means:

(a) a member;

(b) a member's surviving spouse;

(c) a member's spouse or former spouse who is the alternate payee under a family law order as defined in 19-2-907; or

(d) effective January 1, 2007, a member's nonspouse beneficiary who is a designated beneficiary as defined by section 401(a)(9)(E) of the Internal Revenue Code, 26 U.S.C. 401(a)(9)(E).

(22) "Early retirement benefit" means the retirement benefit payable to a member following early retirement and is the actuarial equivalent of the accrued portion of the member's service retirement benefit.

(23) "Eligible retirement plan" means any of the following that accepts the distributee's eligible rollover distribution:

(a) an individual retirement account described in section 408(a) of the Internal Revenue Code, 26 U.S.C. 408(a);

(b) an individual retirement annuity described in section 408(b) of the Internal Revenue Code, 26 U.S.C. 408(b);

(c) an annuity plan described in section 403(a) of the Internal Revenue Code, 26 U.S.C. 403(a);

(d) a qualified trust described in section 401(a) of the Internal Revenue Code, 26 U.S.C. 401(a);

(e) effective January 1, 2002, an annuity contract described in section 403(b) of the Internal Revenue Code, 26 U.S.C. 403(b);

(f) effective January 1, 2002, a plan eligible under section 457(b) of the Internal Revenue Code, 26 U.S.C. 457(b), that is maintained by a state, a political subdivision of a state, or any agency or instrumentality of a state or a



political subdivision of a state that agrees to separately account for amounts transferred into that plan from a plan under this title; or

(g) effective January 1, 2008, a Roth IRA described in section 408A of the Internal Revenue Code, 26 U.S.C. 408A.

(24) "Eligible rollover distribution":

(a) means any distribution of all or any portion of the balance from a retirement plan to the credit of the distributee, as provided in 19-2-1011;

(b) effective January 1, 2002, includes a distribution to a surviving spouse or to a spouse or former spouse who is an alternate payee under a domestic relations order, as defined in section 414(p) of the Internal Revenue Code, 26 U.S.C. 414(p).

(25) "Employee" means a person who is employed by an employer in any capacity and whose salary is being paid by the employer or a person for whom an interlocal governmental entity is responsible for paying retirement contributions pursuant to 7-11-105.

(26) "Employer" means a governmental agency participating in a retirement system enumerated in 19-2-302 on behalf of its eligible employees. The term includes an interlocal governmental entity identified as responsible for paying retirement contributions pursuant to 7-11-105.

(27) "Essential elements of the position" means fundamental job duties. An element may be considered essential because of but not limited to the following factors:

(a) the position exists to perform the element;

(b) there are a limited number of employees to perform the element; or

(c) the element is highly specialized.

(28) "*Excess earnings*" means the difference, if any, between reported compensation and the limits provided in 19-2-1005(2) used to calculate a member's highest average compensation or final average compensation.

(28)(29) "Fiscal year" means a plan year, which is any year commencing with July 1 and ending the following June 30.

(29)(30) "Inactive member" means a member who terminates service and does not retire or take a refund of the member's accumulated contributions.

(30)(31) "Internal Revenue Code" has the meaning provided in 15-30-2101.

(31)(32) "Member" means either:

(a) a person with accumulated contributions and service credited with a defined benefit retirement plan or receiving a retirement benefit on account of the person's previous service credited in a retirement system; or

(b) a person with a retirement account in the defined contribution plan.

(32)(33) "Membership service" means the periods of service that are used to determine eligibility for retirement or other benefits.

(33)(34) (a) "Normal cost" or "future normal cost" means an amount calculated under an actuarial cost method required to fund accruing benefits for members of a defined benefit retirement plan during any year in the future.

(b) Normal cost does not include any portion of the supplemental costs of a retirement plan.

(34)(35) "Normal retirement age" means the age at which a member is eligible to immediately receive a retirement benefit based on the member's age, length of service, or both, as specified under the member's retirement system, without disability and without an actuarial or similar reduction in the benefit.



~~(35)~~(36) "Pension" means benefit payments for life derived from contributions to a retirement plan made from state- or employer-controlled funds.

~~(36)~~(37) "Pension trust fund" means a fund established to hold the contributions, income, and assets of a retirement system or plan in public trust.

~~(37)~~(38) "Plan choice rate" means the amount of the employer contribution as a percentage of payroll covered by the defined contribution plan members that is allocated to the public employees' retirement system's defined benefit plan pursuant to 19-3-2117 and that is adjusted by the board pursuant to 19-3-2121 to actuarially fund the unfunded liabilities and the normal cost rate changes in a defined benefit plan resulting from member selection of the defined contribution plan.

~~(38)~~(39) "Regular contributions" means contributions required from members under a retirement plan.

~~(39)~~(40) "Regular interest" means interest at rates set from time to time by the board.

~~(40)~~(41) "Retirement" or "retired" means the status of a member who has:

(a) terminated from service; and

(b) received and accepted a retirement benefit from a retirement plan.

~~(41)~~(42) "Retirement account" means an individual account within the defined contribution retirement plan for the deposit of employer and member contributions and other assets for the exclusive benefit of a member of the defined contribution plan or the member's beneficiary.

~~(42)~~(43) "Retirement benefit" means:

(a) in the case of a defined benefit plan, the periodic benefit payable as a result of service retirement, early retirement, or disability retirement under a defined benefit plan of a retirement system. With respect to a defined benefit plan, the term does not mean an annuity.

(b) in the case of the defined contribution plan, a benefit as defined in subsection (10)(b).

~~(43)~~(44) "Retirement plan" or "plan" means either a defined benefit plan or a defined contribution plan under one of the public employee retirement systems enumerated in 19-2-302.

~~(44)~~(45) "Retirement system" or "system" means one of the public employee retirement systems enumerated in 19-2-302.

~~(45)~~(46) "Service" means employment of an employee in a position covered by a retirement system.

~~(46)~~(47) "Service credit" means the periods of time for which the required contributions have been made to a retirement plan and that are used to calculate retirement benefits or survivorship benefits under a defined benefit retirement plan.

~~(47)~~(48) "Service retirement benefit" means the retirement benefit that the member may receive at normal retirement age.

~~(48)~~(49) "Statutory beneficiary" means the surviving spouse or dependent child or children of a member of the highway patrol officers', municipal police officers', or firefighters' unified retirement system who are statutorily designated to receive benefits upon the death of the member.

~~(49)~~(50) "Supplemental cost" means an element of the total actuarial cost of a defined benefit retirement plan arising from benefits payable for service performed prior to the inception of the retirement plan or prior to the date of

contribution rate increases, changes in actuarial assumptions, actuarial losses, or failure to fund or otherwise recognize normal cost accruals or interest on supplemental costs. These costs are included in the unfunded actuarial liabilities of the retirement plan.

~~(50)~~(51) "Survivorship benefit" means payments for life to the statutory or designated beneficiary of a deceased member who died while in service under a defined benefit retirement plan.

~~(51)~~(52) "Termination of employment", "termination from employment", "terminated employment", "terminated from employment", "terminate employment", or "terminates employment" means that:

(a) there has been a complete severance of a covered employment relationship by the positive act of either the employee, the employer, or both; and

(b) the member is no longer receiving compensation for covered employment, other than any outstanding lump-sum payment for compensatory leave, sick leave, or annual leave.

~~(52)~~(53) "Termination of service", "termination from service", "terminated from service", "terminated service", "terminating service", or "terminates service" means that:

(a) there has been a complete severance of a covered employment relationship by the positive act of either the employee, the employer, or both for at least 30 days;

(b) no written or verbal agreement exists between employee and employer that the employee will return to covered employment in the future;

(c) the member is no longer receiving compensation for covered employment; and

(d) the member has been paid all compensation for compensatory leave, sick leave, or annual leave to which the member was entitled. For the purposes of this subsection ~~(52)~~ (53), compensation does not mean compensation as a result of a legal action, court order, or settlement to which the board was not a party.

~~(53)~~(54) "Unfunded actuarial liabilities" or "unfunded liabilities" means the excess of a defined benefit retirement plan's actuarial liabilities at any given point in time over the value of its cash and investments on that same date.

~~(54)~~(55) "Vested account" means an individual account within a defined contribution plan that is for the exclusive benefit of a member or the member's beneficiary. A vested account includes all contributions and the income on all contributions in each of the following accounts:

(a) the member's contribution account;

(b) the vested portion of the employer's contribution account; and

(c) the member's account for other contributions.

~~(55)~~(56) "Vested member" or "vested" means:

(a) with respect to a defined benefit plan, a member or the status of a member who has at least 5 years of membership service; or

(b) with respect to the defined contribution plan, a member or the status of a member who meets the minimum membership service requirement of 19-3-2116.

~~(56)~~(57) "Written application" or "written election" means a written instrument, prescribed by the board or required by law, properly signed and filed with the board, that contains all required information, including documentation that the board considers necessary.

~~(57)~~(58) “Written instrument” includes an electronic record containing an electronic signature, as defined in 30-18-102.”

**Section 2.** Section 19-2-1005, MCA, is amended to read:

**“19-2-1005. Compensation limit.** (1) A retirement system or plan subject to this chapter may not take into account compensation of a member in excess of the amount permitted in section 401(a)(17) of the Internal Revenue Code, 26 U.S.C. 401(a)(17), as adjusted for cost-of-living increases in accordance with section 401(a)(17)(B) of the Internal Revenue Code, 26 U.S.C. 401(a)(17)(B).

(2) (a) *Except as provided in subsection (2)(b), for a member hired on or after July 1, 2013, a retirement system or plan subject to this chapter may not include the following amounts of excess earnings in the calculation of a member’s highest average compensation or final average compensation:*

(i) *for the first year included in the calculation, any compensation that is greater than 110% of the compensation paid to the member in the previous year; and*

(ii) *for each subsequent year included in the calculation, any compensation that is greater than 110% of the compensation included in the calculation for the previous year.*

(b) *In determining a member’s retirement benefit, total excess earnings, if any, must be divided by the member’s total months of service credit and added to each month’s compensation included in the member’s highest average compensation or final average compensation as limited under subsection (2)(a).”*

**Section 3.** Section 19-3-108, MCA, is amended to read:

**“19-3-108. Definitions.** Unless the context requires otherwise, as used in this chapter, the following definitions apply:

(1) (a) “Compensation” means remuneration paid out of funds controlled by an employer in payment for the member’s services or for time during which the member is excused from work because of a holiday or because the member has taken compensatory leave, sick leave, annual leave, banked holiday time, or a leave of absence before any pretax deductions allowed by state or federal law are made.

(b) Compensation does not include:

(i) the contributions made pursuant to 19-3-403(4)(a) for members of a bargaining unit;

(ii) in-kind goods provided by the employer, such as uniforms, housing, transportation, or meals;

(iii) in-kind services, such as the retraining allowance paid pursuant to 2-18-622, or employment-related services;

(iv) contributions to group insurance, such as that provided under 2-18-701 through 2-18-704; ~~and~~

(v) lump-sum payments for compensatory leave, sick leave, banked holiday time, or annual leave paid without termination of employment; *or*

(vi) *bonuses provided after July 1, 2013, that are one-time, temporary payments in addition to and not considered part of base pay.*

(2) “Contracting employer” means any political subdivision or governmental entity that has contracted to come into the system under this chapter.

(3) “Defined benefit plan” means the plan within the public employees’ retirement system established in 19-3-103 that is not the defined contribution plan.

(4) “Employer” means the state of Montana, its university system or any of the colleges, schools, components, or units of the university system for the purposes of this chapter, or any contracting employer.

(5) “Employer contributions” means payments to a pension trust fund pursuant to 19-3-316 from appropriations of the state of Montana and from contracting employers.

(6) (a) “Highest average compensation” means:

(i) for a member hired prior to July 1, 2011, the highest average monthly compensation during any 36 consecutive months of membership service;

(ii) for a member hired on or after July 1, 2011, the highest average monthly compensation during any 60 consecutive months of membership service; or

(iii) in the event a member has not served the minimum specified period of service, the total compensation earned divided by the months of membership service.

(b) Lump-sum payments for severance pay, including payment for compensatory leave, sick leave, banked holiday time, and annual leave, paid to the member upon termination of employment may be used in the calculation of a retirement benefit only to the extent that they are used to replace, on a month-for-month basis, the regular compensation for a month or months included in the calculation of the highest average compensation. A lump-sum payment may not be added to a single month’s compensation.

(c) *Excess earnings limits must be applied to the calculation of the highest average compensation pursuant to 19-2-1005(2).*

(7) “System” or “retirement system” means the public employees’ retirement system established in 19-3-103.”

**Section 4.** Section 19-5-101, MCA, is amended to read:

**“19-5-101. Definitions.** Unless a different meaning is plainly implied by the context, the following definitions apply in this chapter:

(1) (a) “Compensation” means remuneration, as defined in 2-16-403, 3-5-211, and 3-7-222, paid to a member.

(b) *Compensation does not include bonuses provided after July 1, 2013, that are one-time, temporary payments in addition to and not considered part of base pay.*

(2) “Current salary” means the current compensation for the office retired from.

(3) (a) “Highest average compensation” means a member’s highest average monthly compensation during any 36 consecutive months of membership service.

(b) *Excess earnings limits must be applied to the calculation of the highest average compensation pursuant to 19-2-1005(2).*

(4) “Involuntary retirement” means a retirement not for cause and before retirement age.

(5) “Retired judge” means any judge or justice in receipt of a retirement benefit under this chapter.”

**Section 5.** Section 19-6-101, MCA, is amended to read:

**“19-6-101. Definitions.** Unless the context requires otherwise, the following definitions apply in this chapter:

(1) (a) “Compensation” means remuneration paid from funds controlled by an employer in payment for the member’s services or for time during which the

member is excused from work because the member has taken compensatory leave, sick leave, annual leave, or a leave of absence before any pretax deductions allowed by state or federal law are made.

(b) Compensation does not include:

(i) maintenance, allowances, and expenses; *or*

(ii) *bonuses provided after July 1, 2013, that are one-time, temporary payments in addition to and not considered part of base pay.*

(2) "Dependent child" means an unmarried child of a deceased retired member, who is:

(a) under 18 years of age; or

(b) under 24 years of age and attending an accredited postsecondary educational institution as a full-time student in anticipation of receiving a certificate or degree.

(3) (a) "Highest average compensation" means a member's highest average monthly compensation during any 36 consecutive months of membership service or, in the event a member has not served at least 36 months, the total compensation earned divided by the number of months of service.

(b) Lump-sum payments for severance pay, including payment for compensatory leave, sick leave, and annual leave, paid to the member upon termination of employment may be used in the calculation of a retirement benefit only to the extent that they are used to replace, on a month-for-month basis, the normal compensation for a month or months included in the calculation of the highest average compensation. A lump-sum payment may not be added to a single month's compensation.

(c) *Excess earnings limits must be applied to the calculation of the highest average compensation pursuant to 19-2-1005(2).*

(4) "Surviving spouse" means the spouse married to a retired member at the time of the retired member's death.

(5) "Survivor" means a surviving spouse or dependent child of a member."

**Section 6.** Section 19-7-101, MCA, is amended to read:

**"19-7-101. Definitions.** Unless the context requires otherwise, the following definitions apply in this chapter:

(1) (a) "Compensation" means remuneration paid from funds controlled by an employer for the member's services or for time during which the member is excused from work because the member has taken compensatory leave, sick leave, annual leave, or a leave of absence before any pretax deductions allowed by state or federal law are made.

(b) Compensation does not include:

(i) maintenance, allowances, and expenses; *or*

(ii) *bonuses provided after July 1, 2013, that are one-time, temporary payments in addition to and not considered part of base pay.*

(2) "Detention officer" means any detention officer who is hired by a sheriff, employed in a detention center, and acting as a detention officer for the sheriff and who has received or is expected to receive training to meet the employment standards set for detention officers by the Montana public safety officer standards and training council established in 2-15-2029.

(3) (a) "Highest average compensation" means:

(i) for members hired prior to July 1, 2011, the member's highest average monthly compensation during any 36 consecutive months of membership service;

(ii) for members hired on or after July 1, 2011, the highest average compensation during any 60 consecutive months of membership service; or

(iii) if a member has not served the minimum specified period of membership service as applicable in subsection (3)(a)(i) or (3)(a)(ii), the total compensation earned divided by the number of months of service.

(b) Lump-sum payments for severance pay, including payment for compensatory leave, sick leave, and annual leave, paid to the member upon termination of employment may be used in the calculation of a retirement benefit only to the extent that they are used to replace, on a month-for-month basis, the normal compensation for a month or months included in the calculation of the highest average compensation. A lump-sum payment may not be added to a single month's compensation.

(c) *Excess earnings limits must be applied to the calculation of the highest average compensation pursuant to 19-2-1005(2).*

(4) "Investigator" means a person who is employed by the department of justice as a criminal investigator or as a gambling investigator.

(5) "Sheriff" means any elected or appointed county sheriff or undersheriff or any appointed, lawfully trained, appropriately salaried, and regularly acting deputy sheriff with the requisite professional certification and licensing."

**Section 7.** Section 19-8-101, MCA, is amended to read:

**"19-8-101. Definitions.** Unless the context requires otherwise, the following definitions apply in this chapter:

(1) (a) "Compensation" means remuneration paid from funds controlled by an employer in payment for the member's services or for time during which the member is excused from work because the member has taken compensatory leave, sick leave, annual leave, banked holiday time, or a leave of absence before any pretax deductions allowed by state or federal law are made.

(b) Compensation does not include:

(i) maintenance, allowances, and expenses; or

(ii) *bonuses provided after July 1, 2013, that are one-time, temporary payments in addition to and not considered part of base pay.*

(2) (a) "Highest average compensation" means:

(i) for members hired prior to July 1, 2011, the highest average monthly compensation during any 36 consecutive months of membership service;

(ii) for members hired on or after July 1, 2011, the highest average monthly compensation during any 60 consecutive months of membership service; or

(iii) in the event a member has not served the minimum specified period of membership service, the total compensation earned divided by the number of months of service.

(b) Lump-sum payments for severance pay, including payment for compensatory leave, sick leave, annual leave, and banked holiday time, paid to the member upon termination of employment may be used in the calculation of a retirement benefit only to the extent that they are used to replace, on a month-for-month basis, the normal compensation for a month or months included in the calculation of the highest average compensation. A lump-sum payment may not be added to a single month's compensation.



(c) *Excess earnings limits must be applied to the calculation of the highest average compensation pursuant to 19-2-1005(2).*

(3) "Game warden" means a state fish and game warden hired by the department of fish, wildlife, and parks and includes all warden supervisory personnel whose salaries or compensation is paid out of the department of fish, wildlife, and parks money.

(4) "Motor carrier officer" means an employee of the department of transportation designated or appointed as a peace officer pursuant to 61-10-154 or 61-12-201.

(5) "Peace officer" or "state peace officer" means a person who by virtue of the person's employment with the state is vested by law with a duty to maintain public order or make arrests for offenses while acting within the scope of the person's authority or who is charged with specific law enforcement responsibilities on behalf of the state."

**Section 8.** Section 19-9-104, MCA, is amended to read:

**"19-9-104. Definitions.** Unless the context requires otherwise, the following definitions apply in this chapter:

(1) (a) "Compensation" means the remuneration paid from funds controlled by an employer in payment for the member's services before any pretax deductions allowed by state or federal law are made.

(b) Compensation does not include:

(i) overtime, holiday payments, shift differential payments, compensatory time payments, and payments in lieu of sick leave and annual leave; ~~and~~

(ii) maintenance, allowances, and expenses; *or*

(iii) *bonuses provided after July 1, 2013, that are one-time, temporary payments in addition to and not considered part of base pay.*

(2) "Dependent child" means a child of a deceased member:

(a) who is unmarried and under 18 years of age; or

(b) who is unmarried, under 24 years of age, and attending an accredited postsecondary educational institution as a full-time student in anticipation of receiving a certificate or degree.

(3) "Employer" means any city that participated in a prior plan or that elects to join this retirement system under 19-9-207.

(4) (a) "Final average compensation" means the monthly compensation of a member averaged over the last 36 months of the member's service or, in the event a member has not served at least 36 months, the total compensation earned divided by the number of months of service.

(b) *Excess earnings limits must be applied to the calculation of the final average compensation pursuant to 19-2-1005(2).*

(5) "Minimum retirement date" means the first day of the month coinciding with or, if none coincides, the date on which a member both becomes age 50 and completes 5 years of membership service.

(6) Any reference to "municipality", "city", or "town" includes those jurisdictions that, prior to the effective date of a county-municipal consolidation, were incorporated municipalities, subsequent districts created for urban law enforcement services, or the entire county included in the county-municipal consolidation.



(7) "Police officer" means an appointed, lawfully trained, appropriately salaried, and regularly acting officer with the requisite professional certification and licensing.

(8) "Prior plan" means the local police reserve or pension trust fund of a city that elects to join the retirement system under 19-9-207.

(9) "Retirement date" means the date on which the first payment of the retirement, disability, or survivorship benefits of a member or a survivor is payable.

(10) "Surviving spouse" means the spouse married to a member at the time of the member's death.

(11) "Survivor" means a surviving spouse or dependent child of the member."

**Section 9.** Section 19-13-104, MCA, is amended to read:

**"19-13-104. Definitions.** Unless the context requires otherwise, the following definitions apply in this chapter:

(1) Any reference to "city" or "town" includes those jurisdictions that, before the effective date of a county-municipal consolidation, were incorporated municipalities, subsequent districts created for urban firefighting services, or the entire county included in the county-municipal consolidation.

(2) "Compensation" means:

(a) for a full-paid firefighter, the remuneration paid from funds controlled by an employer in payment for the member's services before any pretax deductions allowed by state and federal law are made;

(b) for a part-paid firefighter employed by a city of the second class:

(i) 15% of the regular remuneration, excluding overtime, holiday payments, shift differential payments, compensatory time payments, and payments in lieu of sick leave, paid on July 1 of each year to a newly confirmed, full-paid firefighter of the city that employs the part-paid firefighter; or

(ii) if that city does not employ a full-paid firefighter, 15% of the average regular remuneration, excluding overtime, holiday payments, shift differential payments, compensatory time payments, and payments in lieu of sick leave, paid on July 1 of each year to all newly confirmed, full-paid firefighters employed by cities of the second class.

(c) Compensation for full-paid and part-paid firefighters does not include:

(i) overtime, holiday payments, shift differential payments, compensatory time payments, and payments in lieu of sick leave; ~~and~~

(ii) maintenance, allowances, and expenses; *or*

(iii) *bonuses provided after July 1, 2013, that are one-time, temporary payments in addition to and not considered part of base pay.*

(3) "Dependent child" means a child of a deceased member who is:

(a) unmarried and under 18 years of age; or

(b) unmarried, under 24 years of age, and attending an accredited postsecondary educational institution as a full-time student in anticipation of receiving a certificate or degree.

(4) "Employer" means:

(a) any city that is of the first or second class or that elects to join this retirement system under 19-13-211;

(b) a city or a rural fire district referred to in 19-13-210(3);

(c) with respect to firefighters covered in the retirement system pursuant to 19-13-210(2), the department of military affairs established in 2-15-1201; and

(d) any other statutorily allowed entity that elects to join this retirement system pursuant to 19-13-210.

(5) "Firefighter" means a person employed as a full-paid or part-paid firefighter by an employer.

(6) "Full-paid firefighter" means a person appointed by an employer as a firefighter under the standards provided in 7-33-4106 and 7-33-4107.

(7) (a) "Highest average compensation" means the monthly compensation of a member averaged over the highest consecutive 36 months of the member's active service or, in the event a member has not served at least 36 consecutive months, the total compensation earned divided by the number of months of service. (b) Lump-sum payments for annual leave paid to the member upon termination of employment may be used to replace, on a month-for-month basis, the regular compensation for a month or months included in the calculation of highest average compensation.

(c) *Excess earnings limits must be applied to the calculation of the highest average compensation pursuant to 19-2-1005(2).*

(8) "Minimum retirement date" means the first day of the month coinciding with or immediately following, if none coincides, the date on which a member reaches both 50 years of age or older and completes 5 or more years of membership service.

(9) "Part-paid firefighter" means a person employed under 7-33-4109 who receives compensation in excess of \$300 a year for service as a firefighter and who is appointed by an employer as a firefighter under the standards provided in 7-33-4106 and 7-33-4107.

(10) "Prior plan" means the fire department relief association plan of a city that elects to join the retirement system under 19-13-211 or the fire department relief association plan of a city of the first or second class.

(11) "Retirement date" means the date on which the first payment of benefits is payable.

(12) "Retirement system" means the firefighters' unified retirement system provided for in this chapter.

(13) "Surviving spouse" means the spouse married to a member at the time of the member's death."

**Section 10. Effective date.** [This act] is effective July 1, 2013.

Approved May 6, 2013

## CHAPTER NO. 387

[HB 262]

AN ACT EXTENDING MEDICAID ELIGIBILITY TO CHILDREN PLACED IN A SUBSIDIZED GUARDIANSHIP; AMENDING SECTION 53-6-131, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

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

**Section 1.** Section 53-6-131, MCA, is amended to read:

**"53-6-131. Eligibility requirements.** (1) Medical assistance under the Montana medicaid program may be granted to a person who is determined by the department of public health and human services, in its discretion, to be eligible as follows:

(a) The person receives or is considered to be receiving supplemental security income benefits under Title XVI of the Social Security Act, 42 U.S.C. 1381, et seq., and does not have income or resources in excess of the applicable medical assistance limits.

(b) The person would be eligible for assistance under the program described in subsection (1)(a) if that person were to apply for that assistance.

(c) The person is in a medical facility that is a medicaid provider and, but for residence in the facility, the person would be receiving assistance under the program in subsection (1)(a).

(d) The person is:

(i) under 21 years of age and in foster care under the supervision of the state or was in foster care under the supervision of the state and has been adopted as a child with special needs; or

(ii) *under 18 years of age and is in a guardianship subsidized by the department pursuant to 41-3-444.*

(e) The person meets the nonfinancial criteria of the categories in subsections (1)(a) through (1)(d) and:

(i) the person's income does not exceed the income level specified for federally aided categories of assistance and the person's resources are within the resource standards of the federal supplemental security income program; or

(ii) the person, while having income greater than the medically needy income level specified for federally aided categories of assistance:

(A) has an adjusted income level, after incurring medical expenses, that does not exceed the medically needy income level specified for federally aided categories of assistance or, alternatively, has paid in cash to the department the amount by which the person's income exceeds the medically needy income level specified for federally aided categories of assistance; and

(B) (I) in the case of a person who meets the nonfinancial criteria for medical assistance because the person is aged, blind, or disabled, has resources that do not exceed the resource standards of the federal supplemental security income program; or

(II) in the case of a person who meets the nonfinancial criteria for medical assistance because the person is pregnant, is an infant or child, or is the caretaker of an infant or child, has resources that do not exceed the resource standards adopted by the department.

(f) The person is a qualified pregnant woman or a child as defined in 42 U.S.C. 1396d(n).

(g) The person is under 19 years of age and lives with a family having a combined income that does not exceed 185% of the federal poverty level. The department may establish lower income levels to the extent necessary to maximize federal matching funds provided for in 53-4-1104.

(2) The department may establish income and resource limitations. Limitations of income and resources must be within the amounts permitted by federal law for the medicaid program. Any otherwise applicable eligibility resource test prescribed by the department does not apply to enrollees in the healthy Montana kids plan provided for in 53-4-1104.

(3) The Montana medicaid program shall pay, as required by federal law, the premiums necessary for medicaid-eligible persons participating in the medicare program and may, within the discretion of the department, pay all or a portion of the medicare premiums, deductibles, and coinsurance for a qualified

medicare-eligible person or for a qualified disabled and working individual, as defined in section 6408(d)(2) of the federal Omnibus Budget Reconciliation Act of 1989, Public Law 101-239, who:

(a) has income that does not exceed income standards as may be required by the Social Security Act; and

(b) has resources that do not exceed standards that the department determines reasonable for purposes of the program.

(4) The department may pay a medicaid-eligible person's expenses for premiums, coinsurance, and similar costs for health insurance or other available health coverage, as provided in 42 U.S.C. 1396b(a)(1).

(5) In accordance with waivers of federal law that are granted by the secretary of the U.S. department of health and human services, the department of public health and human services may grant eligibility for basic medicaid benefits as described in 53-6-101 to an individual receiving section 1931 medicaid benefits, as defined in 53-4-602, as the specified caretaker relative of a dependent child under the section 1931 medicaid program. A recipient who is pregnant, meets the criteria for disability provided in Title II of the Social Security Act, 42 U.S.C. 416, et seq., or is less than 21 years of age is entitled to full medicaid coverage, as provided in 53-6-101.

(6) The department, under the Montana medicaid program, may provide, if a waiver is not available from the federal government, medicaid and other assistance mandated by Title XIX of the Social Security Act, 42 U.S.C. 1396, et seq., as may be amended, and not specifically listed in this part to categories of persons that may be designated by the act for receipt of assistance.

(7) Notwithstanding any other provision of this chapter, medical assistance must be provided to infants and pregnant women whose family income does not exceed income standards adopted by the department that comply with the requirements of 42 U.S.C. 1396a(l)(2)(A)(i) and whose family resources do not exceed standards that the department determines reasonable for purposes of the program.

(8) Subject to appropriations, the department may cooperate with and make grants to a nonprofit corporation that uses donated funds to provide basic preventive and primary health care medical benefits to children whose families are ineligible for the Montana medicaid program and who are ineligible for any other health care coverage, are under 19 years of age, and are enrolled in school if of school age.

(9) A person described in subsection (7) must be provided continuous eligibility for medical assistance, as authorized in 42 U.S.C. 1396a(e)(5) through a(e)(7).

(10) Full medical assistance under the Montana medicaid program may be granted to an individual during the period in which the individual requires treatment of breast or cervical cancer, or both, or of a precancerous condition of the breast or cervix, if the individual:

(a) has been screened for breast and cervical cancer under the Montana breast and cervical health program funded by the centers for disease control and prevention program established under Title XV of the Public Health Service Act, 42 U.S.C. 300k, or in accordance with federal requirements;

(b) needs treatment for breast or cervical cancer, or both, or a precancerous condition of the breast or cervix;

(c) is not otherwise covered under creditable coverage, as provided by federal law or regulation;

(d) is not eligible for medical assistance under any mandatory categorically needy eligibility group; and

(e) has not attained 65 years of age.

(11) Subject to the limitation in 53-6-195, the department shall provide medicaid coverage to workers with disabilities as provided in 53-6-195 and in accordance with 42 U.S.C. 1396a(a)(10)(A)(ii)(XIII) and (r)(2) and 42 U.S.C. 1396o.”

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

Approved May 6, 2013

## CHAPTER NO. 388

[HB 345]

AN ACT REVISING THE MONTANA FALSE CLAIMS ACT; REVISING CIVIL PENALTIES TO PROVIDE FOR INFLATION ADJUSTMENTS; REVISING PUBLIC DISCLOSURE PROVISIONS; REVISING THE STATUTE OF LIMITATIONS; PROVIDING A STATUTE OF LIMITATIONS AND DOUBLE BACK PAY FOR RETALIATORY ACTIONS; PROVIDING A REPORTING REQUIREMENT; AMENDING SECTIONS 17-8-402, 17-8-403, 17-8-404, 17-8-410, 17-8-411, AND 17-8-412, MCA; PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE.

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

**Section 1.** Section 17-8-402, MCA, is amended to read:

**“17-8-402. Definitions.** As used in this part, the following definitions apply:

(1) “Claim” includes any request or demand for money, property, or services, *whether made pursuant to a contract and regardless of whether a governmental entity holds title to the money or property, that is made to:*

(a) an employee, officer, or agent, *or other representative of a governmental entity; or to*

(b) a contractor, grantee, or other recipient person, whether under contract or not, if any portion of the money, property, or services requested or demanded ~~issued from or was provided by a governmental entity. is to be spent or used on a governmental entity’s behalf or to advance a governmental program or interest and if the governmental entity:~~

(i) *provides or has provided any portion of the money, property, or services requested or demanded; or*

(ii) *will reimburse a contractor, grantee, or other person for any portion of the money, property, or services requested or demanded.*

(2) “Government attorney” means the attorney general except for complaints involving a unit of the university system.

(3) “Governmental entity” means:

(a) the state;

(b) a city, town, county, school district, tax or assessment district, or other political subdivision of the state; or

(c) a unit of the Montana university system.

(4) (a) “Knowingly” means that a person, with respect to information, does any of the following:

- (i) has actual knowledge of the information;
- (ii) acts in deliberate ignorance of the truth or falsity of the information; or
- (iii) acts in reckless disregard of the truth or falsity of the information.

(b) A specific intent to defraud is not required.

(5) “Material” means having a natural tendency to influence or be capable of influencing the payment or receipt of money, property, or services.

(6) “Obligation” means an established duty, whether fixed or not, arising from:

(a) an express or implied contractual, grantor-grantee, or licensor-licensee relationship;

(b) a fee-based or similar relationship;

(c) a statute or regulation; or

(d) the retention of any overpayment.

(7) “Person” includes any natural person, corporation, firm, association, organization, partnership, limited liability company, business, trust, or other legal or business entity.

(8) “State” means the state of Montana.”

**Section 2.** Section 17-8-403, MCA, is amended to read:

**“17-8-403. False claims — procedures — penalties.** (1) Except as provided in subsection (2), a person is liable to a governmental entity for a civil penalty of not less than ~~\$5,000~~ \$5,500 and not more than ~~\$10,000~~ \$11,000 for each act specified in this section, plus three times the amount of damages that a governmental entity sustains because of the person’s act, along with expenses, costs, and attorney fees, if the person:

(a) knowingly presents or causes to be presented to an officer or employee of the governmental entity a false or fraudulent claim for payment or approval;

(b) knowingly makes, uses, or causes to be made or used a false record or statement material to get a false or fraudulent claim paid or approved by the governmental entity;

(c) conspires to defraud the governmental entity by getting a false or fraudulent claim allowed or paid by the governmental entity *commit a violation of this subsection (1)*;

(d) has possession, custody, or control of public property or money used or to be used by the governmental entity and, with the intent to defraud the governmental entity or to willfully conceal the property, knowingly delivers or causes to be delivered less than all of the property or money than the amount for which the person receives a certificate or receipt;

(e) is authorized to make or deliver a document certifying receipt of property used or to be used by the governmental entity and, with the intent to defraud the governmental entity or to willfully conceal the property, makes or delivers a receipt without completely knowing that the information on the receipt is true;

(f) knowingly buys or receives as a pledge of an obligation or debt public property of the governmental entity from any person who may not lawfully sell or pledge the property;

(g) knowingly makes, uses, or causes to be made or used a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the governmental entity or its contractors material to an obligation to pay or transmit money or property to a governmental entity or



*knowingly conceals or knowingly and improperly avoids or decreases an obligation to pay or transmit money or property to a governmental entity; or*

(h) as a beneficiary of an inadvertent submission of a false or fraudulent claim to the governmental entity, subsequently discovers the falsity of the claim or that the claim is fraudulent and fails to disclose the false or fraudulent claim to the governmental entity within a reasonable time after discovery of the false or fraudulent claim.

(2) ~~(a)~~ In a civil action brought under 17-8-405 or 17-8-406, a court shall assess a civil penalty of not less than ~~\$5,000~~ \$5,500 and not more than ~~\$10,000~~ \$11,000 for each act specified in this section, plus not less than two times and not more than three times the amount of damages that a governmental entity sustains because of the person's act if the court finds all of the following:

~~(i)~~(a) The person committing the act furnished the government attorney with all information known to that person about the act within 30 days after the date on which the person first obtained the information.

~~(ii)~~(b) The person fully cooperated with any investigation of the act by the government attorney.

~~(iii)~~(c) At the time that the person furnished the government attorney with information about the act, a criminal prosecution, civil action, or administrative action had not been commenced with respect to the act and the person did not have actual knowledge of the existence of an investigation into the act.

~~(b)~~(3) A person who violates the provisions of this section is also liable to the governmental entity for the expenses, costs, and attorney fees of the civil action brought to recover the penalty or damages.

~~(3)~~(4) Liability under this section is joint and several for any act committed by two or more persons.

~~(4)~~(5) This section does not apply to claims, records, or statements made in relation to claims filed with the state compensation insurance fund under Title 39, chapter 71, or to claims, records, payments, or statements made under the tax laws contained in Title 15 or 16 or made to the department of natural resources and conservation under Title 77.

(6) (a) *A court shall dismiss an action or claim brought under 17-8-406, unless opposed by the governmental entity or unless the action is brought by the government attorney or the person who is the original source of the information, if substantially the same allegations or transactions alleged in the action or claim were publicly disclosed in:*

*(i) a criminal, civil, or administrative hearing in which the governmental entity or an agent of the governmental entity is a party;*

*(ii) a state legislative, state auditor, or other governmental entity report, hearing, audit, or investigation; or*

*(iii) the news media.*

*(b) The production of a record pursuant to Article II, section 9, of the Montana constitution or Title 2, chapter 6, is not a public disclosure for purposes of this section.*

*(c) For purposes of this subsection (6), "original source" means an individual who:*

*(i) prior to a public disclosure, voluntarily disclosed to the governmental entity the information on which the allegations or transactions in a claim are based; or*



*(ii) has knowledge that is independent of and materially adds to the publicly disclosed allegations and transactions and voluntarily provided the information to the governmental entity before filing an action.*

~~(5)(7)~~ A person may not file a complaint or civil action:

~~(a) against a governmental entity or an officer or employee of a governmental entity arising from conduct by the officer or employee within the scope of the officer's or employee's duties to the governmental entity; brought under 17-8-406 against the state or an officer or employee of the state arising from conduct by the officer or employee within the scope of the officer's or employee's duties to the state unless the officer or employee has a financial interest in the conduct upon which the complaint or civil action arises.~~

~~(b) that is based upon allegations or transactions that are the subject of a civil suit or an administrative civil penalty proceeding in which an agency of the governmental entity is already a party;~~

~~(c) that is based upon the public disclosure of allegations or transactions in a criminal, civil, or administrative hearing or in an investigation, report, hearing, or audit conducted by or at the request of the senate or house of representatives, the state auditor or legislative auditor, the auditor or legislative body of a political subdivision, or the news media, unless the person has direct and independent knowledge of the information on which the allegations are based and, before filing the complaint or civil action, voluntarily provided the information to the agency of the governmental entity that is involved with the claim that is the basis for the complaint or civil action and unless the information provided the basis or catalyst for the investigation, report, hearing, or audit that led to the public disclosure; or~~

~~(d) that is based upon information discovered by a present or former employee of the governmental entity during the course of employment unless the employee first, in good faith, exhausted existing internal procedures for reporting and seeking recovery of the falsely claimed sums through official channels and the governmental entity failed to act on the information provided within a reasonable period of time.~~

*(8) The amount of the civil penalty set forth in subsections (1) and (2) must be adjusted for inflation in a manner consistent with the Federal Civil Penalties Inflation Adjustment Act of 1990, Public Law 101-410.*

*(9) If a governmental entity does not intervene, the person who initiated the action has the same right to conduct the action as the government attorney would have had if the governmental entity had intervened, including the right to inspect government records and interview officers and employees of the governmental entity."*

**Section 3.** Section 17-8-404, MCA, is amended to read:

**"17-8-404. Limitation of actions.** (1) A complaint or civil action filed under 17-8-405 or 17-8-406 must be brought by the later of:

(a) 6 years after the date on which the violation was committed; or

(b) 3 years after the date when facts material to the right of action are known or reasonably should have been known by the official of the governmental entity charged with responsibility to act in the circumstances.

(2) In no event may an action brought pursuant to subsection (1)(b) be brought more than 10 years after the date on which the violation was committed.

*(3) If the governmental entity elects to intervene in any action brought under 17-8-406, the complaint in intervention must relate back to the filing date of the*

*original complaint to the extent that the governmental entity's claim arises out of the conduct, transactions, or occurrences set forth or attempted to be set forth in the original complaint."*

**Section 4.** Section 17-8-410, MCA, is amended to read:

**"17-8-410. Distribution of damages and civil penalty.** (1) Except as provided in subsection (2), if the government attorney proceeds with an action brought by a person pursuant to 17-8-406, the person must receive at least 15% but not more than 25% of the proceeds recovered and collected in the action or in settlement of the claim, depending on the extent to which the person substantially contributed to the prosecution of the action.

(2) (a) The court may award an amount it considers appropriate but in no case more than 10% of the proceeds in an action that the court finds to be based primarily on disclosures of specific information, other than information provided by the person bringing the action, relating to allegations or transactions disclosed through:

- (i) a criminal, civil, or administrative hearing;
- (ii) a legislative, administrative, auditor, or inspector general report, hearing, audit, or investigation; or
- (iii) the news media.

(b) In determining the award, the court shall take into account the significance of the information and the role of the person bringing the action in advancing the case to litigation.

(3) Any payment to a person bringing an action pursuant to this part may be made only from the proceeds recovered and collected in the action or in settlement of the claim. The person must also receive an amount for reasonable expenses that the court finds to have been necessarily incurred, plus reasonable attorney fees and costs. The expenses, fees, and costs must be awarded against the defendant.

(4) If the government attorney does not proceed with an action pursuant to 17-8-406, the person bringing the action or settling the claim must receive an amount that the court decides is reasonable for collecting the civil penalty and damages on behalf of the government attorney or governmental entity. The amount may not be less than 25% or more than 30% of the proceeds recovered and collected in the action or settlement of the claim and must be paid out of the proceeds. The person must also receive an amount for reasonable expenses that the court finds were necessarily incurred, plus reasonable attorney fees and costs. All expenses, fees, and costs must be awarded against the defendant.

(5) Whether or not the government attorney proceeds with the action, if the court finds that the action was brought by a person who planned, *and* initiated, ~~or knowingly participated in~~ the violation of 17-8-403, the court may, to the extent the court considers appropriate, reduce or eliminate the share of the proceeds of the action that the person would otherwise receive pursuant to subsections (1) through (4) of this section, taking into account the role of the person in advancing the case to litigation and any relevant circumstances pertaining to the violation. If the person bringing the action is convicted of criminal conduct arising from the person's role in the violation of this part, the person must be dismissed from the civil action and may not receive any share of the proceeds of the action. The dismissal does not prejudice the right of the government attorney to continue the action.

(6) The governmental entity is entitled to any damages and civil penalty not awarded to the person, and the damages and civil penalty must be deposited in

the general fund of the governmental entity, except that if a trust fund of the governmental entity suffered a loss as a result of the defendant's actions, the trust fund must first be fully reimbursed for the loss and the remainder of the damages and any civil penalty must be deposited in the general fund of the governmental entity.

(7) Unless otherwise provided, the remedies or penalties provided by this part are cumulative to each other and to the remedies or penalties available under all other laws of the state."

**Section 5.** Section 17-8-411, MCA, is amended to read:

**"17-8-411. Costs and attorney fees.** The governmental entity that filed a civil action or intervened is entitled to reasonable costs and attorney fees if the action is settled favorably for the governmental entity or the governmental entity prevails. In an action in which outside counsel is engaged by a government attorney, the costs and attorney fees awarded to that counsel must equal the outside counsel's charges reasonably incurred for costs and attorney fees in prosecuting the action. In any other actions in which costs and attorney fees are awarded to the governmental entity, they must be calculated by reference to the hourly rate charged by the department of justice agency legal services bureau for the provision of legal services to state agencies, multiplied by the number of attorney hours devoted to the prosecution of the action, plus the actual cost of any expenses reasonably incurred in the prosecution of the action. A person who is a plaintiff or coplaintiff is entitled to ~~an amount or~~ reasonable expenses that the court finds to have been necessarily incurred, plus reasonable costs and attorney fees, if the action is settled favorably for the governmental entity or the governmental entity prevails in the action. ~~A A~~ defendant in a civil action brought pursuant to this part who prevails in an action that is not settled and that the court finds was clearly frivolous or brought solely for harassment purposes is entitled to the defendant's reasonable costs and attorney fees, ~~which must be equitably apportioned against the person who brought the action and the governmental entity if a person and a governmental entity were coplaintiffs. If the governmental entity does not intervene, it is not responsible for any of the defendant's fees and costs.~~

**Section 6.** Section 17-8-412, MCA, is amended to read:

**"17-8-412. Prohibitions on employers — employee Retaliatory actions prohibited — remedies.** (1) A governmental entity, ~~or~~ private entity, ~~or person~~ may not adopt or enforce a rule, regulation, or policy preventing an employee, *agent*, or *contractor* from disclosing information to a government or law enforcement agency with regard to or from acting in furtherance of an investigation of a violation of 17-8-403 or an action brought pursuant to 17-8-405 or 17-8-406.

(2) A governmental entity, ~~or~~ private entity, ~~or person~~ may not discharge, demote, suspend, threaten, harass, or deny promotion to or in any other manner discriminate against an employee, *agent*, or *contractor* in the terms and conditions of employment, *agency*, or *contract* because of the ~~employee's~~ disclosure *by the employee, agent, or contractor* of information to a government or law enforcement agency pertaining to a violation of 17-8-403.

(3) ~~(a) A governmental entity or private entity that violates the provisions of subsection (2) is liable for:~~

~~(i) reinstatement to the same position with the same seniority status, salary, benefits, and other conditions of employment that the employee would have had but for the discrimination;~~

- ~~(ii) back pay plus interest on the back pay;~~
  - ~~(iii) compensation for any special damages sustained as a result of the discrimination; and~~
  - ~~(iv) reasonable court or administrative proceeding costs and reasonable attorney fees.~~
- (b) ~~An employee may file an action for the relief provided in this subsection (3).~~

*An employee, contractor, or agent is entitled to all relief necessary to make the employee, contractor, or agent whole if the employee, contractor, or agent is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of employment because of lawful acts done by the employee, contractor, or agent or associated others in furtherance of an action under this part or other efforts to stop one or more violations of this part.*

*(4) Relief under subsection (3) includes reinstatement with the same seniority status the employee, contractor, or agent would have had but for the discrimination, two times the amount of back pay, interest on the back pay, and compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorney fees. A civil action may be brought in the appropriate district court of the state for the relief provided in this subsection.*

*(5) A civil action under this section may not be brought more than 3 years after the date on which the retaliation occurred.”*

**Section 7. Reporting.** Beginning February 15, 2014, and by February 15 of each year, the attorney general shall submit to the law and justice interim committee a report containing the following information:

- (1) the number of cases filed under the Montana False Claims Act, Title 17, chapter 8, part 4, that were pending in the state during the previous calendar year;
- (2) the number of cases filed under the Montana False Claims Act that were settled during the previous calendar year;
- (3) the number of cases filed under the Montana False Claims Act in which judgment was entered during the previous calendar year;
- (4) the total proceeds paid to the state and the total proceeds paid to the qui tam plaintiffs in cases filed under the Montana False Claims Act during the previous calendar year; and
- (5) the number of qui tam cases pending in other jurisdictions involving the state in the previous calendar year.

**Section 8. Saving clause.** [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

**Section 9. 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 10. Effective date.** [This act] is effective July 1, 2013.

**Section 11. Applicability.** [This act] applies to proceedings begun on or after July 1, 2013.

Approved May 6, 2013

**CHAPTER NO. 389**

[HB 377]

AN ACT PROVIDING ADDITIONAL FUNDING FOR THE TEACHERS' RETIREMENT SYSTEM; CREATING TWO MEMBERSHIP TIERS WITHIN THE SYSTEM; INCREASING THE NORMAL CONTRIBUTION RATE FOR NEW MEMBERS; ENACTING A SUPPLEMENTAL CONTRIBUTION RATE FOR CURRENT MEMBERS; AUTHORIZING THE TEACHERS' RETIREMENT BOARD TO IMPOSE A SUPPLEMENTAL CONTRIBUTION RATE FOR TIER TWO MEMBERS AND EMPLOYERS; AUTHORIZING THE TEACHERS' RETIREMENT BOARD TO INCREASE OR DECREASE ANY SUPPLEMENTAL CONTRIBUTION RATE ACCORDING TO CERTAIN ACTUARIALLY DETERMINED FUNDING STANDARDS; REVISING HOW AVERAGE FINAL COMPENSATION IS CALCULATED FOR NEW MEMBERS; REVISING ELIGIBILITY FOR EARLY AND NORMAL RETIREMENT AND FOR DEATH AND DISABILITY BENEFITS FOR NEW MEMBERS; ESTABLISHING AN INCREASED NORMAL RETIREMENT BENEFIT FOR CERTAIN NEW MEMBERS; REVISING THE GUARANTEED ANNUAL BENEFIT ADJUSTMENT FOR NEW AND CURRENT MEMBERS; DECREASING THE CAP ON SCHOOL DISTRICT RETIREMENT FUND OPERATING RESERVES AND PROVIDING THAT ANY RESERVES IN EXCESS OF THE CAP BE PAID TO THE TEACHERS' RETIREMENT SYSTEM; PROVIDING APPROPRIATIONS; SPECIFYING A TIMETABLE FOR THE PAYMENT OF STATE TRANSPORTATION REIMBURSEMENT TO THE SCHOOL DISTRICTS; AMENDING SECTIONS 19-20-101, 19-20-208, 19-20-409, 19-20-427, 19-20-602, 19-20-605, 19-20-607, 19-20-716, 19-20-719, 19-20-732, 19-20-801, 19-20-802, 19-20-804, 19-20-805, 19-20-901, 19-20-1001, 20-9-501, AND 20-10-145, MCA; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Article VIII, section 15, of the Montana Constitution requires that "Public retirement systems shall be funded on an actuarially sound basis"; and

WHEREAS, Article VIII, section 15, of the Montana Constitution requires that "Public retirement system assets, including income and actuarially required contributions, shall not be encumbered, diverted, reduced, or terminated and shall be held in trust to provide benefits to participants and their beneficiaries and to defray administrative expenses"; and

WHEREAS, the unprecedented collapse of the financial markets in 2008 through 2009 and the subsequent slow rate of economic recovery has resulted in little or no prospect that current statutory contribution rates together with future market returns will be sufficient to fund the Teachers' Retirement System on an actuarially sound basis, and current contributions remain insufficient to pay the past and future accruals of retirement benefits for members currently in the system; and

WHEREAS, failure to return the system to a position of actuarially sound funding places the benefits to be paid to current system participants in jeopardy and results in collection of employee contributions for which future benefits may not be guaranteed; and

WHEREAS, the current and increasing level of unfunded liabilities has the potential to compromise the credit ratings of the state of Montana and of local government entities, including public school districts; and

WHEREAS, because reasonable increases in employer contributions and reasonable reductions in benefits for future participants alone will not be sufficient to return the system to a position of actuarially sound funding, increased contributions for current and future participants and reduced benefits for future participants are also necessary to return the system to a position of actuarially sound funding; and

WHEREAS, section 19-20-501, MCA, provides that benefits and refunds to eligible recipients are payable pursuant to a contract as contained in statute, and this proposed legislation does not diminish the current or future pension benefits promised to current system participants; and

WHEREAS, during the past two legislative sessions and interims, the Legislature, interim committees, the retirement system board and staff, and the Governor's office have analyzed a range of alternatives for returning the system to a position of actuarially sound funding without raising contract impairment issues for current members, but recent actuarial analysis continues to show that the system remains actuarially unsound; and

WHEREAS, due to significant strains on the Montana economy, state and local government budgets, and taxpayers, a modest supplemental contribution rate increase of 1% applied to current retirement system members, with appropriate mechanisms to reduce or terminate the supplemental contribution rate as system funding improves, in conjunction with additional employer and state contributions, is, pursuant to the language of *U.S. Trust Company of New York v. New Jersey*, 431 U.S. 1 (1977), concerning contract impairment, reasonable and necessary and is the least impairing alternative available to the Legislature as it seeks to fulfill its constitutional obligation to ensure the retirement system is funded in an actuarially sound manner.

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

**Section 1.** Section 19-20-101, MCA, is amended to read:

**“19-20-101. Definitions.** As used in this chapter, unless the context clearly indicates otherwise, the following definitions apply:

(1) “Accumulated contributions” means the sum of all the amounts deducted from the compensation of a member or paid by a member and credited to the member's individual account in the annuity savings account, together with interest. Regular interest must be computed and allowed to provide a benefit at the time of retirement.

(2) “Actuarial equivalent” means a benefit of equal value when computed upon the basis of the mortality table and interest rate assumption set by the retirement board.

(3) “Average final compensation” means a member's highest average earned compensation ~~in 3 consecutive years~~, determined pursuant to 19-20-805, on which contributions have been made.

(4) “Beneficiary” means one or more persons formally designated by a member or retiree to receive a retirement allowance or payment upon the death of the member or retiree, except for a joint annuitant.

(5) “Benefit recipient” means a retired member, a joint annuitant, or a beneficiary who is receiving a retirement allowance.

(6) “Creditable service” is that service defined by 19-20-401.

(7) (a) “Earned compensation” means, except as limited by subsections (7)(b) and (7)(c) or by 19-20-715, remuneration paid for the service of a member out of funds controlled by an employer before any pretax deductions allowed under the Internal Revenue Code are deducted.



(b) Earned compensation does not include:

(i) direct employer premium payments on behalf of members for medical, pharmaceutical, disability, life, vision, dental, or any other insurance;

(ii) any direct employer payment or reimbursement for:

(A) professional membership dues;

(B) maintenance;

(C) housing;

(D) day care;

(E) automobile, travel, lodging, or entertaining expenses; or

(F) any similar form of maintenance, allowance, or expenses;

(iii) the imputed value of health, life, or disability insurance or any other fringe benefits;

(iv) any noncash benefit provided by an employer to or on behalf of a member;

(v) termination pay unless included pursuant to 19-20-716;

(vi) compensation paid to a member from a plan for the deferral of compensation under section 457(f) of the Internal Revenue Code, 26 U.S.C. 457(f);

(vii) payment for sick, annual, or other types of leave paid to a member prior to termination from employment or accrued in excess of that normally allowed;

(viii) incentive or bonus payments paid to a member that are not part of a series of annual payments; or

(ix) any similar payment or reimbursement made to or on behalf of a member by an employer.

(c) Adding a direct employer-paid or noncash benefit to an employee's contract or subtracting the same or a similar amount as a pretax deduction is considered a fringe benefit and not earned compensation.

(8) "Employer" means:

(a) the state of Montana;

(b) a public school district, as provided in 20-6-101 and 20-6-701;

(c) the office of public instruction;

(d) the board of public education;

(e) an education cooperative;

(f) the Montana school for the deaf and blind, as described in 20-8-101;

(g) the Montana youth challenge program, as defined in 10-1-101;

(h) a state youth correctional facility, as defined in 41-5-103;

(i) the Montana university system;

(j) a community college; or

(k) any other agency or subdivision of the state that employs a person who is designated a member of the retirement system pursuant to 19-20-302.

(9) "Full-time service" means service that is:

(a) at least 180 days in a fiscal year;

(b) at least 140 hours a month during at least 9 months in a fiscal year; or

(c) at least 1,080 hours in a fiscal year under an alternative school calendar adopted by a school board and reported to the office of public instruction as required by 20-1-302. The standard for full-time service for a school district operating under an alternative school calendar must be applied uniformly to all employees of the school district required to be reported to the retirement system.



(10) "Internal Revenue Code" has the meaning provided in 15-30-2101.

(11) "Joint annuitant" means the one person that a retired member who has elected an optional allowance under 19-20-702 has designated to receive a retirement allowance upon the death of the retired member.

(12) "Member" means a person who has an individual account in the annuity savings account. *Unless otherwise specified, "member" refers to a tier one member or a tier two member.* An active member is a person included under the provisions of 19-20-302. An inactive member is a person included under the provisions of 19-20-303.

(13) "Normal form" or "normal form benefit" means a monthly retirement benefit payable during the lifetime of the retired member.

(14) "Normal retirement age" means an age no earlier than 55 years of age, with the right to receive immediate retirement benefits without an actuarial reduction in the benefits.

(15) "Part-time service" means service that is not full-time service. Part-time service must be credited in the proportion that the actual time worked compares to full-time service.

(16) "Regular interest" means interest at a rate set by the retirement board in accordance with 19-20-501(2).

(17) "Retired", "retired member", or "retiree" means a person who has terminated employment that qualifies the person for membership and who has received at least one monthly retirement benefit paid pursuant to this chapter.

(18) "Retirement allowance" or "retirement benefit" means a monthly payment due to a retired member who has qualified for service or disability retirement or due to a joint annuitant or beneficiary.

(19) "Retirement board" or "board" means the retirement system's governing board provided for in 2-15-1010.

(20) "Retirement system", "system", or "plan" means the teachers' retirement system of the state of Montana provided for in 19-20-102.

(21) "Service" means the performance of duties that would entitle the person to active membership in the retirement system under the provisions of 19-20-302.

(22) "Termination" or "terminate" means that the member has severed the employment relationship with the member's employer and that all, if any, payments due upon termination of employment, including but not limited to accrued sick and annual leave balances, have been paid to the member.

(23) (a) "Termination pay" means any form of bona fide vacation leave, sick leave, severance pay, amounts provided under a window or early retirement incentive plan, or other payments contingent on the employee terminating employment.

(b) Termination pay does not include:

(i) amounts that are not wages under section 3121 of the Internal Revenue Code, determined without regard to the wage base limitation; and

(ii) amounts that are payable to a member from a plan for the deferral of compensation under section 457(f) of the Internal Revenue Code, 26 U.S.C. 457(f).

(24) "*Tier one member*" means a person who became a member before July 1, 2013, and who has not withdrawn the member's account balance.

(25) “Tier two member” means a person who became a member on or after July 1, 2013, or who, after withdrawing the member’s account balance, became a member again after July 1, 2013.

(24)(26) “Vested” means that a member has been credited with at least 5 full years of membership service upon which contributions have been made and has a right to a future retirement benefit.

(25)(27) “Written application” or “written election” means a written instrument, required by statute or the rules of the board, properly signed and filed with the board, that contains all the required information, including documentation that the board considers necessary.”

**Section 2.** Section 19-20-208, MCA, is amended to read:

**“19-20-208. Duties and liability of employer.** (1) Each employer shall:

(a) pick up the ~~contribution~~ contributions of each employed member at the rate prescribed by pursuant to 19-20-602 and [section 6] and transmit the ~~contribution~~ contributions each month to the executive director of the retirement board;

(b) transmit to the executive director of the retirement board the employer’s ~~contribution~~ contributions prescribed by 19-20-605 and [section 8], at the time that the employee contributions are transmitted;

(c) keep records and, as required by the retirement board, furnish information to the board that is required in the discharge of the board’s duties;

(d) upon the employment of a person who is required to become a member of the retirement system, inform the person of the rights and obligations relating to the retirement system;

(e) each month, report the name, social security number, time worked, and gross earnings of each retired member of the system who has been employed in a position that is reportable to the retirement system pursuant to 19-20-731;

(f) whenever applicable, inform an employee of the right to elect to participate in the optional retirement program under Title 19, chapter 21;

(g) at the request of the retirement board, certify the names of all persons who are eligible for membership or who are members of the retirement system;

(h) notify the retirement board of the employment of a person eligible for membership and forward the person’s membership application to the board; and

(i) if the employer has converted to earned compensation amounts excluded from earned compensation, for each retiring member, certify to the board the amounts reported to the system in each of the 5 years preceding the member’s retirement.

(2) An employer that fails to timely or accurately report the employment of, time worked by, or compensation paid to a retired member as required under subsection (1)(e) is jointly and severally liable with the retired member for repayment to the retirement system of retirement benefits paid to which the member was not entitled, plus interest.”

**Section 3.** Section 19-20-409, MCA, is amended to read:

**“19-20-409. Transfer of service credits and contributions from public employees’ retirement system.** (1) An active member may at any time before retirement file a written application with the retirement board to purchase all of the member’s previous creditable service in the public employees’ retirement system. The amount that must be paid to the retirement system to purchase this service under this section is the sum of subsections (2) and (3).

(2) The public employees' retirement system shall transfer to the teachers' retirement system an amount equal to 72% of the amount paid by the member.

(3) The member shall pay either directly or by transferring contributions on account with the public employees' retirement system an amount equal to the member's accumulated contributions at the time that active membership was terminated, plus accrued interest. Interest must be calculated from the date of termination until a transfer is received by the retirement system, based on the interest tables in use by the public employees' retirement system.

(4) A member who purchases service from the public employees' retirement system in the teachers' retirement system must have completed 5 years of membership service in the teachers' retirement system to receive credit or purchase military service, out-of-state service, employment while on leave, and private school employment.

(5) The retirement board shall determine the service credits that may be transferred.

(6) If an active member who also has creditable service in the public employees' retirement system before becoming a member of the teachers' retirement system dies before purchasing this service in the teachers' retirement system and if the member's service credits from both systems, when combined, entitle the member's beneficiary to a death benefit, the payment of the death benefit is the liability of the teachers' retirement system. Before payment of the death benefit, the public employees' retirement board must transfer to the teachers' retirement system the contributions necessary to purchase this service in the teachers' retirement system as provided in subsections (2) and (3).

(7) (a) If the teachers' retirement board determines that an individual's membership was erroneously classified and reported to the public employees' retirement system, the public employees' retirement board shall transfer to the teachers' retirement system the member's accumulated contributions and service, together with employer contributions plus interest.

(b) For the period of time that the employer contributions are held by the public employees' retirement system, interest paid on employer contributions transferred under this subsection (7) must be calculated at the short-term investment pool rate earned by the board of investments in the fiscal year preceding the transfer request.

(c) Any employee and employer contributions due as calculated in 19-20-602, ~~and~~ 19-20-605, [section 6], and [section 8], plus interest, are the liability of the employee and the employing entity where the error occurred.

(8) A member who participated in the public employees' retirement system defined contribution plan provided for in Title 19, chapter 3, part 21, may purchase creditable service for the time spent as a participant in the defined contribution plan if:

(a) the member has 5 years of membership service and has completed at least 1 full year in the teachers' retirement system following the member's public employees' retirement system service;

(b) for each full year or portion of a year to be purchased pursuant to this subsection (8), the member contributes the actuarial cost of the service based on the most recent valuation of the system; and

(c) the member has withdrawn the member's money in the member's public employees' retirement system defined contribution plan account or has rolled

over the amount required to purchase service in accordance with this subsection (8).

(9) Creditable service purchased under subsection (8) must be determined according to the laws and rules governing service credit in the public employees' retirement system."

**Section 4.** Section 19-20-427, MCA, is amended to read:

**"19-20-427. Redeposit of contributions previously withdrawn.** (1) In addition to the normal contributions required under 19-20-602 and [section 6], subject to the approval of the retirement board, and to the extent permitted by section 415(k)(3) of the Internal Revenue Code, a member may redeposit in the annuity savings account, by a single payment or by an increased rate of contribution, an amount equal to the accumulated contributions that the member has previously withdrawn, plus interest paid as follows:

(a) if a written application to purchase service is signed prior to July 1, 2012, at the rate the contributions would have earned had the contributions not been withdrawn; or

(b) if a written application to purchase service is signed on or after July 1, 2012, at the actuarially assumed interest rate in effect on the date the written application is signed.

(2) The redeposit must be made in accordance with 19-20-415."

**Section 5.** Section 19-20-602, MCA, is amended to read:

**"19-20-602. Annuity savings account — member's contribution.** (1) The annuity savings account is an account in which the contributions for the members to provide for their retirement allowance or benefits must be accumulated in individual accounts for each member.

(2) (a) The normal contribution rate of each tier one member is 7.15% of the member's earned compensation.

(b) The normal contribution rate of each tier two member is 8.15% of the member's earned compensation.

(2)(3) Contributions under this section and [section 6] to and payments from the annuity savings account must be made in the following manner:

(a) Each employer, pursuant to section 414(h)(2) of the Internal Revenue Code:

(i) shall pick up and pay the contributions that would be payable by the member under this subsection (2) (3) for service rendered after June 30, 1985;

(ii) shall pick up and pay the contributions that would be paid in the manner provided in 19-20-716; and

(iii) may pick up and pay the contributions that would be payable by the member pursuant to 19-20-415.

(b) The member's contributions picked up by the employer must be designated for all purposes of the retirement system as the member's contributions, except for the determination of a tax upon a distribution from the retirement system. These contributions must become part of the member's accumulated contributions but must be accounted for separately from those previously accumulated.

(c) The member's contributions picked up by the employer must be payable from the same source as is used to pay compensation to the member and must be included in the member's earned compensation as defined in 19-20-101. The employer shall deduct from the member's compensation an amount equal to the

amount of the member's contributions picked up by the employer and remit the total of the contributions to the retirement board.

(d) The deductions must be made notwithstanding that the minimum compensation provided by law for a member may be reduced by the deductions. Each member is considered to consent to the deductions prescribed by this section, and payment of salary or compensation less the deductions is a complete discharge of all claims for the services rendered by the member during the period covered by the payment, except as to the benefits provided by the retirement system.

(3)(4) The accumulated contributions of a member withdrawn by the member or paid to the member's estate or to the member's designated beneficiary in event of the member's death must be paid from the annuity savings account. Upon the retirement of a member, the member's accumulated contributions must be transferred from the annuity savings account to the pension accumulation account."

**Section 6. Member supplemental contribution — actuarially determined adjustments — effective dates.** (1) (a) Subject to subsections (1)(b) and (1)(c), a tier one member shall contribute to the retirement system a supplemental amount equal to 1% of the member's earned compensation.

(b) The board may decrease the tier one member supplemental contribution if:

(i) the average funded ratio of the system based on the last three actuarial valuations is equal to or greater than 90%; and

(ii) the period necessary to amortize all liabilities of the system based on the most recent annual actuarial valuation is less than 15 years.

(c) Following one or more decreases in the supplemental contribution rate pursuant to subsection (1)(b), the board may increase the supplemental contribution to a rate not to exceed 1% if:

(i) the average funded ratio of the system based on the last three annual actuarial valuations is equal to or less than 80%; and

(ii) the period necessary to amortize all liabilities of the system based on the most recent annual actuarial valuation is greater than 20 years.

(2) (a) Subject to subsection (2)(b), on or after January 1, 2023, the board may require a tier two member to contribute to the retirement system a supplemental amount if:

(i) the average funded ratio of the system based on the last three annual actuarial valuations is equal to or less than 80%;

(ii) the period necessary to amortize all liabilities of the system based on the latest annual actuarial valuation is greater than 20 years; and

(iii) a state or employer contribution rate increase or a flat dollar contribution to the retirement system trust fund has been enacted that is equivalent to or greater than the supplemental contribution rate imposed by the board pursuant to this subsection (2)(a).

(b) A tier two member supplemental contribution increase under this subsection (2) may not:

(i) exceed 0.5% of earned compensation; and

(ii) result in an aggregate tier two member contribution rate of more than 9.15% when added to the normal contribution rate required under 19-20-602.

(c) Following imposition of a supplemental contribution rate increase under this subsection (2), the board may decrease the supplemental contribution rate if:

(i) the average funded ratio of the system based on the previous three annual actuarial valuations is equal to or greater than 90%; and

(ii) the period necessary to amortize all liabilities of the system based on the latest annual actuarial valuation is less than 15 years.

(3) After the board has actuarially determined the need to impose, increase, or decrease a supplemental contribution rate under this section, the imposition, increase, or decrease is effective on the first day of July following the board's determination.

**Section 7.** Section 19-20-605, MCA, is amended to read:

**"19-20-605. Pension accumulation account — employer's contribution.** (1) The pension accumulation account is the account in which the reserves for payment of retirement allowances and benefits must be accumulated and from which retirement allowances and benefits must be paid to retirees or their beneficiaries. ~~Contributions to and payments from Employer contributions to the pension accumulation account must be made as provided in [section 8] and this section.~~

(2) Except as provided in subsection (3), for each member employed during the whole or part of the preceding payroll period, the employer shall pay into the pension accumulation account an amount equal to 9.85% of total earned compensation, *plus the supplemental contribution required under [section 8]*.

(3) For each member employed by a school district, an education cooperative, a county, or a community college during the whole or part of the preceding payroll period, the employer shall pay into the pension accumulation account an amount equal to 7.47% of total earned compensation, *plus the supplemental contribution required under [section 8]*.

(4) Beginning July 1, 2013, for each retired member who returns to covered employment under the provisions of 19-20-731 during all or part of the preceding payroll period, the employer shall pay into the pension accumulation account an amount equal to 9.85% of the total earned compensation paid to the retired member, *plus the supplemental contribution required under [section 8]*.

(5) If the employer is a district or community college district, the trustees shall budget and pay for the employer's contribution under the provisions of 20-9-501.

(6) If the employer is the superintendent of public instruction, a public institution of the state of Montana, a unit of the Montana university system, or the Montana state school for the deaf and blind, the legislature shall appropriate to the employer an adequate amount to allow the payment of the employer's contribution.

(7) If the employer is a county, the county commissioners shall budget and pay for the employer's contribution in the manner provided by law for the adoption of a county budget and for payments under the budget.

(8) All interest and other earnings realized on the money of the retirement system must be credited to the pension accumulation account, and the amount required to allow regular interest on the annuity savings account must be transferred to that account from the pension accumulation account.

(9) The board may transfer from the pension accumulation account to the expense account an amount necessary to cover expenses of administration."



**Section 8. Employer's supplemental contribution — actuarially determined adjustments.** (1) (a) Subject to subsections (1)(b) through (1)(d), each employer shall contribute to the retirement system a supplemental amount equal to the percentage specified in subsection (1)(b) of total earned compensation of each member employed during the whole or part of the preceding payroll period.

(b) The percentage of compensation to be contributed under subsection (1)(a) is 1% for fiscal year 2014 and increases by 0.1% each fiscal year through fiscal year 2024. For fiscal years beginning after June 30, 2024, the percentage of compensation to be contributed under subsection (1)(a) is 2%.

(c) The board may decrease the employer's supplemental contribution if:

(i) the average funded ratio of the system based on the last three actuarial valuations is equal to or greater than 90%;

(ii) the period necessary to amortize all liabilities of the system based on the most recent annual actuarial valuation is less than 15 years; and

(iii) the guaranteed annual benefit adjustment has been increased to the maximum allowed under 19-20-719.

(d) Following one or more decreases in the supplemental contribution rate pursuant to subsection (1)(c), the board may increase the supplemental contribution to a rate not to exceed 1% if:

(i) the average funded ratio of the system based on the last three annual actuarial valuations is equal to or less than 80%; and

(ii) the period necessary to amortize all liabilities of the system based on the most recent annual actuarial valuation is greater than 20 years.

(2) After the board has actuarially determined the need to impose, increase, or decrease a supplemental contribution rate under this section, the imposition, increase, or decrease is effective on the first day of July following the board's determination.

**Section 9.** Section 19-20-607, MCA, is amended to read:

**"19-20-607. Supplemental state contribution — appropriation.** (1)

(a) Each month, the state shall contribute, as a supplemental contribution to the teachers' retirement system, from the general fund to the pension trust fund an amount equal to:

~~(a) beginning July 1, 2007, through June 30, 2009, 2% of the total earned compensation of school district and community college active members participating in the system; and~~

~~(b) beginning July 1, 2009, 2.38% of the total earned compensation of school district and community college active members participating in the system.~~

(b) (i) *Except as provided in subsection (1)(b)(ii), beginning [the effective date of this act] and on each July 1 thereafter, the state shall contribute from the general fund to the pension trust fund \$25 million as a supplemental contribution to the teachers' retirement system.*

(ii) *If the legislative finance committee determines that the board has failed to provide a sufficient report pursuant to [section 20], it shall recommend that \$5 million be subtracted from the amount allocated in subsection (1)(b)(i) subject to legislative approval.*

(2) The contributions are statutorily appropriated, as provided in 17-7-502, to the pension trust fund. The board shall determine and shall certify to the state treasurer amounts due under this section on a monthly basis. The state



treasurer shall transfer the certified amounts to the pension trust fund within 1 week following receipt of the certification from the board.”

**Section 10.** Section 19-20-716, MCA, is amended to read:

**“19-20-716. Termination pay.** (1) If a member terminates and receives termination pay at the time of retirement, the member shall select, subject to subsections (5) and (6), by signing a binding, irrevocable written election at least 90 days before the member’s termination date, one of the following options:

(a) Option 1—The member may use the total termination pay in the calculation of the member’s average final compensation. The member and the employer shall pay contributions to the retirement system as determined by the board to adequately compensate the system for the additional retirement benefit. The contributions must be made at the time of termination.

(b) Option 2—The member may use a yearly amount of the total termination pay added to each of the 3 consecutive years’ salary used in the calculation of the member’s average final compensation. To determine the amount of termination pay used in the calculation of average final compensation, termination pay must be divided by the total number of years of creditable service to determine a yearly amount. The member and the employer shall pay contributions on the termination pay according to the rates provided for in 19-20-602 and, 19-20-605(1), [section 6], and [section 8]. For the purposes of this subsection (1)(b), the employer shall also pay as a contribution an amount equal to the termination pay multiplied by the rate established in 19-20-607 that would have been payable by the state as a supplemental contribution. The contributions must be made at the time of termination.

(c) Option 3—The member may exclude the termination pay from the average final compensation. A contribution is not required of either the member or the employer.

(2) A binding, irrevocable written election required by this section must be signed by both the member and the employer at least 90 days prior to the member’s termination date and must contain statements with regard to the contributions required to be made by the member under subsections (1)(a) and (1)(b) that:

(a) the contributions being picked up, although designated as member contributions, are being paid by the employer directly to the system in lieu of contributions by the member and that the picked up contributions are paid from the same source as compensation is paid;

(b) the member may not choose to directly receive the amounts deducted from the member’s termination pay instead of having them paid by the employer to the system;

(c) the member may not prepay any portion of the contributions; and

(d) the effective date of the pickup is the date that the irrevocable written election is signed by both the member and employer. The effective date must be at least 90 days prior to the date of the member’s termination. The pickup does not apply to a contribution made before the effective date of the pickup.

(3) For the purpose of this section, the date of termination is the last day the member is performing any services covered under this chapter.

(4) Pursuant to subsection (2), contributions required under subsection (1)(a) or (1)(b) must be:

(a) deducted from the portion of termination pay that:

(i) constitutes wages for the purposes of section 3121 of the Internal Revenue Code, determined without regard to the wage base limitation; and

(ii) can be included in the member's gross income for federal tax purposes; and

(b) picked up by the employer, except as provided in subsections (5) and (6).

(5) A member's contributions greater than the total amount of the member's termination pay may not be picked up by the employer and are subject to the limitations of section 415 of the Internal Revenue Code.

(6) If a member and the member's employer fail to sign the written election within the time period required in subsection (1), the member may contribute for the purposes specified in subsections (1)(a) and (1)(b) on all or any part of the termination pay received. A contribution made pursuant to this subsection may not be picked up by the employer and is subject to the limitations of section 415 of the Internal Revenue Code."

**Section 11.** Section 19-20-719, MCA, is amended to read:

**"19-20-719. Guaranteed annual benefit adjustment — rulemaking.**

(1) On January 1 of each year, the retirement allowance payable to each ~~recipient tier one member or benefit recipient of a tier one member~~ who is eligible under subsection ~~(2)~~ (3) must be increased by ~~1.5%~~ the amount provided in either subsection (1)(a) or subsection (1)(b) as follows:

(a) if the most recent actuarial valuation of the retirement system shows that retirement system liabilities are less than 90% funded, 0.5%; or

(b) if the most recent actuarial valuation of the retirement system shows that retirement system liabilities are at least 90% funded and the provision of the increase is not projected to cause the system's liabilities to be less than 85% funded, an amount greater than 0.5% but no more than 1.5%, as set by the retirement board.

(2) On January 1 of each year, the retirement allowance payable to each tier two member or benefit recipient of a tier two member who is eligible under subsection (3) must, if the most recent actuarial valuation of the retirement system shows that retirement system liabilities are at least 90% funded and the provision of the increase is not projected to cause the system's liabilities to be less than 85% funded, be increased by an amount equal to or greater than 0.5% but no more than 1.5%, as set by the retirement board.

~~(2)~~(3) A benefit recipient is eligible for and must receive the annual benefit adjustment provided for in this section if ~~the retiree has received~~ at least 36 monthly retirement benefit payments *have been made* prior to January 1 of the year in which the adjustment is to be made."

**Section 12.** Section 19-20-732, MCA, is amended to read:

**"19-20-732. (Temporary) Reemployment of certain retired teachers, specialists and administrators — procedure — definitions.** (1) Subject to the provisions of this section:

(a) a teacher, specialist, or administrator who has been receiving a retirement allowance for no less than 2 months, except a disability retirement allowance pursuant to part 9 of this chapter, may be employed on a full-time basis by an employer for a maximum of 3 years during the lifetime of the retired member without the loss or interruption of any payments or retirement benefits if:

(i) the retired member completed 30 or more years of creditable service prior to retirement;

(ii) the retired member holds a valid certificate pursuant to the provisions of 20-4-106; and

(iii) each year, prior to employing a retired member, the employer certifies to the office of public instruction and to the retirement board that after having advertised the position for that year the employer has been unable to fill the position because the employer either has received no qualified applications or has not received an acceptance of an offer of employment made to a nonretired teacher, specialist, or administrator;

(b) the employer certification required by this section must include the retired member's name and social security number and a copy of the proposed contract of employment for the retired member;

(c) upon receipt of the employer's certification and of the proposed contract of employment, the retirement board shall verify whether the retired member meets the requirements of subsection (1)(a)(i) and shall notify the employer and the retired member of its findings;

(d) a retired member reemployed under this section is ineligible for active membership under 19-20-302 and is ineligible to receive service credit under any retirement system identified in Title 19; and

(e) the retirement board shall report to the appropriate committee each legislative session regarding the implementation of and results arising from this section.

(2) An employer employing a retired member pursuant to this section shall contribute monthly to the retirement system an amount equal to the sum of the contribution rates required by 19-20-602, 19-20-604, 19-20-605, and 19-20-607, [section 6], and [section 8].

(3) A retired member reemployed pursuant to this section is exempt from the earnings and employment limits provided in 19-20-731.

(4) If reemployed in a position covered by a collective bargaining agreement pursuant to Title 39, chapter 31, the retired member is subject to all the terms and conditions of the agreement and is entitled to all the benefits and protections of the agreement.

(5) The board may adopt rules to implement this section.

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

(a) "Employer" means a school district as defined in 20-6-101 and 20-6-701.

(b) "Year" means all or any part of a school year. (Terminates June 30, 2015—sec. 5, Ch. 129, L. 2009.)"

**Section 13.** Section 19-20-801, MCA, is amended to read:

**"19-20-801. Eligibility for service retirement.** (1) A tier one member ~~who~~ is eligible to receive a service retirement allowance calculated under 19-20-804(1) if the member:

(a) has been credited with at least 5 full years of creditable service and ~~who~~ has attained the age of 60; or

(b) has been credited with full-time or part-time creditable service in 25 or more years ~~may retire from service if the member has.~~

(2) *Except as provided in subsection (3), a tier two member is eligible to receive a service retirement allowance calculated under 19-20-804(1) if the member:*

(a) *has been credited with at least 5 full years of creditable service and has attained the age of 60; or*

(b) *has been credited with full-time or part-time creditable service in 30 or more years and has attained the age of 55.*

(3) *A tier two member who has been credited with 30 or more years of creditable service and has attained the age of 60 is eligible for a professional retirement option allowance calculated under 19-20-804(2).*

(4) *To receive a retirement allowance under 19-20-804, the member must have terminated employment in all positions from which the member is eligible to retire and files must file a written application with the retirement board a written application.”*

**Section 14.** Section 19-20-802, MCA, is amended to read:

**“19-20-802. Early retirement.** (1) (a) *A tier one member who is not eligible for service retirement but who has been credited with at least 5 years of creditable service and who has attained the age of 50 may retire from service and be is eligible for an early retirement allowance if the member files with the retirement board the member’s written application.*

(b) *A tier two member who is not eligible for service retirement but who has at least 5 years of creditable service and has attained the age of 55 is eligible for an early retirement allowance.*

(2) *A member retiring early under subsection (1) must have terminated employment in all positions reportable to the retirement system and must file a written application with the retirement board.*

(2)(3) *The early retirement allowance must be determined as prescribed in 19-20-804, with the exception that the allowance will be reduced using actuarially equivalent factors based on the most recent actuarial valuation of the system.”*

**Section 15.** Section 19-20-804, MCA, is amended to read:

**“19-20-804. Allowance for service retirement — professional retirement option allowance — creditable service limitation.** (1) *Upon termination, a tier one or tier two member who qualifies for benefits pursuant to 19-20-801(1) or (2) must receive a retirement allowance equal to one-sixtieth of the member’s average final compensation, as limited by 19-20-715, multiplied by the sum of the number of years of creditable service and service transferred under 19-20-409.*

(2) (a) *Upon termination, a tier two member who qualifies for benefits pursuant to 19-20-801(3) must receive a professional retirement option allowance equal to 1.85% of the member’s final average compensation, as limited by 19-20-715, multiplied by the sum of the member’s years of creditable service.*

(b) *For the purpose of calculating the professional retirement option, creditable service does not include:*

(i) *service credited before the member became a tier two member even if the member redeposits the member’s withdrawn contributions pursuant to 19-20-427; or*

(ii) *service credit transferred under 19-20-409.”*

**Section 16.** Section 19-20-805, MCA, is amended to read:

**“19-20-805. Calculation of average final compensation.** (1) *Except as limited by this section, average final compensation is calculated by averaging the earned compensation paid to:*

(a) *a tier one member in 3 consecutive fiscal years of full-time service that yields the highest average; or*

*(b) a tier two member in 5 consecutive fiscal years of full-time service that yields the highest average.*

(2) (a) The earned compensation of a *tier one* member who retires under 19-20-802, 19-20-804, or 19-20-902 and has less than 3 consecutive years of full-time service during the 5 years immediately preceding the member's termination is the compensation that the member would have earned in the 3 years used to calculate average final compensation had the member's part-time service during the 5 years preceding termination been full-time service.

*(b) The earned compensation of a tier two member who retires under 19-20-802, 19-20-804, or 19-20-902 and has less than 5 consecutive years of full-time service during the 7 years immediately preceding the member's termination is the compensation that the member would have earned in the 5 years used to calculate average final compensation had the member's part-time service during the 7 years preceding termination been full-time service.*

(3) To determine the compensation that the member would have earned under subsection (2), the compensation reported must be divided by the part-time service credited to the member's account.

~~(3)~~(4) (a) Subject to subsection ~~(3)(b)~~ (4)(b), if a member has transferred service from the public employees' retirement system as provided under 19-20-409 and does not have 3 consecutive years of full-time service *if a tier one member or 5 consecutive years of full-time service if a tier two member* reported to the teachers' retirement system, the member's average final compensation must be calculated as follows:

(i) if the member's part-time service credit in the public employees' retirement system plus the member's part-time service credit in the teachers' retirement system equals 1 year in any of the fiscal years used in determining average final compensation, then the member's annual salary for that fiscal year must be the member's salary as a member of the public employees' retirement system plus the member's salary as a member of the teachers' retirement system; or

(ii) if the member's part-time service credit in the public employees' retirement system plus the member's part-time service credit in the teachers' retirement system equals less than 1 year in any of the fiscal years used to determine average final compensation, then the member's part-time salary as a member of the public employees' retirement system plus the member's part-time salary as a member of the teachers' retirement system must be divided by the sum of the member's part-time teachers' retirement system service credit and the member's part-time public employees' retirement system service credit.

(b) Compensation reported to the public employees' retirement system used to calculate average final compensation must be adjusted to exclude any compensation that would be considered termination pay under this chapter.

~~(4)~~(5) (a) If the benefits excluded from earned compensation pursuant to 19-20-101(7)(b) have been converted by an employer to earned compensation for all members and have been continuously reported as earned compensation in a like amount for at least 5 fiscal years preceding a member's retirement, the converted benefit amounts must be included in the calculation of average final compensation.

(b) If benefits have been converted to earned compensation as described in subsection ~~(4)(a)~~ (5)(a) but have been reported as earned compensation for less than 5 fiscal years or if the member has been given the option to have benefits

converted to earned compensation, any converted benefits reported as earned compensation in the 3 years used to calculate average final compensation may be included in the calculation of average final compensation only as termination pay under 19-20-716(1)(b).”

**Section 17.** Section 19-20-901, MCA, is amended to read:

**“19-20-901. Eligibility for disability retirement — determination by board.** (1) ~~Upon~~ *Except as provided in subsection (5), upon* the application of a member or of the member’s employer for a disability retirement allowance, any member who has 5 or more years of creditable service and who has become disabled while being an active member may be retired by the retirement board the month immediately following the month in which employment is terminated.

(2) In order for a member to be eligible for disability retirement, the retirement board or its representative shall certify that the member is mentally or physically incapacitated for the further performance of the member’s duties, that the incapacity is likely to be permanent, and that the member should be retired. The board’s representative shall report to the board the representative’s findings and any action taken by the representative, and the action must be presented to the board for approval by the board.

~~(2)~~(3) In making a determination under subsection ~~(1)~~ (2), the retirement board or its representative may:

(a) order examinations by a physician, psychologist, or vocational rehabilitation counselor;

(b) conduct hearings, administer oaths and affirmations, take depositions, and certify to official acts; and

(c) issue subpoenas to compel the attendance of witnesses and the production of books, papers, correspondence, memorandums, and other records considered necessary as evidence in connection with a claim for disability retirement. The subpoenas issued under this subsection ~~(2)~~(e) (3)(c) are enforceable as provided in 2-4-104.

~~(3)~~(4) The retirement board may secure and pay reasonable compensation for professional services and advice that the board determines necessary to carry out the purposes of this part.

(5) (a) *A tier two member is not eligible for disability retirement if the member is or will be eligible for service retirement on or before the member’s date of termination.*

(b) *A disability retirement application filed by a member who is ineligible for disability retirement under subsection (5)(a) will be processed as an application for a service retirement allowance.”*

**Section 18.** Section 19-20-1001, MCA, is amended to read:

**“19-20-1001. Allowances for death of member prior to retirement.** (1) If a member dies before retirement, the member’s accumulated contributions must be paid to the member’s estate or to the beneficiary that the member nominated by a written application in a manner prescribed by the board and filed with the retirement board prior to the member’s death.

(2) (a) ~~In~~ *Except as provided in subsection (2)(d), in lieu of benefits provided for in subsection (1), if the deceased member qualified by reason of service for a retirement benefit, the nominated beneficiary may elect to receive a retirement allowance. The retirement allowance must be determined as prescribed in 19-20-804, without reference to 19-20-715(2), in the same manner as if the member elected option A provided for in 19-20-702(2)(a).*



(b) The effective date of the retirement allowance provided for in subsection (2)(a) is the earlier of:

(i) the first of the month following the date of death; or

(ii) the effective date of the member's retirement, as acknowledged in writing by the retirement system before the member's death.

(c) In the event that a beneficiary receiving payments under subsection (2)(a) dies and payments made to the beneficiary do not equal the amount of the member's accumulated contributions at the time of the member's death, the difference between the total retirement allowance payments made and the amount of the accumulated contributions at the time of the member's death must be paid to the beneficiary's estate.

*(d) The nominated beneficiary of a deceased tier two member may elect to receive a retirement allowance as permitted under subsection (2)(a) only if the tier two member died within 1 year of the last day on which the tier two member was employed in a position reportable to the retirement system. If the tier two member was an inactive member for more than 1 year before the member's date of death, the tier two member's accumulated contributions must be paid pursuant to subsection (1).*

(3) If the deceased member had 5 or more years of creditable service and was an active member in the state of Montana within 1 year before the member's death, a lump-sum death benefit of \$500 is payable to the member's designated beneficiary.

(4) If a deceased member had 5 or more years of creditable service and was an active member in the state of Montana within 1 year prior to the member's death, the sum of \$200 a month must be paid to each minor child of the deceased member until the child reaches 18 years of age.

(5) If the member nominated more than one beneficiary to receive payment of a benefit provided by this section upon the member's death, then:

(a) each beneficiary is entitled to share in that benefit; and

(b) if a beneficiary predeceases the member, the benefit must be divided among the surviving beneficiaries.

(6) If a family law order has been issued, an alternate payee's rights under the family law order must be given priority over the rights of a beneficiary."

**Section 19.** 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 ~~35%~~ 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."

**Section 20. Board to make special report.** As soon as possible after the completion of each annual actuarial valuation for the teachers' retirement system, the board shall have its actuary present a detailed actuarial report to the legislative finance committee, provided for in 5-12-201, and the state administration and veterans' affairs interim committee, provided for in 5-5-228.

The actuarial report must provide a trend analysis of the system's actual and projected progress toward 100% funding.

**Section 21.** Section 20-10-145, MCA, is amended to read:

**“20-10-145. State transportation reimbursement.** (1) A district providing school bus transportation or individual transportation in accordance with this title, board of public education transportation policy, and superintendent of public instruction transportation rules must receive a state reimbursement of its transportation expenditures under the transportation reimbursement rate provisions of 20-10-141 and 20-10-142. The state transportation reimbursement is one-half of the reimbursement amounts established in 20-10-141 and 20-10-142 or one-half of the district's transportation fund budget, whichever is smaller, and must be computed on the basis of the number of days the transportation services were actually rendered, not to exceed 180 pupil-instruction days. In determining the amount of the state transportation reimbursement, an amount claimed by a district may not be considered for reimbursement unless the amount has been paid in the regular manner provided for the payment of other financial obligations of the district.

(2) Requests for the state transportation reimbursement must be made by each district semiannually during the school fiscal year on the claim forms and procedure promulgated by the superintendent of public instruction. The claims for state transportation reimbursements must be routed by the district to the county superintendent, who after reviewing the claims shall send them to the superintendent of public instruction. The superintendent of public instruction shall establish the validity and accuracy of the claims for the state transportation reimbursements by determining compliance with this title, board of public education transportation policy, and the transportation rules of the superintendent of public instruction. After making any necessary adjustments to the claims, the superintendent of public instruction shall order a disbursement from the state money appropriated by the legislature of the state of Montana for the state transportation reimbursement.

*(3) The superintendent of public instruction shall make the disbursement to each school district according to the following schedule:*

*(a) By September 1 of each year, the superintendent of public instruction shall make a payment equal to 50% of the state transportation reimbursement paid to the district in the previous school year.*

*(b) By March 31 of each year, the superintendent of public instruction shall make a payment to the district equal to the approved amount of state reimbursement for first semester transportation claims less the amount distributed to the district under subsection (3)(a).*

*(c) By June 30 of each year, the superintendent of public instruction shall make a payment to the district to pay the balance of the approved amount due to the district for first and second semester transportation.*

(4) The payment of all the district's claims within one county must be made to the county treasurer of the county, and the county superintendent shall apportion the payment in accordance with the apportionment order supplied by the superintendent of public instruction.

(3)(5) After adopting a budget amendment for the transportation fund in accordance with 20-9-161 through 20-9-166, the district shall send to the superintendent of public instruction a copy of each new or amended individual transportation contract and each new or amended bus route form to which the

budget amendment applies. State reimbursement for the additional obligations must be paid as provided in subsection (1).”

**Section 22. Transfer of excess retirement fund operating reserves.** On October 1, 2013, the trustees of a district maintaining a retirement fund as provided in 20-9-501 shall pay to the teachers’ retirement system the greater of:

(1) the amount earmarked as an operating reserve on the adopted retirement fund budget for fiscal year 2013 minus 20% of the adopted retirement fund budget for fiscal year 2013; or

(2) the retirement fund balance for fiscal year 2013 minus the allowable retirement fund operating reserve for fiscal year 2014.

**Section 23. Appropriations.** (1) For the fiscal year beginning July 1, 2013, there is appropriated from the general fund for the purpose of making the supplemental employer contributions in [section 8]:

(a) to the office of budget and program planning, the following amounts from the indicated fund:

- (i) \$41,813 from the general fund;
- (ii) \$597 from the state special revenue fund; and
- (iii) \$17,323 from the federal special revenue fund;

(b) to the Montana university system, \$191,725 from the general fund; and

(c) to the office of public instruction for school BASE aid, \$2,061,932 from the general fund.

(2) For the fiscal year beginning July 1, 2014, there is appropriated from the general fund for the purpose of making the supplemental employer contributions in [section 8]:

(a) to the office of budget and program planning, the following amounts from the indicated fund:

- (i) \$45,995 from the general fund;
- (ii) \$657 from the state special revenue fund; and
- (iii) \$19,055 from the federal special revenue fund;

(b) to the Montana university system, \$210,898 from the general fund; and

(c) to the office of public instruction for school BASE aid, \$2,370,191 from the general fund.

**Section 24. Codification instruction.** (1) [Sections 6 and 8] are intended to be codified as an integral part of Title 19, chapter 20, part 6, and the provisions of Title 19, chapter 20, part 6, apply to [sections 6 and 8].

(2) [Section 20] is intended to be codified as an integral part of Title 19, chapter 20, part 2, and the provisions of Title 19, chapter 20, part 2, apply to [section 20].

**Section 25. 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 26. Effective date.** [This act] is effective July 1, 2013.

Approved May 6, 2013

**CHAPTER NO. 390**

[HB 454]

AN ACT PROVIDING FUNDING FOR THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM; PROVIDING THAT THE UNALLOCATED PORTION OF COAL SEVERANCE TAX COLLECTIONS IS STATUTORILY APPROPRIATED TO THE PUBLIC EMPLOYEES' DEFINED BENEFIT RETIREMENT PLAN; REVISING THE ALLOCATION OF INTEREST INCOME FROM THE COAL TAX PERMANENT FUND AND PROVIDING A STATUTORY APPROPRIATION OF A PORTION OF THE INTEREST INCOME TO THE PUBLIC EMPLOYEES' DEFINED BENEFIT RETIREMENT PLAN; AMENDING THE TERMINATION DATE FOR THE TRANSFER OF CERTAIN MONEY FROM THE COAL SEVERANCE TAX BOND FUND TO THE TREASURE STATE ENDOWMENT FUND AND THE TREASURE STATE ENDOWMENT REGIONAL WATER SYSTEM FUND; TEMPORARILY INCREASING EMPLOYEE AND EMPLOYER CONTRIBUTIONS TO THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM; REVISING THE GUARANTEED ANNUAL BENEFIT ADJUSTMENT FOR NEW AND CURRENT MEMBERS; PROVIDING AN APPROPRIATION; AMENDING SECTIONS 15-35-108, 17-5-703, 19-3-315, 19-3-316, 19-3-1605, AND 19-3-2117, MCA; AMENDING SECTION 6, CHAPTER 495, LAWS OF 1999, AND SECTIONS 15 AND 16, CHAPTER 389, LAWS OF 2011; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Article VIII, section 15, of the Montana Constitution requires that "Public retirement systems shall be funded on an actuarially sound basis" and that "Public retirement system assets, including income and actuarially required contributions, shall not be encumbered, diverted, reduced, or terminated and shall be held in trust to provide benefits to participants and their beneficiaries and to defray administrative expenses"; and

WHEREAS, the unprecedented collapse of the financial markets in 2008 through 2009 and the subsequent slow rate of economic recovery have resulted in little or no prospect that current statutory contribution rates together with future market returns will be sufficient to fund the Public Employees' Retirement System on an actuarially sound basis, and current contributions remain insufficient to pay the past and future accruals of retirement benefits for members currently in the system; and

WHEREAS, failure to return the system to a position of actuarially sound funding places the benefits to be paid to current system participants in jeopardy and results in collection of employee contributions for which future benefits may not be guaranteed; and

WHEREAS, the current and increasing level of unfunded liabilities has the potential to compromise the credit ratings of the state of Montana and of local government entities, including public school districts; and

WHEREAS, because reasonable increases in employer contributions and reasonable reductions in benefits for future participants alone will not be sufficient to return the system to a position of actuarially sound funding, a reasonable increase in contributions for current participants is necessary to help return the system to a position of actuarially sound funding; and

WHEREAS, during the past two legislative sessions and interims, the Legislature, interim committees, the retirement system board and staff, and the Governor's office have analyzed and enacted alternatives for returning the system to a position of actuarially sound funding without raising contract

impairment issues for current members, which have failed to reduce system costs enough to restore the system to actuarial soundness; and

WHEREAS, in light of significant strains on the Montana economy, on state and local government budgets, and on taxpayers, a modest supplemental contribution rate increase of 1% imposed on current members, with an appropriate mechanism to terminate the supplemental contribution rate as system funding improves and in conjunction with additional employer and state contributions, is, pursuant to the language of *U.S. Trust Company of New York v. New Jersey*, 431 U.S. 1 (1977), concerning contract impairment, reasonable and necessary, is for a valid public purpose, and is the least impairing alternative available to the Legislature as it seeks to fulfill its constitutional obligation to ensure that the retirement system is funded in an actuarially sound manner.

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

**Section 1.** Section 15-35-108, MCA, is amended to read:

**~~“15-35-108. (Temporary) Disposal of severance taxes.~~** Severance taxes collected under this chapter must, in accordance with the provisions of 17-2-124, be allocated as follows:

(1) ~~Fifty percent of total coal severance tax collections is allocated to the trust fund created by Article IX, section 5, of the Montana constitution. The trust fund money must be deposited in the fund established under 17-6-203(6) and invested by the board of investments as provided by law.~~

(2) ~~The amount of 12% of coal severance tax collections is allocated to the long-range building program account established in 17-7-205.~~

(3) ~~The amount of 5.46% must be credited to an account in the state special revenue fund to be allocated by the legislature for provision of basic library services for the residents of all counties through library federations and for payment of the costs of participating in regional and national networking, conservation districts, and the Montana Growth Through Agriculture Act. Expenditures of the allocation may be made only from this account. Money may not be transferred from this account to another account other than the general fund. Beginning July 1, 2012, any unreserved fund balance at the end of each fiscal year must be deposited in the general fund.~~

(4) ~~The amount of 1.27% must be allocated to a permanent fund account for the purpose of parks acquisition or management. Income from this permanent fund account, excluding unrealized gains and losses, must be appropriated for the acquisition, development, operation, and maintenance of any sites and areas described in 23-1-102.~~

(5) ~~The amount of 0.95% must be allocated to the debt service fund type to the credit of the renewable resource loan debt service fund.~~

(6) ~~The amount of 0.63% must be allocated to a trust fund for the purpose of protection of works of art in the capitol and for other cultural and aesthetic projects. Income from this trust fund account, excluding unrealized gains and losses, must be appropriated for protection of works of art in the state capitol and for other cultural and aesthetic projects.~~

(7) ~~The amount of 5.8% through September 30, 2013, and beginning October 1, 2013, the amount of 2.9% must be credited to the coal natural resource account established in 90-6-1001(2).~~

(8) ~~After the allocations are made under subsections (2) through (7), \$250,000 for the fiscal year must be credited to the coal and uranium mine permitting and reclamation program account established in 82-4-244.~~



~~(9) (a) Subject to subsection (9)(b), all other revenue from severance taxes collected under the provisions of this chapter must be credited to the general fund of the state.~~

~~(b) The interest income from \$140 million of the coal severance tax permanent fund that is deposited in the general fund is statutorily appropriated, as provided in 17-7-502, on an annual basis as follows:~~

~~(i) \$65,000 to the cooperative development center;~~

~~(ii) \$625,000 for the growth through agriculture program provided for in Title 90, chapter 9;~~

~~(iii) \$1.275 million to the research and commercialization state special revenue account created in 90-3-1002, of which \$375,000 per year is appropriated for fiscal years 2012 and 2013 to the department of commerce for the small business state matching grant program authorized in 90-1-117 to provide matching grants for small business innovation research and small business technology transfer, \$125,000 per year is appropriated for fiscal years 2012 and 2013 to the high performance supercomputing program in the department of commerce, and \$300,000 per year is appropriated for fiscal years 2012 and 2013 to the board of regents for the development of energy and natural resources doctoral programs at Montana tech of the university of Montana;~~

~~(iv) to the department of commerce:~~

~~(A) \$125,000 for a small business development center;~~

~~(B) \$50,000 for a small business innovative research program;~~

~~(C) \$425,000 for certified regional development corporations;~~

~~(D) \$200,000 for the Montana manufacturing extension center at Montana state university Bozeman; and~~

~~(E) \$300,000 for export trade enhancement. (Terminates June 30, 2013—sec. 5, Ch. 459, L. 2009.)~~

**15-35-108. (Effective July 1, 2013 Temporary) Disposal of severance taxes.** Severance taxes collected under this chapter must, in accordance with the provisions of 17-2-124, be allocated as follows:

(1) Fifty percent of total coal severance tax collections is allocated to the trust fund created by Article IX, section 5, of the Montana constitution. The trust fund money must be deposited in the fund established under 17-6-203(6) and invested by the board of investments as provided by law.

(2) The amount of 12% of coal severance tax collections is allocated to the long-range building program account established in 17-7-205.

(3) The amount of 5.46% must be credited to an account in the state special revenue fund to be allocated by the legislature for provision of basic library services for the residents of all counties through library federations and for payment of the costs of participating in regional and national networking, conservation districts, and the Montana Growth Through Agriculture Act. Expenditures of the allocation may be made only from this account. Money may not be transferred from this account to another account other than the general fund. ~~Beginning July 1, 2012, any~~ Any unreserved fund balance at the end of each fiscal year must be deposited in the general fund.

(4) The amount of 1.27% must be allocated to a permanent fund account for the purpose of parks acquisition or management. Income from this permanent fund account, excluding unrealized gains and losses, must be appropriated for the acquisition, development, operation, and maintenance of any sites and areas described in 23-1-102.



(5) The amount of 0.95% must be allocated to the debt service fund type to the credit of the renewable resource loan debt service fund.

(6) The amount of 0.63% must be allocated to a trust fund for the purpose of protection of works of art in the capitol and for other cultural and aesthetic projects. Income from this trust fund account, excluding unrealized gains and losses, must be appropriated for protection of works of art in the state capitol and for other cultural and aesthetic projects.

(7) The amount of 5.8% through September 30, 2013, and beginning October 1, 2013, the amount of 2.9% must be credited to the coal natural resource account established in 90-6-1001(2).

(8) After the allocations are made under subsections (2) through (7), \$250,000 for the fiscal year must be credited to the coal and uranium mine permitting and reclamation program account established in 82-4-244.

(9) (a) Subject to subsection (9)(b), all other revenue from severance taxes collected under the provisions of this chapter must be credited to the general fund of the state *and is statutorily appropriated, as provided in 17-7-502, on July 1 each year to the trust fund for the public employees' retirement system defined benefit plan established pursuant to 19-3-103.*

(b) The interest income ~~from \$140 million~~ of the coal severance tax permanent fund that is deposited in the general fund is statutorily appropriated, as provided in 17-7-502, ~~on an annual basis~~ *July 1 each year* as follows:

(i) \$65,000 to the cooperative development center;

(ii) ~~\$1.25 million~~ \$625,000 for the growth through agriculture program provided for in Title 90, chapter 9;

(iii) ~~\$3.65~~ \$1.275 million to the research and commercialization state special revenue account created in 90-3-1002;

(iv) to the department of commerce:

(A) \$125,000 for a small business development center;

(B) \$50,000 for a small business innovative research program;

(C) \$425,000 for certified regional development corporations;

(D) \$200,000 for the Montana manufacturing extension center at Montana state university-Bozeman; and

(E) \$300,000 for export trade enhancement; *and*

(v) *except as provided in subsection (9)(c), up to \$21 million to the public employees' retirement system defined benefit plan trust fund.*

(c) *If the legislative finance committee determines that the public employees' retirement board has failed to provide a sufficient report pursuant to [section 7], it shall recommend that \$5 million be subtracted from the amount allocated in subsection (9)(b)(v) subject to legislative approval. (Terminates June 30, 2019—secs. 2, 3, Ch. 459, L. 2009.)*

**15-35-108. (Effective July 1, 2019) Disposal of severance taxes.** Severance taxes collected under this chapter must, in accordance with the provisions of 17-2-124, be allocated as follows:

(1) Fifty percent of total coal severance tax collections is allocated to the trust fund created by Article IX, section 5, of the Montana constitution. The trust fund money must be deposited in the fund established under 17-6-203(6) and invested by the board of investments as provided by law.

(2) The amount of 12% of coal severance tax collections is allocated to the long-range building program account established in 17-7-205.

(3) The amount of 5.46% must be credited to an account in the state special revenue fund to be allocated by the legislature for provision of basic library services for the residents of all counties through library federations and for payment of the costs of participating in regional and national networking, conservation districts, and the Montana Growth Through Agriculture Act. Expenditures of the allocation may be made only from this account. Money may not be transferred from this account to another account other than the general fund. ~~Beginning July 1, 2012, any~~ Any unreserved fund balance at the end of each fiscal year must be deposited in the general fund.

(4) The amount of 1.27% must be allocated to a permanent fund account for the purpose of parks acquisition or management. Income from this permanent fund account, excluding unrealized gains and losses, must be appropriated for the acquisition, development, operation, and maintenance of any sites and areas described in 23-1-102.

(5) The amount of 0.95% must be allocated to the debt service fund type to the credit of the renewable resource loan debt service fund.

(6) The amount of 0.63% must be allocated to a trust fund for the purpose of protection of works of art in the capitol and for other cultural and aesthetic projects. Income from this trust fund account, excluding unrealized gains and losses, must be appropriated for protection of works of art in the state capitol and for other cultural and aesthetic projects.

(7) The amount of 2.9% must be credited to the coal natural resource account established in 90-6-1001(2).

(8) After the allocations are made under subsections (2) through (7), \$250,000 for the fiscal year must be credited to the coal and uranium mine permitting and reclamation program account established in 82-4-244.

(9) ~~(a) All~~ Subject to subsection (9)(b), all other revenue from severance taxes collected under the provisions of this chapter must be credited to the general fund of the state and is statutorily appropriated, as provided in 17-7-502, on July 1 each year to the trust fund for the public employees' retirement system defined benefit plan pursuant to 19-3-103.

(b) Except as provided in subsection (9)(c), up to \$24 million of the interest income from the coal severance tax permanent fund that is deposited in the general fund is statutorily appropriated, as provided in 17-7-502, on July 1 each year to the public employees' retirement system defined benefit plan trust fund.

(c) If the legislative finance committee determines that the public employees' retirement board has failed to provide a sufficient report pursuant to [section 7], it shall recommend that \$5 million be subtracted from the amount allocated in subsection (9)(b) subject to legislative approval."

**Section 2.** 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; and
- (f) a big sky economic development 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 (3) and (4).

(3) (a) Until June 30, ~~2020~~ 2016, the state treasurer shall quarterly transfer to the treasure state endowment fund 50% 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) Until June 30, ~~2020~~ 2016, the state treasurer shall quarterly transfer to the treasure state endowment regional water system 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.

(c) 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.

(d) 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) 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.

(5) 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, ~~2020~~ 2016—secs. 15, 16, Ch. 389, L. 2011.)

**17-5-703. (Effective July 1, ~~2020~~ 2016) 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; and

(e) a big sky economic development 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 (3) and (4).

(3) (a) Until June 30, 2020 2016, the state treasurer shall quarterly transfer to the treasure state endowment fund 50% 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 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) 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.

(5) 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 3.** Section 19-3-315, MCA, is amended to read:

**“19-3-315. Member’s contribution to be deducted.** (1) (a) ~~Each~~ *Except as provided in subsection (2), each* member’s contribution is:

(i) ~~for a member hired prior to July 1, 2011, 6.9% of the member’s compensation; and~~

(ii) ~~for a member hired on or after July 1, 2011, 7.9% of the member’s compensation.~~

(b) ~~For members hired on or after July 1, 2011, the~~ *The* board shall ~~periodically~~ *annually* review the required contributions and recommend future adjustments to the legislature as needed to maintain the amortization schedule set by the board for the payment of the system’s unfunded liability.

(2) *Each member's contribution must be reduced to 6.9% on January 1 following the system's annual actuarial valuation if the valuation determines that reducing the employee contribution pursuant to this subsection and reducing the employer contribution pursuant to 19-3-316(4) would not cause the system's amortization period to exceed 25 years.*

(2)(3) Payment of salaries or wages less the contribution is full and complete discharge and acquittance of all claims and demands for the service rendered by members during the period covered by the payment, except their claims to the benefits to which they may be entitled under the provisions of this chapter.

(3)(4) Each employer, pursuant to section 414(h)(2) of the federal Internal Revenue Code, 26 U.S.C. 414(h)(2), shall pick up and pay the contributions that would be payable by the member under subsection (1) or (2) for service rendered after June 30, 1985.

(4)(5) (a) The member's contributions picked up by the employer must be designated for all purposes of the retirement system as the member's contributions, except for the determination of a tax upon a distribution from the retirement system.

(b) In the case of a member of the defined benefit plan, these contributions must become part of the member's accumulated contributions but must be accounted for separately from those previously accumulated.

(c) In the case of a member of the defined contribution plan, these contributions must be allocated as provided in 19-3-2117.

(5)(6) The member's contributions picked up by the employer must be payable from the same source as is used to pay compensation to the member and must be included in the member's wages, as defined in 19-1-102, and compensation. The employer shall deduct from the member's compensation an amount equal to the amount of the member's contributions picked up by the employer and remit the total of the contributions to the board."

**Section 4.** Section 19-3-316, MCA, is amended to read:

**"19-3-316. Employer contribution rates.** (1) Each employer shall contribute to the system. Except as provided in subsection (2), the employer shall pay as employer contributions 6.9% of the compensation paid to all of the employer's employees plus any additional contribution under subsection (3), except for those employees properly excluded from membership. Of employer contributions made under this subsection for both defined benefit plan and defined contribution plan members, a portion must be allocated for educational programs as provided in 19-3-112. Employer contributions for members under the defined contribution plan must be allocated as provided in 19-3-2117.

(2) Local government and school district employer contributions must be the total employer contribution rate provided in subsection (1) minus the state contribution rates under 19-3-319.

(3) (a) Subject to subsection (4), each employer shall contribute to the system an additional employer contribution equal to ~~0.27%~~ *the percentage specified in subsection (3)(b)* of the compensation paid to all of the employer's employees, except for those employees properly excluded from membership.

(b) *The percentage of compensation to be contributed under subsection (3)(a) is 1.27% for fiscal year 2014 and increases by 0.1% each fiscal year through fiscal year 2024. For fiscal years beginning after June 30, 2024, the percentage of compensation to be contributed under subsection (3)(a) is 2.27%.*

(4) (a) The board shall ~~periodically~~ *annually* review the additional employer contribution provided for under subsection (3) and recommend adjustments to

the legislature as needed to maintain the amortization schedule set by the board for payment of the system's unfunded liabilities.

(b) The employer contribution required under subsection (3) terminates on ~~July 1~~ *January 1* following the board's receipt of the system's actuarial valuation if:

~~(i) the actuarial valuation determines that the period required to amortize the system's unfunded liabilities, including adjustments made for any benefit enhancements enacted by the legislature after the valuation, is less than 25 years; and~~

~~(ii) terminating the additional employer contribution pursuant to this subsection (4)(b) and reducing the employee contribution pursuant to 19-3-315(2) would not cause the amortization period as of the most recent actuarial valuation to exceed 25 years."~~

**Section 5.** Section 19-3-1605, MCA, is amended to read:

**"19-3-1605. Guaranteed annual benefit adjustment.** (1) Subject to subsection (2), on January 1 of each year, the permanent monthly benefit payable during the preceding January to each recipient who is eligible under subsection (3) must be increased by the applicable percentage provided in subsection (4).

(2) (a) If a recipient's benefit payable during the preceding January has been increased by one or more adjustments not provided for in this section and the adjustments amount to less than an annualized increase of the applicable percentage provided in subsection (4), then the recipient's benefit must be adjusted by an amount that will provide a total annualized increase of the applicable percentage in the benefit paid since the preceding January.

(b) If a recipient's benefit payable during the preceding January has been increased by one or more adjustments not provided for in this section and the increases amount to more than an annualized increase of the applicable percentage provided in subsection (4), then the benefit increase provided under this section must be 0%.

(c) If a benefit recipient is a contingent annuitant receiving an optional benefit upon the death of the original payee that occurred since the preceding January, the new recipient's monthly benefit must be increased to the applicable percentage provided in subsection ~~(5)~~ *(4)(b)* more than the amount that the contingent annuitant would have received had the contingent annuitant received a benefit during the preceding January.

(3) Except as provided in subsection (2)(b), a benefit recipient is eligible for and must receive the minimum annual benefit adjustment provided for in this section if the benefit's commencement date is at least 12 months prior to January 1 of the year in which the adjustment is to be made.

~~(4) (a) The applicable percentage is 3% for benefit recipients hired or assuming office:~~

~~(i) before July 1, 2007; or~~

~~(ii) on or after July 1, 2007, if the benefit recipient is an existing member of a benefit plan for which the applicable percentage is 3%.~~

~~(b) Except as provided in subsection (4)(a)(ii), the applicable percentage is 1.5% for benefit recipients hired or assuming office on or after July 1, 2007.~~

~~(5) (a) The applicable percentage rate for a contingent annuitant described in subsection (2)(c) is 3% if the original payee:~~

~~(i) was hired or assumed office before July 1, 2007; or~~



(ii) was an existing member of a benefit plan for which the applicable percentage is 3%.

(b) Except as provided in subsection (5)(a)(ii), the applicable percentage rate for a contingent annuitant described in subsection (2)(c) is 1.5% if the original payee was hired or assumed office on or after July 1, 2007.

(4) (a) Subject to subsection (5), the applicable percentage rate is 1.5% for benefit recipients hired or assuming office:

(i) before July 1, 2007;

(ii) on or after July 1, 2007, and prior to [the effective date of this act] if the benefit recipient is an existing member of a benefit plan for which the applicable percentage before [the effective date of this act] was either 3% or 1.5%; or

(iii) on or after [the effective date of this act].

(b) The applicable percentage rate for a contingent annuitant described in subsection (2)(c) is the same as the applicable percentage rate applicable to the original payee under subsection (4)(a).

(5) (a) Except as provided in subsection (5)(b), if the most recent actuarial valuation of the retirement system shows that retirement system liabilities are less than 90% funded, the applicable percentage rate in subsection (4) must be reduced by 0.1% for each 2% below that 90% funding level.

(b) If the amortization period is 40 years or greater, the applicable percentage rate is 0% and the retirement allowance may not be increased.

(6) The board shall adopt rules to administer the provisions of this section.”

**Section 6.** Section 19-3-2117, MCA, is amended to read:

**“19-3-2117. Allocation of contributions and forfeitures.** (1) The member contributions made under 19-3-315 and additional contributions paid by the member for the purchase of service must be allocated to the plan member’s retirement account.

(2) Subject to subsection (3) and adjustment by the board as provided in 19-3-2121, of the employer contributions under 19-3-316 received:

(a) an amount equal to:

(i) 4.19% of compensation must be allocated to the member’s retirement account;

(ii) 2.37% of compensation must be allocated to the defined benefit plan as the plan choice rate;

(iii) 0.04% of compensation must be allocated to the education fund as provided in 19-3-112(1)(b); and

(iv) 0.3% of compensation must be allocated to the long-term disability plan trust fund established pursuant to 19-3-2141; and

(b) on July 1, 2009, continuing until the additional employer contributions terminate pursuant to 19-3-316 19-3-316(4)(b), 0.27% the percentage specified in subsection (3) of compensation must be allocated in the following order:

(i) to the defined benefit plan to eliminate the plan choice rate unfunded actuarial liability; and

(ii) to the long-term disability plan trust fund to provide disability benefits to eligible members; and

(c) on July 1, 2013, continuing until the additional employer contributions terminate pursuant to 19-3-316(4)(b), 1% of compensation must be allocated to the defined benefit plan unfunded liabilities.



(3) *The percentage of compensation to be contributed under subsection (2)(b) is 0.27% for fiscal year 2014 and increases by 0.1% each fiscal year through fiscal year 2024. For fiscal years beginning after June 30, 2024, the percentage of compensation to be contributed under subsection (2)(b) is 1.27%.*

(4) Forfeitures of employer contributions and investment income on the employer contributions may not be used to increase a member's retirement account. The board shall allocate the forfeitures under 19-3-2116 to meet the plan's administrative expenses, including startup expenses."

**Section 7. Board report required.** As soon as possible after the completion of each annual actuarial valuation for the public employees' retirement system, the board shall have its actuary present a detailed actuarial report to the legislative finance committee, provided for in 5-12-201, and the state administration and veterans' affairs interim committee, provided for in 5-5-228. The actuarial report must provide a trend analysis of the system's progress toward 100% funding.

**Section 8.** Section 6, Chapter 495, Laws of 1999, is amended to read:

"**Section 6. Termination.** [This act] terminates June 30, ~~2013~~ 2016."

**Section 9.** Section 15, Chapter 389, Laws of 2011, is amended to read:

"**Section 15.** Section 6, Chapter 495, Laws of 1999, is amended to read:

"**Section 6. Termination.** [This act] terminates June 30, ~~2013~~ 2020 2016.""

**Section 10.** Section 16, Chapter 389, Laws of 2011, is amended to read:

"**Section 16.** Section 1, Chapter 70, Laws of 2001, is amended to read:

"**Section 1.** Section 6, Chapter 495, Laws of 1999, is amended to read:

"**Section 6. Termination.** ~~[This act]~~ [This act] terminates terminates June 30, ~~2013~~ 2016 2020 2016.""

**Section 11. Appropriations.** (1) For the fiscal year beginning July 1, 2013, there is appropriated for the purpose of making the additional employer contributions in 19-3-316:

(a) to the office of budget and program planning, the following amounts from the indicated fund:

- (i) \$1,870,019 from the general fund;
- (ii) \$1,688,905 from the state special revenue fund;
- (iii) \$1,149,658 from the federal special revenue fund; and
- (iv) \$669,831 from other funds;

(b) to the Montana university system from the general fund, \$548,527; and

(c) to the office of public instruction for school BASE aid, \$377,500 from the general fund.

(2) For the fiscal year beginning July 1, 2014, there is appropriated for the purpose of making the additional employer contributions in 19-3-316:

(a) to the office of budget and program planning, the following amounts from the indicated fund:

- (i) \$2,057,021 from the general fund;
- (ii) \$1,857,796 from the state special revenue fund;
- (iii) \$1,264,624 from the federal special revenue fund; and
- (iv) \$736,814 from other funds;

(b) to the Montana university system from the general fund, \$603,380; and

(c) to the office of public instruction for school BASE aid, \$431,750 from the general fund.

**Section 12. Codification instruction.** [Section 7] is intended to be codified as an integral part of Title 19, chapter 3, part 1, and the provisions of Title 19, chapter 3, part 1, apply to [section 7].

**Section 13. 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 14. Effective date.** [This act] is effective July 1, 2013.

Approved May 6, 2013

## CHAPTER NO. 391

[HB 477]

AN ACT GENERALLY REVISING UTILITY LAWS; REVISING LAWS RELATED TO ENERGY USE DISCLOSURE AND UTILITY LIABILITY; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.

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

**Section 1. Utility disclosure required — definition.** (1) Except as provided in subsection (3), a utility shall provide the average annual energy use for a property.

(2) Average annual energy use must:

(a) be calculated using an average of the past 12 months of usage on a property and the rates currently in effect;

(b) include the electricity, natural gas, or both used on the property based on meters used for measuring or registering utility service; and

(c) be expressed in dollars.

(3) (a) A utility may not make public or otherwise disclose personal information protected by an individual privacy interest or information of a personal nature that would constitute a clearly unwarranted invasion of personal privacy.

(b) A utility may provide the information required pursuant to subsection (1) only to a person or entity owning the property or representing the person or entity or to a person involved in a real estate-related transaction on the property.

(4) As used in [sections 1 and 2], the following definitions apply:

(a) “Real estate-related transaction” means any of the following:

(i) the making or purchasing of loans or providing other financial assistance:

(A) for purchasing, constructing, improving, repairing, or maintaining a housing accommodation or property; or

(B) secured by real estate; or

(ii) the selling, leasing, brokering, or appraising of real property.

(b) “Utility” means any public utility regulated by the commission pursuant to Title 69, chapter 3, that provides electricity or natural gas for sale to customers.

**Section 2. Utility — liability.** A utility is liable for direct damages resulting from a discontinuance of utility service caused by breach of a continuous service agreement.

**Section 3. Codification instruction.** [Sections 1 and 2] are intended to be codified as an integral part of Title 69, chapter 3, and the provisions of Title 69, chapter 3, apply to [sections 1 and 2].

**Section 4. 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 5. Saving clause.** [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

**Section 6. Effective date.** [This act] is effective on passage and approval.

**Section 7. Applicability.** [This act] applies to damage to property that occurs on or after [the effective date of this act].

Approved May 5, 2013

## CHAPTER NO. 392

[HB 554]

AN ACT REVISING LAWS RELATED TO LEGISLATOR PAYROLL AND BENEFITS; AMENDING SECTIONS 5-2-302 AND 5-2-303, MCA; AND PROVIDING AN EFFECTIVE DATE.

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

**Section 1.** Section 5-2-302, MCA, is amended to read:

**“5-2-302. Compensation and expenses when legislature not in session.** When the legislature is not in session, a member of the legislature, while engaged in legislative business with prior authorization of the appropriate funding authority, is entitled to:

- (1) a mileage allowance as provided in 2-18-503;
- (2) expenses as provided in 2-18-501 and 2-18-502; and

- (3) a salary equal to one full day’s pay at the rate described in 5-2-301(1) for each 24-hour period of time (from midnight to midnight), or portion of a 24-hour period, spent ~~away from home~~ on authorized *interim or administrative committee* legislative business *or as otherwise provided by law*. However, if time spent for business other than authorized legislative *interim or administrative committee* business *or business related to 5-11-305* results in lengthening a legislator’s stay away from home into an additional 24-hour period, the legislator may not be compensated for the additional day.”

**Section 2.** Section 5-2-303, MCA, is amended to read:

**“5-2-303. Participation in state benefits group — employer contribution made to other plan.** (1) Individual members of the senate and the house of representatives may enroll in the state employees benefits group during the terms to which they have been elected. The provider of benefits shall enroll and collect those employee contributions directly from ~~such~~ *those* legislators. The employer contribution ~~shall~~ *must* be paid from funds appropriated for that purpose.

(2) (a) If a member does not enroll or terminates enrollment under the state employees benefits group plan and is insured under a plan providing disability insurance as defined in 33-1-207, the department of administration, upon request of the member, shall pay to the member's insurer an amount equal to the premium required to be paid by the member for coverage of the member and any dependents under the disability insurance plan, subject to the limitation contained in subsection (2)(b).

(b) A payment made under subsection (2)(a) may not exceed the amount of the employer contribution for group benefits for members of the legislature as provided for in 2-18-703.

(c) *Unused employer contributions must be transferred to an account as provided in 2-18-703 for a legislator who is a state employee and who has contributions paid for by another agency when the legislature is not in session.*"

**Section 3. Effective date.** [This act] is effective July 1, 2013.

Approved May 11, 2013

## CHAPTER NO. 393

[HB 559]

AN ACT GENERALLY REVISING MOTOR VEHICLE LAWS; MODIFYING DATE RESTRICTIONS ON THE CONTINUED USE OF STANDARD LICENSE PLATE DESIGNS OR PLATE NUMBERS; ELIMINATING THE COUNTY PREFIX REQUIREMENTS FOR SMALL LICENSE PLATES; REMOVING COLLEGIATE LICENSE PLATES AND GENERIC SPECIALTY LICENSE PLATES FROM PERMANENT REGISTRATION RESTRICTIONS ON CERTAIN VEHICLES; CLARIFYING CERTAIN SPEEDING OFFENSES AND PENALTIES; ELIMINATING THE REQUIREMENT TO PROVIDE A LIST OF AMATEUR RADIO LICENSE PLATE HOLDERS TO CERTAIN AGENCIES; AMENDING SECTIONS 61-3-321, 61-3-332, 61-3-337, 61-3-562, 61-8-303, 61-8-309, 61-8-310, AND 61-8-725, MCA; REPEALING SECTION 61-3-424, MCA; AND PROVIDING EFFECTIVE DATES.

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

**Section 1.** Section 61-3-321, MCA, is amended to read:

**"61-3-321. Registration fees of vehicles and vessels — certain vehicles exempt from registration fees — disposition of fees.** (1) Except as otherwise provided in this section, registration fees must be paid upon registration or, if applicable, renewal of registration of motor vehicles, snowmobiles, watercraft, trailers, semitrailers, and pole trailers as provided in subsections (2) through (20):

(2) Unless a light vehicle is permanently registered under 61-3-562, the annual registration fee for light vehicles, trucks and buses under 1 ton, and logging trucks less than 1 ton is as follows:

- (a) if the vehicle is 4 or less years old, \$217;
- (b) if the vehicle is 5 through 10 years old, \$87; and
- (c) if the vehicle is 11 or more years old, \$28.

(3) Except as provided in subsection (15), the one-time registration fee based on the declared weight of a trailer, semitrailer, or pole trailer is as follows:

- (a) if the declared weight is less than 6,000 pounds, \$61.25; or
- (b) if the declared weight is 6,000 pounds or more, \$148.25.

(4) Except as provided in subsection (15), the one-time registration fee for motor vehicles owned and operated solely as collector's items pursuant to 61-3-411, based on the weight of the vehicle, is as follows:

- (a) 2,850 pounds and over, \$10; and
- (b) under 2,850 pounds, \$5.

(5) Except as provided in subsection (15), the one-time registration fee for off-highway vehicles other than a quadricycle or motorcycle is \$61.25.

(6) The annual registration fee for heavy trucks, buses, and logging trucks in excess of 1 ton is \$22.75.

(7) (a) The annual registration fee for a motor home, based on the age of the motor home, is as follows:

- (i) less than 2 years old, \$282.50;
- (ii) 2 years old and less than 5 years old, \$224.25;
- (iii) 5 years old and less than 8 years old, \$132.50; and
- (iv) 8 years old and older, \$97.50.

(b) The owner of a motor home that is 11 years old or older and that is subject to the registration fee under this section may permanently register the motor home upon payment of:

- (i) a one-time registration fee of \$237.50;
- (ii) unless a new set of license plates is being issued, an insurance verification fee of \$5, which must be deposited in the account established under 61-6-158; ~~and~~
- (iii) if applicable, five times the renewal fees for personalized license plates under 61-3-406; *and*
- (iv) *if applicable, the donation fee for a generic specialty license plate under 61-3-480 or a collegiate license plate under 61-3-465.*

(8) (a) Except as provided in subsection (15), the one-time registration fee for motorcycles and quadricycles registered for use on public highways is \$53.25, and the one-time registration fee for motorcycles and quadricycles registered for both off-road use and for use on the public highways is \$114.50.

(b) An additional fee of \$16 must be collected for the registration of each motorcycle or quadricycle as a safety fee, which must be deposited in the state motorcycle safety account provided for in 20-25-1002.

(9) Except as provided in subsection (15), the one-time registration fee for travel trailers, based on the length of the travel trailer, is as follows:

- (a) under 16 feet in length, \$72; and
- (b) 16 feet in length or longer, \$152.

(10) Except as provided in subsection (15), the one-time registration fee for a motorboat, sailboat, personal watercraft, or motorized pontoon required to be numbered under 23-2-512 is as follows:

- (a) for a personal watercraft or a motorboat, sailboat, or motorized pontoon less than 16 feet in length, \$65.50;
- (b) for a motorboat, sailboat, or motorized pontoon at least 16 feet in length but less than 19 feet in length, \$125.50; and
- (c) for a motorboat, sailboat, or motorized pontoon 19 feet in length or longer, \$295.50.

(11) (a) Except as provided in subsections (11)(b) and (15), the one-time registration fee for a snowmobile is \$60.50.

(b) (i) A snowmobile that is licensed by a Montana business and is owned exclusively for the purpose of daily rental to customers is assessed:

(A) a fee of \$40.50 in the first year of registration; and

(B) if the business reregisters the snowmobile for a second year, a fee of \$20.

(ii) If the business reregisters the snowmobile for a third year, the snowmobile must be permanently registered and the business is assessed the registration fee imposed in subsection (11)(a).

(12) (a) The one-time registration fee for a low-speed electric vehicle is \$25.

(b) The one-time registration fee for a golf cart that is owned by a person who has or is applying for a low-speed restricted driver's license is \$25.

(c) The one-time registration fee for golf carts authorized to operate on certain public streets and highways pursuant to 61-8-391 is \$25. Upon receipt of the fee, the department shall issue the owner a decal, which must be displayed visibly on the golf cart.

(13) (a) Except as provided in subsection (13)(b), a fee of \$10 must be collected when a new set of standard license plates, a new single standard license plate, or a replacement set of special license plates required under 61-3-332 is issued. The \$10 fee imposed under this subsection does not apply when previously issued license plates are transferred under 61-3-335. All registration fees imposed under this section must be paid if the vehicle to which the plates are transferred is not currently registered.

(b) ~~Until January 1, 2015, an~~ An additional fee of \$15 must be collected if a vehicle owner elects to keep the same license plate number from license plates issued ~~on or after January 1, 2006, but~~ before January 1, 2010, when replacement of those plates is required under 61-3-332(3).

(c) The fees imposed in this subsection (13) must be deposited in the account established under 61-6-158, except that \$2 of the fee imposed in subsection (13)(a) must be deposited in the state general fund.

(14) The provisions of this part with respect to the payment of registration fees do not apply to and are not binding upon motor vehicles, trailers, semitrailers, snowmobiles, watercraft, or tractors owned or controlled by the United States of America or any state, county, city, or special district, as defined in 18-8-202, or to a vehicle or vessel that meets the description of property exempt from taxation under 15-6-201(1)(a), (1)(d), (1)(e), (1)(g), (1)(h), (1)(i), (1)(k), (1)(l), (1)(n), or (1)(o), 15-6-203, or 15-6-215, except as provided in 61-3-520.

(15) Whenever ownership of a trailer, semitrailer, pole trailer, off-highway vehicle, motorcycle, quadricycle, travel trailer, motor home, motorboat, sailboat, personal watercraft, motorized pontoon, snowmobile, motor vehicle owned and operated solely as a collector's item pursuant to 61-3-411, or low-speed electric vehicle is transferred, the new owner shall title and register the vehicle or vessel as required by this chapter and pay the fees imposed under this section.

(16) A person eligible for a waiver under 61-3-460 is exempt from the fees required under this section.

(17) Except as otherwise provided in this section, revenue collected under this section must be deposited in the state general fund.

(18) The fees imposed by subsections (2) through (12) are not required to be paid by a dealer for the enumerated vehicles or vessels that constitute inventory of the dealership.



(19) (a) Unless a person exercises the option in either subsection (19)(b) or (19)(c), an additional fee of \$6 must be collected for each light vehicle registered under this part. This fee must be accounted for and transmitted separately from the registration fee. The fee must be deposited in an account in the state special revenue fund to be used for state parks, for fishing access sites, and for the operation of state-owned facilities. Of the \$6 fee, the department of fish, wildlife, and parks shall use \$5.37 for state parks, 25 cents for fishing access sites, and 38 cents for the operation of state-owned facilities at Virginia City and Nevada City.

(b) A person who registers a light vehicle may, at the time of annual registration, certify that the person does not intend to use the vehicle to visit state parks and fishing access sites and may make a written election not to pay the additional \$6 fee provided for in subsection (19)(a). If a written election is made, the fee may not be collected.

(c) (i) A person who registers one or more light vehicles may, at the time of annual registration, certify that the person does not intend to use any of the vehicles to visit state parks and fishing access sites and may make a written election not to pay the additional \$6 fee provided for in subsection (19)(a). If a written election is made, the fee may not be collected at any subsequent annual registration unless the person makes the written election to pay the additional fee on one or more of the light vehicles.

(ii) The written election not to pay the additional fee on a light vehicle expires if the vehicle is registered to a different person.

(20) For each light vehicle, trailer, semitrailer, pole trailer, heavy truck, motor home, motorcycle, quadricycle, and travel trailer subject to a registration fee under this section, an additional fee of \$5 must be collected and forwarded to the state for deposit in the account established in 44-1-504.

(21) This section does not apply to a motor vehicle, trailer, semitrailer, or pole trailer that is governed by 61-3-721.”

**Section 2.** Section 61-3-332, MCA, is amended to read:

**“61-3-332. Standard license plates.** (1) In addition to special license plates, collegiate license plates, generic specialty license plates, and fleet license plates authorized under this chapter, a separate series of standard license plates must be issued for motor vehicles, quadricycles, travel trailers, trailers, semitrailers, and pole trailers registered in this state or offered for sale by a vehicle dealer licensed in this state. Standard license plates issued to licensed vehicle dealers must be readily distinguishable from license plates issued to vehicles owned by other persons.

(2) (a) Except as provided in 61-3-479 and subsections (2)(b), (3)(b), and (3)(c) of this section, all standard license plates for motor vehicles, trailers, semitrailers, or pole trailers must bear a distinctive marking, as determined by the department, and be furnished by the department. In years when standard license plates are not reissued for a vehicle, the department shall provide a registration decal that must be affixed to the rear license plate of the vehicle.

(b) For light vehicles that are permanently registered as provided in 61-3-562 and motor vehicles described in 61-3-303(9) that are permanently registered, the department shall provide a distinctive registration decal indicating that the motor vehicle is permanently registered. The registration decal must be affixed to the rear license plate of the permanently registered motor vehicle.



(c) For a travel trailer, motorcycle, quadricycle, trailer, semitrailer, or pole trailer that is permanently registered as provided in 61-3-313(2), the department may use the word or an abbreviation for the word "permanent" on the plate in lieu of issuing a registration decal for the plate.

(3) (a) (i) New license plates issued under 61-3-303 or this section must be a standard license plate design first issued ~~within the last 35 years in 1989 or later~~ or current collegiate or generic ~~speciality~~ *specialty* license plate designs. For the purposes of this subsection (3), all military, veteran, and amateur radio license plates and any license plate with a wheelchair design, excluding collegiate or generic specialty plates with a wheelchair design, are treated as standard license plates.

(ii) License plates issued on or after January 1, 2010, must be replaced with new license plates if, upon renewal of registration under this section, the license plates are 5 or more years old or will become older than 5 years during the registration period. New license plates must be issued in accordance with the implementation schedule adopted by the department under 61-3-315.

(iii) ~~Until January 1, 2015, and upon payment of the fee required in 61-3-321(13)(b), a~~ A vehicle owner may elect to keep the same license plate number from license plates issued ~~on or after January 1, 2006, but before~~ January 1, 2010, when replacement of those plates is required under this subsection.

(b) A motor vehicle that is registered for a 13-month to a 24-month period, as provided in 61-3-311, may display the license plate and plate design in effect at the time of registration for the entire registration period.

(c) A light vehicle described in subsection (2)(b) or a motor home that is permanently registered may display the license plate and plate design in effect at the time of registration for the entire period that the light vehicle or motor home is permanently registered.

(d) The provisions of this subsection (3) do not apply to a travel trailer, motorcycle, quadricycle, trailer, semitrailer, or pole trailer.

(e) The requirements of this subsection (3) apply to collegiate license plates authorized under 61-3-461 through 61-3-468, generic specialty license plates authorized under 61-3-472 through 61-3-481, commemorative centennial license plates authorized under 61-3-448, and special military or veteran license plates authorized under 61-3-458.

(4) (a) All license plates must be metal and treated with a reflectorized background material according to specifications prescribed by the department. The word "Montana" must be placed on each license plate and, *except for license plates that are 4 inches wide and 7 inches in length*, the outline of the state of Montana must be used as a distinctive border on each standard license plate.

(b) Plates for semitrailers, travel trailers, pole trailers, trailers with a declared weight of 6,000 pounds or more, and motor vehicles, other than motorcycles and quadricycles, must be 6 inches wide and 12 inches in length.

(c) Plates for motorcycles and quadricycles must be 4 inches wide and 7 inches in length.

(d) The department shall issue plates that are 4 inches wide and 7 inches in length for trailers with a declared weight of less than 6,000 pounds unless a person registering a trailer with a declared weight of less than 6,000 pounds requests plates that are 6 inches wide and 12 inches in length. A person registering a trailer shall pay all applicable fees for the plates chosen.

(5) The distinctive registration numbers for standard license plates must begin with a number one or with a letter-number combination, such as "A 1" or "AA 1", or any other similar combination of letters and numbers. Except for special license plates, collegiate license plates, generic specialty license plates, ~~and~~ fleet license plates, *and standard license plates that are 4 inches wide and 7 inches in length*, the distinctive registration number or letter-number combination assigned to the motor vehicle must appear on the plate preceded by the number of the county and appearing in horizontal order on the same horizontal baseline. The county number must be separated from the distinctive registration number by a separation mark unless a letter-number combination is used. The dimensions of the numerals and letters must be determined by the department, and all county and registration numbers must be of equal height.

(6) For the use of exempt motor vehicles, trailers, semitrailers, or pole trailers and motor vehicles, trailers, semitrailers, or pole trailers that are exempt from the registration fee as provided in 61-3-321, in addition to the markings provided in this section, standard license plates must bear the following distinctive markings:

(a) For motor vehicles, trailers, semitrailers, or pole trailers owned by the state, the department may designate the prefix number for the various state departments. All numbered plates issued to state departments must bear the words "State Owned", and a year number may not be indicated on the plates because these numbered plates are of a permanent nature and will be replaced by the department only when the physical condition of numbered plates requires it.

(b) For motor vehicles, trailers, semitrailers, or pole trailers that are owned by the counties, municipalities, and special districts, as defined in 18-8-202, organized under the laws of Montana and not operating for profit, and that are used and operated by officials and employees in the line of duty and for motor vehicles on loan from the United States government or the state of Montana to, or owned by, the civil air patrol and used and operated by officials and employees in the line of duty, there must be placed on the standard license plates assigned, in a position that the department may designate, the letter "X" or the word "EXEMPT". Distinctive registration numbers for plates assigned to motor vehicles, trailers, semitrailers, or pole trailers of each of the counties in the state and those of the municipalities and special districts that obtain plates within each county must begin with number one and be numbered consecutively. Because these standard license plates are of a permanent nature, they are subject to replacement by the department only when the physical condition of the license plates requires it and a year number may not be displayed on the plates.

(7) For the purpose of this chapter, the several counties of the state are assigned numbers as follows: Silver Bow, 1; Cascade, 2; Yellowstone, 3; Missoula, 4; Lewis and Clark, 5; Gallatin, 6; Flathead, 7; Fergus, 8; Powder River, 9; Carbon, 10; Phillips, 11; Hill, 12; Ravalli, 13; Custer, 14; Lake, 15; Dawson, 16; Roosevelt, 17; Beaverhead, 18; Chouteau, 19; Valley, 20; Toole, 21; Big Horn, 22; Musselshell, 23; Blaine, 24; Madison, 25; Pondera, 26; Richland, 27; Powell, 28; Rosebud, 29; Deer Lodge, 30; Teton, 31; Stillwater, 32; Treasure, 33; Sheridan, 34; Sanders, 35; Judith Basin, 36; Daniels, 37; Glacier, 38; Fallon, 39; Sweet Grass, 40; McCone, 41; Carter, 42; Broadwater, 43; Wheatland, 44; Prairie, 45; Granite, 46; Meagher, 47; Liberty, 48; Park, 49; Garfield, 50; Jefferson, 51; Wibaux, 52; Golden Valley, 53; Mineral, 54; Petroleum, 55;

Lincoln, 56. Any new counties must be assigned numbers by the department as they are formed, beginning with the number 57.

(8) Each type of special license plate approved by the legislature, except collegiate license plates authorized in 61-3-463 and generic specialty license plates authorized in 61-3-472 through 61-3-481, must be a separate series of plates, numbered as provided in subsection (5), except that the county number must be replaced by a design that distinguishes each separate plate series. Unless otherwise specifically stated in this section, the special plates are subject to the same rules and laws as govern the issuance of standard license plates, must be placed or mounted on a motor vehicle, trailer, semitrailer, or pole trailer owned by the person who is eligible to receive them, with the registration decal affixed to the rear license plate of the motor vehicle, trailer, semitrailer, or pole trailer, and must be removed upon sale or other disposition of the motor vehicle, trailer, semitrailer, or pole trailer.

(9) (a) A Montana resident who is eligible to receive a special parking permit under 49-4-301 may and a person with a low-speed restricted driver's license operating a low-speed electric vehicle or golf cart as provided in 61-5-122 must, upon written application on a form prescribed by the department, be issued a special license plate with a design or decal bearing a representation of a wheelchair as the symbol of a person with a disability.

(b) If the motor vehicle to which the license plate is attached is permanently registered, the owner of the motor vehicle shall provide, upon request of a person authorized to enforce special parking laws or ordinances in this or any state, evidence of continued eligibility to use the license plate in the form of a valid special parking permit issued to or renewed by the vehicle owner under 49-4-304 and 49-4-305.

(c) A person with a permanent condition, as provided in 49-4-301(2)(b), who has been issued a special license plate upon written application, as provided in this subsection (9), is not required to reapply upon reregistration of the motor vehicle.

(10) The provisions of this section do not apply to a motor vehicle, trailer, semitrailer, or pole trailer that is registered as part of a fleet, as defined in 61-3-712, and that is subject to the provisions of 61-3-711 through 61-3-733."

**Section 3.** Section 61-3-337, MCA, is amended to read:

**"61-3-337. Permanently registered motor homes — plate restriction.** The following series of license plates may not be used for purposes of permanent registration of a motor home:

- (1) Montana national guard license plates issued under 61-3-458(2)(b);
- (2) reserve armed forces license plates issued under 61-3-458(2)(c); *and*
- (3) amateur radio operator license plates issued under 61-3-422;
- ~~(4) collegiate license plates issued under 61-3-465; and~~
- ~~(5) generic specialty license plates issued under 61-3-479."~~

**Section 4.** Section 61-3-562, MCA, is amended to read:

**"61-3-562. Permanent registration — transfer of light vehicle ownership — rules.** (1) (a) The owner of a light vehicle 11 years old or older subject to the registration fee, as provided in 61-3-321(2), may permanently register the light vehicle upon payment of a \$87.50 registration fee, the applicable registration and license fees under 61-3-412, if applicable, the administrative fee and the annual one-time-only donation fee for a generic specialty license plate under 61-3-480 *or collegiate license plates under*

61-3-465, and an amount equal to five times the local option motor vehicle tax or flat fee on vehicles under 61-3-537 and, as applicable, either:

(i) (A) the original fee and four times the renewal fee for personalized plates; or

(B) five times the renewal fees for personalized plates; or

(ii) if a new set of license plates is not being issued, an insurance verification fee of \$5, which must be deposited in the account established under 61-6-158.

(b) The following series of license plates may not be used for purposes of permanent registration of a light vehicle:

(i) Montana national guard license plates issued under 61-3-458(2)(b);

(ii) reserve armed forces license plates issued under 61-3-458(2)(c); and

(iii) amateur radio operator license plates issued under 61-3-422; and

(iv) ~~collegiate license plates issued under 61-3-465.~~

(2) In addition to the fees described in subsection (1), an owner of a truck with a manufacturer's rated capacity of 1 ton or less that is permanently registered shall pay five times the applicable fees imposed under 61-10-201.

(3) The owner of a motor vehicle that is permanently registered under this section is not subject to additional registration fees or to other motor vehicle registration fees described in this section for as long as the owner owns the vehicle.

(4) The county treasurer shall once each month remit to the state the amounts collected under this section, other than the local option motor vehicle tax or flat fee, for the purposes of 61-3-321(2) and 61-10-201. The county treasurer shall retain the local option motor vehicle tax or flat fee.

(5) (a) The permanent registration of a light vehicle allowed by this section may not be transferred to a new owner. If the light vehicle is transferred to a new owner, the department shall cancel the light vehicle's permanent registration.

(b) Upon transfer of a light vehicle registered under this section to a new owner, the new owner shall apply for a certificate of title under 61-3-201 and 61-3-216 and register the light vehicle under 61-3-303."

**Section 5.** Section 61-8-303, MCA, is amended to read:

**"61-8-303. Speed restrictions.** (1) Except as provided in 61-8-309, 61-8-310, and 61-8-312, the speed limit for vehicles traveling:

(a) on a federal-aid interstate highway outside an urbanized area of 50,000 population or more is 75 miles an hour at all times and the speed limit for vehicles traveling on federal-aid interstate highways within an urbanized area of 50,000 population or more is 65 miles an hour at all times;

(b) on any other public highway of this state is 70 miles an hour during the daytime and 65 miles an hour during the nighttime;

(c) in an urban district is 25 miles an hour.

(2) A vehicle subject to the speed limits imposed in subsection (1) traveling on a two-lane road may exceed the speed limits imposed in subsection (1) by 10 miles an hour in order to overtake and pass a vehicle and return safely to the right-hand lane.

(3) Subject to the maximum speed limits set forth in subsection (1), a person shall operate a vehicle in a careful and prudent manner and at a reduced rate of speed no greater than is reasonable and prudent under the conditions existing at the point of operation, taking into account the amount and character of traffic, visibility, weather, and roadway conditions.

(4) Except when a special hazard exists that requires lower speed for compliance with subsection (3), the limits specified in ~~61-8-312 and in this section or established as authorized in 61-8-309 through 61-8-311 and 61-8-313~~ are the maximum lawful speeds allowed.

(5) "Daytime" means from one-half hour before sunrise to one-half hour after sunset. "Nighttime" means at any other hour.

(6) The speed limits set forth in this section may be altered by the transportation commission or a local authority as authorized in 61-8-309, 61-8-310, 61-8-313, and 61-8-314."

**Section 6.** Section 61-8-309, MCA, is amended to read:

**"61-8-309. Establishment of special speed zones.** (1) (a) If the commission determines upon the basis of an engineering and traffic investigation that a speed limit set by 61-8-303 is greater or less than is reasonable or safe under the conditions found to exist at an intersection, curve, or dangerous location or on a segment of a highway less than 50 miles in length under its jurisdiction, the commission may set a reasonable and safe special speed limit at that location.

(b) If a local authority requests the department of transportation or an engineer, as provided in subsection (1)(c)(i), to conduct an engineering and traffic investigation based on the belief that a speed limit on a highway under the jurisdiction of the department of transportation is greater than is reasonable or safe, the commission may not increase the speed limit under consideration as a result of the investigation.

(c) (i) A local authority may request at its own expense that an engineering and traffic investigation be completed by a licensed professional engineer selected from a list compiled and approved by a committee as provided in subsection (1)(c)(ii).

(ii) A committee containing two department of transportation staff appointed by the director and two representatives of associations whose membership comprises cities, towns, and counties, as authorized by 7-5-2141 and 7-5-4141, shall review credentials submitted by licensed professional engineers and shall determine who appears on the list of individuals authorized to conduct engineering and traffic investigations for local governments. The list must be updated every 2 years.

(iii) Upon completion of an engineering and traffic investigation conducted for a local government, the department of transportation shall submit a report to the commission with findings and recommendations. The commission shall decide on an appropriate speed limit based on the traffic investigation within 120 days from the date the investigation is submitted to the department of transportation.

(d) A local authority may request a temporary special reduced or increased speed zone for a route or route segment that is under consideration for a reduced or increased speed limit under subsection (1)(a), (1)(b), or (1)(c). If a local authority makes multiple requests for temporary special reduced or increased speed zones, the local authority shall prioritize the requests. The department of transportation shall conduct a preliminary visual and engineering review of a route or a route segment for which a temporary special speed zone is requested. The reviewing party must include a representative of the local authority. Upon completion of the preliminary review, if the department of transportation concurs with the local authority that a temporary special reduced or increased speed limit is warranted, a temporary special reduced or increased speed zone

may be established upon formal approval by the commission. The temporary special reduced or increased speed limit remains in effect until a complete traffic and engineering study has been done on the route or route segment and the commission has made a determination on changing the speed limit.

(2) The department of transportation shall erect and maintain appropriate signs giving notice of special limits. When the signs are erected, the limits are effective for those zones at all times or at other times that the commission sets.

(3) The authority of the commission under this section includes the authority to set reduced nighttime speed limits on curves and other dangerous locations.

(4) This section does not authorize the commission to set a statewide speed limit.

(5) *The violation of a speed limit established under this section is a misdemeanor offense and is punishable as provided in 61-8-711.*

**Section 7.** Section 61-8-310, MCA, is amended to read:

**“61-8-310. When local authorities may and shall alter limits or establish or alter area of school zone.** (1) If a local authority in its jurisdiction determines on the basis of an engineering and traffic investigation that the speed permitted under 61-8-303 and 61-8-309 through 61-8-313 is greater or less than is reasonable and safe under the conditions found to exist upon a highway or part of a highway, the local authority may set a reasonable and safe limit that:

(a) decreases the limit at an intersection;

(b) increases the limit within an urban district, but not to more than 65 miles an hour during the nighttime;

(c) decreases the limit outside an urban district, but not to less than 35 miles an hour on a paved road or less than 25 miles an hour on an unpaved road; or

(d) decreases the limit in a school zone or in an area near a senior citizen center, as defined in 23-5-112, or a designated crosswalk that is close to a school or a senior citizen center to not less than 80%, rounded down to the nearest whole number evenly divisible by 5, of the limit that would be set on the basis of an engineering and traffic investigation, but not less than 15 miles an hour. If warranted by an engineering and traffic investigation, a local authority may adopt variable speed limits to adapt to traffic conditions by time of day, provided that the variable limits comply with the provisions of 61-8-206.

(2) A board of county commissioners may set limits, as provided in subsection (1)(c), without an engineering and traffic investigation on a county road.

(3) A local authority in its jurisdiction may determine the proper speed for all arterial streets and shall set a reasonable and safe limit on arterial streets that may be greater or less than the speed permitted under 61-8-303 for an urban district.

(4) (a) An altered limit established as authorized under this section is effective at all times or at other times determined by the authority when appropriate signs giving notice of the altered limit are erected upon the highway.

(b) If a local authority decreases a speed limit in a school zone, the local authority shall erect signs conforming with the manual adopted by the department of transportation under 61-8-202 giving notice that the school zone



has been entered, of the altered speed limit and the penalty provided in 61-8-726, and that the school zone has ended.

(5) Except as provided in subsection (1)(d), the commission has exclusive jurisdiction to set special speed limits on all federal-aid highways or extensions of federal-aid highways in all municipalities or urban areas. The commission shall set these limits in accordance with 61-8-309.

(6) A local authority establishing or altering the area of a school zone shall consult with the department of transportation and the commission if the school zone includes a state highway or a federal-aid highway or extension of a federal-aid highway.

(7) A local authority shall consult with district officials for a school when:

- (a) establishing or altering the area of a school zone near the school; or
- (b) setting a speed limit pursuant to subsection (1)(d) in a school zone near the school.

(8) A speed limit set on an unpaved road under subsection (1)(c) must be the same for all types of motor vehicles that may be operated on the road.

(9) *The violation of a speed limit established under subsections (1)(a) through (1)(c) is a misdemeanor offense and is punishable as provided in 61-8-711. The violation of a speed limit established under subsection (1)(d) is a misdemeanor offense and is punishable as provided in 61-8-726.*

**Section 8.** Section 61-8-725, MCA, is amended to read:

**“61-8-725. Penalty for violation of speed limits — no record for certain violations.** (1) A person violating the speed limit imposed pursuant to 61-8-303 shall be fined in accordance with the following schedule:

Amount of Fine	MPH in Excess of Speed Limit
\$ 20	1 - 10 (daytime)
20	1 - 10 (nighttime)
40	11 - 20
70	21 - 30
100	31+

(2) A violation of a speed limit imposed pursuant to 61-8-303 is not a criminal offense within the meaning of 3-1-317, 45-2-101, 46-18-236, 61-8-104, and 61-8-711 and, except as provided in subsection (4), may not be recorded or charged against a driver's record, and an insurance company may not hold a violation of a speed limit against the insured or increase premiums because of the violation if the speed limit is exceeded by no more than:

- (a) 10 miles an hour during the daytime; or
- (b) 5 miles an hour during the nighttime.

(3) The surcharge provided for in 3-1-317 may not be imposed for a violation of 61-8-303.

(4) The recordkeeping restrictions provided in subsection (2) with respect to a person's driving record do not apply to a speed limit violation or conviction that was committed by:

(a) a Montana resident in another state whose violation or conviction was reported to the department by a court or the licensing authority in the state in which the violation occurred; or

(b) a person who holds a commercial driver's license regardless of whether or not the violation occurred while the person was operating a commercial motor vehicle.



(5) *This section does not apply to the violation of a special speed zone established under 61-8-309 or 61-8-310.*

**Section 9. Repealer.** The following section of the Montana Code Annotated is repealed:

61-3-424. List of amateur radio operator license plates — distribution to public officials.

**Section 10. Effective dates.** (1) Except as provided in subsection (2), [this act] is effective on passage and approval.

(2) [Sections 1 and 2] are effective October 1, 2013.

Approved May 6, 2013

## CHAPTER NO. 394

[HB 603]

AN ACT PROVIDING THAT A GOVERNMENT ENTITY MUST OBTAIN A SEARCH WARRANT PRIOR TO OBTAINING LOCATION INFORMATION OF AN ELECTRONIC DEVICE; AND PROVIDING EXCEPTIONS, DEFINITIONS, AND A CIVIL PENALTY.

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

**Section 1. Location information privacy — civil penalty.** (1) Except as provided in subsection (2), a government entity may not obtain the location information of an electronic device without a search warrant issued by a duly authorized court.

(2) A government entity may obtain location information of an electronic device under any of the following circumstances:

- (a) the device is reported stolen by the owner;
- (b) in order to respond to the user's call for emergency services;
- (c) with the informed, affirmative consent of the owner or user of the electronic device; or
- (d) there exists a possible life-threatening situation.

(3) Any evidence obtained in violation of this section is not admissible in a civil, criminal, or administrative proceeding and may not be used in an affidavit of probable cause in an effort to obtain a search warrant.

(4) A violation of this section will result in a civil fine not to exceed \$50.

**Section 2. Definitions.** As used in [section 1] and this section, the following definitions apply:

(1) "Electronic communication service" means a service that provides to users of the service the ability to send or receive wire or electronic communications.

(2) "Electronic device" means a device that enables access to or use of an electronic communication service, remote computing service, or location information service.

(3) "Government entity" means a state or local agency, including but not limited to a law enforcement entity or any other investigative entity, agency, department, division, bureau, board, or commission or an individual acting or purporting to act for or on behalf of a state or local agency.

(4) "Location information" means information concerning the location of an electronic device that, in whole or in part, is generated or derived from or obtained by the operation of an electronic device.

(5) "Location information service" means the provision of a global positioning service or other mapping, locational, or directional information service.

(6) "Remote computing service" means the provision of computer storage or processing services by means of an electronic communications system.

**Section 3. Codification instruction.** [Sections 1 and 2] are intended to be codified as an integral part of Title 46, chapter 5, and the provisions of Title 46, chapter 5, apply to [sections 1 and 2].

Approved May 6, 2013

## CHAPTER NO. 395

[HB 609]

AN ACT PROVIDING FOR AN INTERIM STUDY OF HUNTING AND FISHING LICENSING; PROVIDING AN APPROPRIATION; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A TERMINATION DATE.

WHEREAS, the Montana Legislature establishes hunting and fishing license fees; and

WHEREAS, hunting and fishing license fees provide approximately \$34 million annually to fund most of the operations of the department of fish, wildlife, and parks; and

WHEREAS, hunting and fishing license fees are historically set at a stable level for 8 to 10 years, when revenue exceeds expenses and creates a surplus in the general license account; and

WHEREAS, revenue from hunting and fishing licenses no longer matches expenses, and the general license account has declined since fiscal year 2010; and

WHEREAS, the last major adjustment to hunting and fishing license fees was in 2005; and

WHEREAS, reduced cost hunting and fishing licenses for certain population groups result in approximately \$4 million less in general license account revenue; and

WHEREAS, the sale of hunting and fishing licenses has declined in recent years, most notably in 2011; and

WHEREAS, the general license account may be close to a critical point, and hunting and fishing license fee increases may be necessary to fund current operations.

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

**Section 1. Interim study — evaluation of hunting and fishing licensing — reporting.** (1) The environmental quality council shall conduct a study of Montana's hunting and fishing license statutes and fees, including:

(a) the appropriate roles of hunting and fishing license buyers and other fish and wildlife users in funding fish and wildlife management;

(b) options for improving the structural balance between revenue and expenditures for fish and wildlife management;

(c) options for changing and simplifying Montana's hunting and fishing license structure and statutes;

(d) options to improve services and better meet the needs of license buyers;

(e) an assessment of the impact of free and reduced cost hunting and fishing licenses on the funding for fish and wildlife management and whether any of these licenses should be modified; and

(f) a comparison of license structures and fees in other states.

(2) The committee shall prepare a final report of its findings and conclusions and of its recommendations and shall prepare draft legislation whenever appropriate.

**Section 2. Appropriation.** There is appropriated \$1,000 from the general fund for the biennium beginning July 1, 2013, to the legislative services division for use by the environmental quality council to complete the study required by [section 1].

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

**Section 4. Termination.** [This act] terminates December 31, 2014.

Approved May 6, 2013

## CHAPTER NO. 396

[SB 96]

AN ACT REDUCING THE TAX RATE FOR A PORTION OF THE TAXABLE MARKET VALUE OF CLASS EIGHT BUSINESS EQUIPMENT OWNED BY A TAXPAYER; INCREASING THE CLASS EIGHT BUSINESS EQUIPMENT TAX EXEMPTION; PROVIDING THAT THE EXEMPTION APPLIES TO CLASS EIGHT PROPERTY THAT EXCEEDS THE EXEMPTION AMOUNT; CHANGING CERTAIN OTHER PROVISIONS RELATING TO TAXATION OF CLASS EIGHT PROPERTY; REMOVING A CONTINGENCY REGARDING FUTURE TAX REDUCTIONS BASED ON INCREASES IN STATE COLLECTIONS OF INDIVIDUAL INCOME TAX AND CORPORATION LICENSE TAX; PROVIDING A PARTIAL REIMBURSEMENT TO LOCAL GOVERNMENTS AND TAX INCREMENT FINANCING DISTRICTS UNDER THE ENTITLEMENT SHARE PAYMENT, TO SCHOOL DISTRICTS THROUGH THE BLOCK GRANT PROGRAM, TO COUNTY SCHOOL RETIREMENT AND COUNTY TRANSPORTATION REIMBURSEMENT, AND TO THE MONTANA UNIVERSITY SYSTEM THROUGH SUPPORT OF PUBLIC EDUCATION INSTITUTIONS FOR THE LOSS OF CLASS EIGHT AND CLASS TWELVE PROPERTY TAX REVENUE; PROVIDING CONTINGENT INCREASES AND DECREASES TO APPROPRIATIONS; AMENDING SECTIONS 15-1-123, 15-6-138, 15-6-141, AND 15-23-101, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.

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

**Section 1.** Section 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~~ 15-6-138(3), the increased exemption amount in 15-6-138(4), and for the effective tax rate reductions on property under 15-6-145 because of the rate reductions required by the ~~amendment~~ amendments of 15-6-138 in section 2, Chapter 411, Laws of 2011, and [section 2 of Senate Bill

*No. 96], 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 of House Bill No. 96], the department shall, by June 1, 2012, and for each calendar year that the tax rate is adjusted under 15-6-138(4) for the fiscal years ending June 30, 2014, and June 30, 2015, estimate for 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 of Senate Bill No. 96] 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 of Senate Bill No. 96]. 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) (a) The department shall distribute the ~~reimbursement~~ *reimbursements calculated in subsection (1)* to local governments with the entitlement share payments under 15-1-121(7) for ~~fiscal year 2012 and for all other~~ *the fiscal years in which rate reductions occur year ending June 30, 2015*. Local government reimbursements for subsequent years are made pursuant to the entitlement share recomputation as provided in 15-1-121(6).

(b) For ~~fiscal year 2012 and all other~~ *the fiscal years in which rate reductions occur year ending June 30, 2014*, the department shall determine from the amount calculated under subsection (1) the amount that is attributable to personal property taxes that are not a lien on real property for each local government. By ~~August 1 following each of those fiscal years~~ *June 15, 2014*, the department shall distribute the amount determined under this subsection (2)(b) for local governments as provided in 15-1-121(6)(a).

(3) (a) The office of public instruction shall distribute the ~~reimbursement~~ *reimbursements calculated in subsection (1)* to school districts with the block grants pursuant to 20-9-630 for ~~fiscal year 2012 and all other~~ *the fiscal years in which rate reductions occur year ending June 30, 2015*. School district reimbursements for subsequent fiscal years are made pursuant to 20-9-630.

(b) For ~~fiscal year 2012 and all other~~ *the fiscal years in which rate reductions occur year ending June 30, 2014*, the department shall determine from the amount calculated under subsection (1) the amount that is attributable to personal property taxes that are not a lien on real property for each school district. By ~~November 30, 2014 following each of those fiscal years~~, the office of public instruction shall distribute the amount determined under this subsection (3)(b) in the same manner as the block grant is distributed by fund under 20-9-630.

(4) (a) For ~~each~~ *the fiscal year ending June 30, 2015 beginning after fiscal year 2012 and all other fiscal years in which rate reductions occur*, 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.

~~(b) For fiscal year 2012 and all other~~ *the fiscal years in which rate reductions occur year ending June 30, 2014*, the department shall determine from the amount calculated under subsection (1) the amount that is attributable to personal property taxes that are not a lien on real property for each tax increment financing district. ~~By August 1 following each of those fiscal years~~ *June 15, 2014*, the department shall distribute the amount determined under this subsection (4)(b) to each tax increment financing district as provided in 15-1-121(8) and to any other tax increment financing district that is entitled to a reimbursement under this section.

~~(5) (a) For fiscal year 2012 and all other~~ *the fiscal years in which rate reductions occur year ending June 30, 2015*, 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) For fiscal year 2012 and all other~~ *the fiscal years in which rate reductions occur year ending June 30, 2014*, the department shall determine from the amount calculated under subsection (1) the amount that is attributable to personal property taxes that are not a lien on real property for the 6-mill university levy. ~~By August 1 following each of those fiscal years~~ *June 15, 2014*, the department of administration shall transfer the amount determined under this subsection (5)(b) from the general fund to the state special revenue fund for the support of the Montana university system as provided in 15-10-108.

(c) Beginning in fiscal year 2013, the department of administration shall transfer the amounts 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) (a) The office of public instruction shall distribute the ~~reimbursement~~ *reimbursements calculated in subsection (1)* to the countywide retirement fund under 20-9-501 ~~for fiscal year 2012 and all other~~ *the fiscal years in which rate reductions occur year ending June 30, 2015*. One-half of the amount must be distributed in November and the remainder in May.

~~(b) For fiscal year 2012 and all other~~ *the fiscal years in which rate reductions occur year ending June 30, 2014*, the department shall determine from the amount calculated under subsection (1) the amount that is attributable to personal property taxes that are not a lien on real property in the county. ~~By November 30, 2014 following each of those fiscal years~~, the office of public instruction shall distribute the amount determined under this subsection (6)(b) to the countywide retirement fund.

(7) (a) The office of public instruction shall distribute the ~~reimbursement~~ *reimbursements calculated in subsection (1)* to the county transportation reimbursement under 20-10-146 ~~for fiscal year 2012 and all other~~ *the fiscal years in which rate reductions occur year ending June 30, 2015*. The reimbursement must be made at the same time as countywide school transportation block grants are distributed under 20-9-632.

~~(b) For fiscal year 2012 and all other~~ *the fiscal years in which rate reductions occur year ending June 30, 2014*, the department shall determine from the amount calculated under subsection (1) the amount that is attributable to personal property taxes that are not a lien on real property in the county. ~~By November 30, 2014 following each of those fiscal years~~, the office of public instruction shall distribute the amount determined under this subsection (7)(b) to the county transportation reimbursement.”

**Section 2.** Section 15-6-138, MCA, is amended to read:

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

(1) Class eight property includes:

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

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

(c) for oil and gas production, all:

(i) machinery;

(ii) fixtures;

(iii) equipment, including flow lines and gathering lines, pumping units, oil field storage tanks, water storage tanks, water disposal injection pumps, gas compressor and dehydrator units, communication towers, gas metering shacks, treaters, gas separators, water flood units, and gas boosters, together with equipment that is skidable, portable, or movable;

(iv) tools that are not exempt under 15-6-219; and

(v) supplies except those included in class five;

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

(e) all goods and equipment that are intended for rent or lease, except goods and equipment that are specifically included and taxed in another class or that are rented under a purchase incentive rental program as defined in 15-6-202(4);

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

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

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

(i) citizens' band radios and mobile telephones;

(j) radio and television broadcasting and transmitting equipment;

(k) cable television systems;

(l) coal and ore haulers;

(m) theater projectors and sound equipment; and

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

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

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

(b) “Commercial establishment” includes any hotel, motel, office, petroleum marketing station, or service, wholesale, retail, or food-handling business.

(c) “Flow lines and gathering lines” means pipelines used to transport all or part of the oil or gas production from an oil or gas well to an interconnection with a common carrier pipeline as defined in 69-13-101, a pipeline carrier as defined in 49 U.S.C. 15102(2), or a rate-regulated natural gas transmission or oil transmission pipeline regulated by the public service commission or the federal energy regulatory commission.

(3) Except as provided in 15-24-1402, *and* 15-24-2102, ~~and subsection (4) of this section~~ class eight property is taxed at:



- (a) as determined pursuant to subsection (4):
  - (i) ~~for the first \$2 million of taxable market value, 2%; or~~
  - (ii) ~~for the first \$3 \$6 million of taxable market value in excess of the exemption amount in subsection (4), 1.5%; and~~
- (b) ~~for all taxable market value in excess of the applicable amount of taxable market value in subsection (3)(a) \$6 million, 3%.~~

~~(4) (a) The adjusted taxable market value and rate in subsection (3)(a)(i) apply for class eight property unless in any year beginning with fiscal year 2013 the revenue collected from individual income tax and corporation income tax exceeds the revenue collected from individual income tax and corporation income tax in the previous fiscal year by more than 4%. In that case, for tax years beginning after the next December 31, the taxable market value and rate in subsection (3)(a)(ii) apply.~~

~~(b) For the purpose of making the determination required in subsection (4)(a), the department of administration shall certify to the secretary of state, by August 1 of each year in which class eight property is not taxed pursuant to subsection (3)(a)(ii), the amount of unaudited individual income tax and corporation income tax revenue in the prior fiscal year as recorded when that fiscal year statewide accounting, budgeting, and human resource system records are closed in July.~~

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

~~(4) The first \$100,000 in market value of class eight property of a person or business entity is exempt from taxation.~~

~~(6)(5) The gas gathering facilities of a stand-alone gas gathering company providing gas gathering services to third parties on a contractual basis, owning more than 500 miles of gas gathering lines in Montana, and centrally assessed in tax years prior to 2009 must be treated as a natural gas transmission pipeline subject to central assessment under 15-23-101. For purposes of this subsection, the gas gathering line ownership of all affiliated companies, as defined in section 1504(a) of the Internal Revenue Code, 26 U.S.C. 1504(a), must be aggregated for purposes of determining the 500-mile threshold.”~~

**Section 3.** Section 15-6-141, MCA, is amended to read:

**“15-6-141. Class nine property — description — taxable percentage.**

(1) Class nine property includes:

(a) centrally assessed allocations of an electric power company or centrally assessed allocations of an electric power company that owns or operates transmission or distribution facilities or both;

(b) if congress passes legislation that allows the state to tax property owned by an agency created by congress to transmit or distribute electrical energy, allocations of properties constructed, owned, or operated by a public agency created by congress to transmit or distribute electrical energy produced at privately owned generating facilities, not including rural electric cooperatives;

(c) rural electric cooperatives' property, except wind generation facilities, biomass generation facilities, and energy storage facilities classified under 15-6-157 and property used for headquarters, office, shop, or other similar facilities, used for the sole purpose of serving customers representing less than 95% of the electric consumers located within the incorporated limits of a city or town of more than 3,500 persons in which a centrally assessed electric power company also owns property or serving an incorporated municipality with a



population that is greater than 3,500 persons formerly served by a public utility that after January 1, 1998, received service from the facilities of an electric cooperative;

(d) allocations for centrally assessed natural gas distribution utilities, rate-regulated natural gas transmission or oil transmission pipelines regulated by either the public service commission or the federal energy regulatory commission, a common carrier pipeline as defined in 69-13-101, a pipeline carrier as defined in 49 U.S.C. 15102(2), or the gas gathering facilities specified in 15-6-138(6)(5); and

(e) centrally assessed companies' allocations except:

(i) electrical generation facilities classified under 15-6-156;

(ii) all property classified under 15-6-157;

(iii) all property classified under 15-6-158 and 15-6-159;

(iv) property owned by cooperative rural electric and cooperative rural telephone associations and classified under 15-6-135;

(v) property owned by organizations providing telephone communications to rural areas and classified under 15-6-135;

(vi) railroad transportation property included in 15-6-145;

(vii) airline transportation property included in 15-6-145; and

(viii) telecommunications property included in 15-6-156.

(2) Class nine property is taxed at 12% of market value."

**Section 4.** Section 15-23-101, MCA, is amended to read:

**"15-23-101. Properties centrally assessed.** The department shall centrally assess each year:

(1) the railroad transportation property of railroads and railroad car companies operating in more than one county in the state or more than one state;

(2) property owned by a corporation or other person operating a single and continuous property operated in more than one county or more than one state including but not limited to:

(a) telegraph, telephone, microwave, and electric power or transmission lines;

(b) rate-regulated natural gas transmission or oil transmission pipelines regulated by the public service commission or the federal energy regulatory commission;

(c) common carrier pipelines as defined in 69-13-101 or a pipeline carrier as defined in 49 U.S.C. 15102(2);

(d) natural gas distribution utilities;

(e) the gas gathering facilities specified in 15-6-138(6)(5);

(f) canals, ditches, flumes, or like properties; and

(g) if congress passes legislation that allows the state to tax property owned by an agency created by congress to transmit or distribute electrical energy, property constructed, owned, or operated by a public agency created by congress to transmit or distribute electrical energy produced at privately owned generating facilities, not including rural electric cooperatives;

(3) all property of scheduled airlines;

(4) the net proceeds of mines, except bentonite mines;

(5) the gross proceeds of coal mines; and

(6) property described in subsections (1) and (2) that is subject to the provisions of Title 15, chapter 24, part 12.”

**Section 5. Notification to tribal governments.** The secretary of state shall send a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell Chippewa tribe.

**Section 6. Coordination instruction.** If both House Bill No. 472 and [this act] are passed and approved, then House Bill No. 472 is void.

**Section 7. Coordination instruction.** If both House Bill No. 2 and [this act] are passed and approved, then:

(1) the general fund appropriation for BASE Aid in House Bill No. 2 of \$580,680,837 is decreased by \$3,053,710 in fiscal year 2015; and

(2) the general fund appropriation for Reimbursement Block Grants in House Bill No. 2 of \$66,334,425 is increased by \$7,931,716 in fiscal year 2015.

**Section 8. Saving clause.** [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

**Section 9. Effective date.** [This act] is effective on passage and approval.

**Section 10. Applicability.** [This act] applies to property tax years beginning after December 31, 2013.

Approved May 6, 2013

## CHAPTER NO. 397

[SB 101]

AN ACT REVISING THE QUALIFICATIONS TO OBTAIN A PERMIT TO HUNT FROM A VEHICLE; AMENDING SECTION 87-2-803, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE.

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

**Section 1.** Section 87-2-803, MCA, is amended to read:

**“87-2-803. Persons with disabilities — service members — definitions.** (1) Persons with disabilities are entitled to fish and to hunt game birds, not including turkeys, with only a conservation license if they are residents of Montana not residing in an institution and are certified as disabled as prescribed by departmental rule. A person who has purchased a conservation license and a resident fishing license or game bird license for a particular license year and who is subsequently certified as disabled is entitled to a refund for the fishing license or game bird license previously purchased for that license year. A person who is certified as disabled pursuant to subsection (3) and who was issued a permit to hunt from a vehicle for license year ~~2000~~ 2014 or a subsequent license year is automatically entitled to a permit to hunt from a vehicle for subsequent license years if the criteria for obtaining a permit does not change.

(2) A resident of Montana who is certified as disabled by the department and who is not residing in an institution may purchase a Class A-3 deer A tag for \$6.50 and a Class A-5 elk tag for \$8. A person who has purchased a conservation license and a resident deer license or resident elk license for a particular license year and who is subsequently certified as disabled is entitled to a refund for the deer license or elk license previously purchased and reissuance of the license for that license year at the rate established in this subsection.

(3) A person may be certified as disabled by the department and issued a permit to hunt from a vehicle, on a form prescribed by the department, if the person ~~establishes one or more of the disabilities pursuant to~~ *meets the requirements of* subsection (9).

(4) (a) A person with a disability carrying a permit to hunt from a vehicle, referred to in this subsection (4) as a permitholder, may hunt by shooting a firearm from:

(i) the shoulder, berm, or barrow pit right-of-way of a public highway, as defined in 61-1-101, except a state or federal highway;

(ii) within a self-propelled or drawn vehicle that is parked on a shoulder, berm, or barrow pit right-of-way in a manner that will not impede traffic or endanger motorists or that is parked in an area, not a public highway, where hunting is permitted; or

(iii) an off-highway vehicle or snowmobile, as defined in 61-1-101, in any area where hunting is permitted and that is open to motorized use, unless otherwise prohibited by law, as long as the off-highway vehicle or snowmobile is marked as described in subsection (4)(d) of this section.

(b) This subsection (4) does not allow a permitholder to shoot across the roadway of any public highway or to hunt on private property without permission of the landowner.

(c) A permitholder must have a companion to assist in immediately dressing any killed game animal. The companion may also assist the permitholder by hunting a game animal that has been wounded by the permitholder when the permitholder is unable to pursue and kill the wounded game animal.

(d) Any vehicle from which a permitholder is hunting must be conspicuously marked with an orange-colored international symbol of persons with disabilities on the front, rear, and each side of the vehicle, or as prescribed by the department.

(5) A veteran who meets the qualifications in subsection (9) as a result of a combat-connected injury may apply at a fish, wildlife, and parks office for a regular Class A-3 deer A tag, a Class A-4 deer B tag, a Class B-7 deer A tag, a Class B-8 deer B tag, and a special antelope license at one-half the license fee. Fifty licenses of each license type must be made available annually. Licenses issued to veterans under this part do not count against the number of special antelope licenses reserved for people with permanent disabilities, as provided in 87-2-706.

(6) (a) A resident of Montana who is certified by the department as experiencing blindness, as defined in 53-7-301, may be issued a lifetime fishing license for the blind upon payment of a one-time fee of \$10. The license is valid for the lifetime of the blind individual and allows the licensee to fish as authorized by department rule. An applicant for a license under this subsection need not obtain a wildlife conservation license as a prerequisite to licensure.

(b) A person who is certified by the department as experiencing blindness, as defined in 53-7-301, may be issued regular resident deer and elk licenses, in the manner provided in subsection (2) of this section, and must be accompanied by a companion, as provided in subsection (4)(c) of this section.

(7) The department shall adopt rules to establish the qualifications that a person must meet to be a companion and may adopt rules to establish when a companion can be a designated shooter for a disabled person.

(8) As used in this section, "disabled person", "person with a disability", or "disabled" means or refers to a person experiencing a condition medically

determined to be permanent and substantial and resulting in significant impairment of the person's functional ability.

(9) (a) A person is ~~entitled to~~ *qualifies* for a permit to hunt from a vehicle if the person:

~~(a) is certified by a licensed physician, a licensed chiropractor, an advanced practice registered nurse, or a licensed physician assistant to be dependent on an oxygen device or dependent on a wheelchair, crutch, or cane for mobility;~~

~~(b) is an amputee above the wrist or ankle; or~~

~~(c) is certified by a licensed physician, a licensed chiropractor, an advanced practice registered nurse, or a licensed physician assistant to be unable to walk, unassisted, 600 yards over rough and broken ground while carrying 15 pounds within 1 hour and to be unable to handle and maneuver up to 25 pounds. *is certified by a licensed physician, a licensed chiropractor, a licensed physician assistant, or an advanced practice registered nurse to be nonambulatory, to have substantially impaired mobility, or to have a documented genetic condition that limits the person's ability to walk or carry significant weight for long distances.*~~

~~(b) For the purposes of this subsection (9), the following definitions apply:~~

~~(i) "Advanced practice registered nurse" means a registered professional nurse who has completed educational requirements related to the nurse's specific practice role, as specified by the board of nursing pursuant to 37-8-202, in addition to completing basic nursing education.~~

~~(ii) "Chiropractor" means a person who has a valid license to practice chiropractic in this state pursuant to Title 37, chapter 12, part 3.~~

~~(iii) "Documented genetic condition" means a diagnosis derived from genetic testing and confirmed by a licensed physician.~~

~~(iv) "Nonambulatory" means permanently, physically reliant on a wheelchair or a similar compensatory appliance or device for mobility.~~

~~(v) "Physician" means a person who holds a degree as a doctor of medicine or doctor of osteopathy and who has a valid license to practice medicine or osteopathic medicine in this state.~~

~~(vi) "Physician assistant" has the meaning provided in 37-20-401.~~

~~(vii) "Substantially impaired mobility" means virtual inability to move on foot due to permanent physical reliance on crutches, canes, prosthetic appliances, or similar compensatory appliances or devices.~~

(10) Certification by a licensed physician, a licensed chiropractor, an advanced practice registered nurse, or a licensed physician assistant under subsection (9) must be on a form provided by the department.

(11) The department or a person who disagrees with a determination of disability or eligibility for a permit to hunt from a vehicle may request a review by the board of medical examiners pursuant to 37-3-203.

(12) (a) A Montana resident who is a member of the Montana national guard or the federal reserve as provided in 10 U.S.C. 10101 or who was otherwise engaged in active duty and who participated in a contingency operation as provided in 10 U.S.C. 101(a)(13) that required the member to serve at least 2 months outside of the state, upon request and upon presentation of the documentation described in subsection (12)(b), must be issued a free resident wildlife conservation license or a Class AAA resident combination sports license, which may not include a bear license, upon payment of the resident hunting access enhancement fee provided for in 87-2-202(3)(c), in the license year that the member returns from military service or in the year following the

member's return, based on the member's election, and in any of the 4 years after the member's election. A member who participated in a contingency operation after September 11, 2001, that required the member to serve at least 2 months outside of the state may make an election in 2007 or in the year following the member's return, based on the member's election, and in any of the 4 years after the member's election and be entitled to a free resident wildlife conservation license or a free Class AAA resident combination sports license in the year of election and in any of the 4 years after the member's election.

(b) To be eligible for the free resident wildlife conservation license or free Class AAA resident combination sports license provided for in subsection (12)(a), an applicant shall, in addition to the written application and proof of residency required in 87-2-202(1), provide to any regional department office or to the department headquarters in Helena, by mail or in person, the member's DD form 214 verifying the member's release or discharge from active duty. The applicant is responsible for providing documentation showing that the applicant participated in a contingency operation as provided in 10 U.S.C. 101(a)(13).

(c) A Montana resident who meets the service qualifications of subsection (12)(a) and the documentation required in subsection (12)(b) is entitled to a free Class A resident fishing license in the license year that the member returns from military service or in the year following the member's return, based on the member's election, and in any of the 4 years after the member's election.

(d) The department's general license account must be reimbursed by a quarterly transfer of funds from the general fund to the general license account for costs associated with the free licenses granted pursuant to this subsection (12) during the preceding calendar quarter. Reimbursement costs must be designated as license revenue.

(13) A member of the armed forces who forfeited a license or permit issued through a drawing as a result of deployment outside of the continental United States in support of a contingency operation as provided in 10 U.S.C. 101(a)(13) is guaranteed the same license or permit, without additional fee, upon application in the year of the member's return from deployment or in the first year that the license or permit is made available after the member's return."

**Section 2. Effective date.** [This act] is effective March 1, 2014.

Approved May 6, 2013

## CHAPTER NO. 398

[SB 117]

AN ACT PROVIDING THAT FEDERALLY QUALIFIED HIGHER EDUCATION SAVINGS PLANS OF OTHER STATES HAVE THE SAME TAX ADVANTAGES AS ALLOWED FOR THE MONTANA FAMILY EDUCATION SAVINGS PLAN; AMENDING SECTION 15-30-2110, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE.

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

**Section 1.** Section 15-30-2110, MCA, is amended to read:

**"15-30-2110. Adjusted gross income.** (1) Subject to subsection (13), adjusted gross income is the taxpayer's federal adjusted gross income as defined in section 62 of the Internal Revenue Code, 26 U.S.C. 62, and in addition includes the following:

(a) (i) interest received on obligations of another state or territory or county, municipality, district, or other political subdivision of another state, except to the extent that the interest is exempt from taxation by Montana under federal law;

(ii) exempt-interest dividends as defined in section 852(b)(5) of the Internal Revenue Code, 26 U.S.C. 852(b)(5), that are attributable to the interest referred to in subsection (1)(a)(i);

(b) refunds received of federal income tax, to the extent that the deduction of the tax resulted in a reduction of Montana income tax liability;

(c) that portion of a shareholder's income under subchapter S. of Chapter 1 of the Internal Revenue Code that has been reduced by any federal taxes paid by the subchapter S. corporation on the income;

(d) depreciation or amortization taken on a title plant as defined in 33-25-105;

(e) the recovery during the tax year of an amount deducted in any prior tax year to the extent that the amount recovered reduced the taxpayer's Montana income tax in the year deducted;

(f) if the state taxable distribution of an estate or trust is greater than the federal taxable distribution of the same estate or trust, the difference between the state taxable distribution and the federal taxable distribution of the same estate or trust for the same tax period; and

(g) except for exempt-interest dividends described in subsection (2)(a)(ii), for tax years commencing after December 31, 2002, the amount of any dividend to the extent that the dividend is not included in federal adjusted gross income.

(2) Notwithstanding the provisions of the Internal Revenue Code, adjusted gross income does not include the following, which are exempt from taxation under this chapter:

(a) (i) all interest income from obligations of the United States government, the state of Montana, or a county, municipality, district, or other political subdivision of the state and any other interest income that is exempt from taxation by Montana under federal law;

(ii) exempt-interest dividends as defined in section 852(b)(5) of the Internal Revenue Code, 26 U.S.C. 852(b)(5), that are attributable to the interest referred to in subsection (2)(a)(i);

(b) interest income earned by a taxpayer who is 65 years of age or older in a tax year up to and including \$800 for a taxpayer filing a separate return and \$1,600 for each joint return;

(c) (i) except as provided in subsection (2)(c)(ii), the first \$3,600 of all pension and annuity income received as defined in 15-30-2101;

(ii) for pension and annuity income described under subsection (2)(c)(i), as follows:

(A) each taxpayer filing singly, head of household, or married filing separately shall reduce the total amount of the exclusion provided in subsection (2)(c)(i) by \$2 for every \$1 of federal adjusted gross income in excess of \$30,000 as shown on the taxpayer's return;

(B) in the case of married taxpayers filing jointly, if both taxpayers are receiving pension or annuity income or if only one taxpayer is receiving pension or annuity income, the exclusion claimed as provided in subsection (2)(c)(i) must be reduced by \$2 for every \$1 of federal adjusted gross income in excess of \$30,000 as shown on their joint return;



- (d) all Montana income tax refunds or tax refund credits;
- (e) gain required to be recognized by a liquidating corporation under 15-31-113(1)(a)(ii);
- (f) all tips or gratuities that are covered by section 3402(k) or service charges that are covered by section 3401 of the Internal Revenue Code of 1954, 26 U.S.C. 3402(k) or 3401, as amended and applicable on January 1, 1983, received by a person for services rendered to patrons of premises licensed to provide food, beverage, or lodging;
- (g) all benefits received under the workers' compensation laws;
- (h) all health insurance premiums paid by an employer for an employee if attributed as income to the employee under federal law;
- (i) all money received because of a settlement agreement or judgment in a lawsuit brought against a manufacturer or distributor of "agent orange" for damages resulting from exposure to "agent orange";
- (j) principal and income in a medical care savings account established in accordance with 15-61-201 or withdrawn from an account for eligible medical expenses, as defined in 15-61-102, of the taxpayer or a dependent of the taxpayer or for the long-term care of the taxpayer or a dependent of the taxpayer;
- (k) principal and income in a first-time home buyer savings account established in accordance with 15-63-201 or withdrawn from an account for eligible costs, as provided in 15-63-202(7), for the first-time purchase of a single-family residence;
- (l) contributions *or earnings* withdrawn from a family education savings account ~~or earnings withdrawn from a family education savings account from a qualified tuition program established and maintained by another state as provided by section 529(b)(1)(A)(ii) of the Internal Revenue Code, 26 U.S.C. 529(b)(1)(A)(ii)~~, for qualified higher education expenses, as defined in 15-62-103, of a designated beneficiary;
- (m) the recovery during the tax year of any amount deducted in any prior tax year to the extent that the recovered amount did not reduce the taxpayer's Montana income tax in the year deducted;
- (n) if the federal taxable distribution of an estate or trust is greater than the state taxable distribution of the same estate or trust, the difference between the federal taxable distribution and the state taxable distribution of the same estate or trust for the same tax period;
- (o) deposits, not exceeding the amount set forth in 15-30-3003, deposited in a Montana farm and ranch risk management account, as provided in 15-30-3001 through 15-30-3005, in any tax year for which a deduction is not provided for federal income tax purposes;
- (p) income of a dependent child that is included in the taxpayer's federal adjusted gross income pursuant to the Internal Revenue Code. The child is required to file a Montana personal income tax return if the child and taxpayer meet the filing requirements in 15-30-2602.
- (q) principal and income deposited in a health care expense trust account, as defined in 2-18-1303, or withdrawn from the account for payment of qualified health care expenses as defined in 2-18-1303;
- (r) that part of the refundable credit provided in 33-22-2006 that reduces Montana tax below zero; and
- (s) the amount of the gain recognized from the sale or exchange of a mobile home park as provided in 15-31-163.



(3) A shareholder of a DISC that is exempt from the corporation license tax under 15-31-102(1)(l) shall include in the shareholder's adjusted gross income the earnings and profits of the DISC in the same manner as provided by section 995 of the Internal Revenue Code, 26 U.S.C. 995, for all periods for which the DISC election is effective.

(4) A taxpayer who, in determining federal adjusted gross income, has reduced the taxpayer's business deductions by an amount for wages and salaries for which a federal tax credit was elected under sections 38 and 51(a) of the Internal Revenue Code, 26 U.S.C. 38 and 51(a), is allowed to deduct the amount of the wages and salaries paid regardless of the credit taken. The deduction must be made in the year that the wages and salaries were used to compute the credit. In the case of a partnership or small business corporation, the deduction must be made to determine the amount of income or loss of the partnership or small business corporation.

(5) Married taxpayers filing a joint federal return who are required to include part of their social security benefits or part of their tier 1 railroad retirement benefits in federal adjusted gross income may split the federal base used in calculation of federal taxable social security benefits or federal taxable tier 1 railroad retirement benefits when they file separate Montana income tax returns. The federal base must be split equally on the Montana return.

(6) Married taxpayers filing a joint federal return who are allowed a capital loss deduction under section 1211 of the Internal Revenue Code, 26 U.S.C. 1211, and who file separate Montana income tax returns may claim the same amount of the capital loss deduction that is allowed on the federal return. If the allowable capital loss is clearly attributable to one spouse, the loss must be shown on that spouse's return; otherwise, the loss must be split equally on each return.

(7) In the case of passive and rental income losses, married taxpayers filing a joint federal return and who file separate Montana income tax returns are not required to recompute allowable passive losses according to the federal passive activity rules for married taxpayers filing separately under section 469 of the Internal Revenue Code, 26 U.S.C. 469. If the allowable passive loss is clearly attributable to one spouse, the loss must be shown on that spouse's return; otherwise, the loss must be split equally on each return.

(8) Married taxpayers filing a joint federal return in which one or both of the taxpayers are allowed a deduction for an individual retirement contribution under section 219 of the Internal Revenue Code, 26 U.S.C. 219, and who file separate Montana income tax returns may claim the same amount of the deduction that is allowed on the federal return. The deduction must be attributed to the spouse who made the contribution.

(9) (a) Married taxpayers filing a joint federal return who are allowed a deduction for interest paid for a qualified education loan under section 221 of the Internal Revenue Code, 26 U.S.C. 221, and who file separate Montana income tax returns may claim the same amount of the deduction that is allowed on the federal return. The deduction may be split equally on each return or in proportion to each taxpayer's share of federal adjusted gross income.

(b) Married taxpayers filing a joint federal return who are allowed a deduction for qualified tuition and related expenses under section 222 of the Internal Revenue Code, 26 U.S.C. 222, and who file separate Montana income tax returns may claim the same amount of the deduction that is allowed on the federal return. The deduction may be split equally on each return or in proportion to each taxpayer's share of federal adjusted gross income.

(10) A taxpayer receiving retirement disability benefits who has not attained 65 years of age by the end of the tax year and who has retired as permanently and totally disabled may exclude from adjusted gross income up to \$100 a week received as wages or payments in lieu of wages for a period during which the employee is absent from work due to the disability. If the adjusted gross income before this exclusion exceeds \$15,000, the excess reduces the exclusion by an equal amount. This limitation affects the amount of exclusion, but not the taxpayer's eligibility for the exclusion. If eligible, married individuals shall apply the exclusion separately, but the limitation for income exceeding \$15,000 is determined with respect to the spouses on their combined adjusted gross income. For the purpose of this subsection, "permanently and totally disabled" means unable to engage in any substantial gainful activity by reason of any medically determined physical or mental impairment lasting or expected to last at least 12 months.

(11) (a) An individual who contributes to one or more accounts established under the Montana family education savings program *or to a qualified tuition program established and maintained by another state as provided by section 529(b)(1)(A)(ii) of the Internal Revenue Code, 26 U.S.C. 529(b)(1)(A)(ii)*, may reduce adjusted gross income by the lesser of \$3,000 or the amount of the contribution. In the case of married taxpayers, each spouse is entitled to a reduction, not in excess of \$3,000, for the spouses' contributions to the accounts. Spouses may jointly elect to treat half of the total contributions made by the spouses as being made by each spouse. The reduction in adjusted gross income under this subsection applies only with respect to contributions to an account of which the account owner, ~~as defined in 15-62-103,~~ is the taxpayer, the taxpayer's spouse, or the taxpayer's child or stepchild if the taxpayer's child or stepchild is a Montana resident. The provisions of subsection (1)(e) do not apply with respect to withdrawals of contributions that reduced adjusted gross income.

(b) *Contributions made pursuant to this subsection (11) are subject to the recapture tax provided in 15-62-208.*

(12) (a) A taxpayer may exclude the amount of the loan payment received pursuant to subsection (12)(a)(iv), not to exceed \$5,000, from the taxpayer's adjusted gross income if the taxpayer:

(i) is a health care professional licensed in Montana as provided in Title 37;

(ii) is serving a significant portion of a designated geographic area, special population, or facility population in a federally designated health professional shortage area, a medically underserved area or population, or a federal nursing shortage county as determined by the secretary of health and human services or by the governor;

(iii) has had a student loan incurred as a result of health-related education; and

(iv) has received a loan payment during the tax year made on the taxpayer's behalf by a loan repayment program described in subsection (12)(b) as an incentive to practice in Montana.

(b) For the purposes of subsection (12)(a), a loan repayment program includes a federal, state, or qualified private program. A qualified private loan repayment program includes a licensed health care facility, as defined in 50-5-101, that makes student loan payments on behalf of the person who is employed by the facility as a licensed health care professional.

(13) Notwithstanding the provisions of subsection (1), adjusted gross income does not include 40% of capital gains on the sale or exchange of capital assets before December 31, 1986, as capital gains are determined under subchapter P. of Chapter 1 of the Internal Revenue Code as it read on December 31, 1986.

(14) By November 1 of each year, the department shall multiply the amount of pension and annuity income contained in subsection (2)(c)(i) and the federal adjusted gross income amounts in subsection (2)(c)(ii) by the inflation factor for that tax year, but using the year 2009 consumer price index, and rounding the results to the nearest \$10. The resulting amounts are effective for that tax year and must be used as the basis for the exemption determined under subsection (2)(c). (Subsection (2)(f) terminates on occurrence of contingency—sec. 3, Ch. 634, L. 1983; subsection (2)(o) terminates on occurrence of contingency—sec. 9, Ch. 262, L. 2001.)”

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

**Section 3. Retroactive applicability.** [This act] applies retroactively, within the meaning of 1-2-109, to tax years beginning after December 31, 2012.

Approved May 6, 2013

## CHAPTER NO. 399

[SB 162]

AN ACT GENERALLY REVISING HAIL INSURANCE LAWS; TRANSFERRING THE ADMINISTRATIVE RESPONSIBILITY FOR HAIL INSURANCE FEES FROM THE DEPARTMENT OF REVENUE TO THE DEPARTMENT OF AGRICULTURE; TRANSFERRING CERTAIN ADMINISTRATIVE DUTIES FOR THE HAIL INSURANCE PROGRAM FROM THE BOARD OF HAIL INSURANCE TO THE DEPARTMENT OF AGRICULTURE; CLARIFYING THE HAIL INSURANCE APPLICATION PROCESS; IMPOSING INTEREST ON DELINQUENT HAIL INSURANCE FEES; PROVIDING RULEMAKING AUTHORITY; CLARIFYING THE PROCESS FOR ADJUSTING CROP LOSSES FROM HAIL FOR THE PURPOSES OF THE HAIL INSURANCE PROGRAM; AMENDING SECTIONS 80-2-203, 80-2-204, 80-2-206, 80-2-207, 80-2-208, 80-2-221, 80-2-222, 80-2-224, 80-2-225, 80-2-230, 80-2-232, 80-2-242, 80-2-243, AND 80-2-244, MCA; REPEALING SECTIONS 80-2-226 AND 80-2-231, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE.

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

**Section 1.** Section 80-2-203, MCA, is amended to read:

**“80-2-203. Participation in program — fee.** (1) A person or an association of persons engaged in the growing of crops or other agricultural or horticultural products subject to injury or destruction by hail may, by individual or joint election filed with and approved by the board of hail insurance, accept the provisions of this part and elect to become subject to this part. The risks may be classified by the board, and suitable fees may be imposed as agreed upon by the board and the persons. The persons are entitled to the benefits and protection afforded by the insurance provisions of this part.

(2) Each person who ~~signifies a desire~~ *desires* to become subject to the provisions of this part shall file with the department of ~~revenue~~ the properly filled out form not later than August 15. The person is chargeable with the fee provided for on lands growing crops subject to injury or destruction by hail and shall share in the protection and benefits under the hail insurance provisions of

this part. The application for hail insurance is in full force and effect at 12:01 a.m. on the day immediately following the ~~acceptance submission~~ of the application ~~by to~~ the department of revenue.

(3) This part may not be construed to empower anyone except the actual owner of the land to make the land subject to the hail fee provided in this part.”

**Section 2.** Section 80-2-204, MCA, is amended to read:

**“80-2-204. Duty of department of revenue — election of benefits of law.** The department of revenue shall upon request explain *the provisions of this part* to each person engaged in the growing of crops subject to injury or destruction by hail ~~the provisions of this part~~. The department of revenue shall issue hail insurance policies to each person who desires to become subject to this part, to become liable for the fee provided *for* in this part, and to be eligible for the benefits and protection of this part. A person who elects to become subject to this part is liable for the fees for hail insurance and shall participate in the benefits and protection afforded by this part. The owners of lands worked by others under lease or contract *or the lessee of land under lease or contract* may make the election for hail insurance, ~~or the lessee of the land~~ and may tender payment, ~~in cash~~, of the fee ~~levied~~ *charged* for hail insurance to the officer authorized to receive payment.”

**Section 3.** Section 80-2-206, MCA, is amended to read:

**“80-2-206. Cash payment *Payment*.** When an applicant for hail insurance ~~tenders cash~~ pays for the insurance to the department of revenue *at the time of application*, the applicant is allowed a discount of 4%. ~~The hail, less any transaction fees, and the insurance must be issued upon the cash payment less the 4% when the application and payment are received. The charge for the insurance must be based on the maximum rates shown on the application for hail insurance. If the current rates are reduced later, the board of hail insurance shall arrange for the proper refund to the insured. All cash payments for hail insurance received by the department of revenue must be deposited with transferred to the state treasurer for deposit pursuant to 80-2-232.”~~

**Section 4.** Section 80-2-207, MCA, is amended to read:

**“80-2-207. Delinquent fees — application by delinquent — crop lien.** (1) An owner of land who ~~has more than 1 year's~~ *is delinquent in paying fees on the land pursuant to this part* may not be allowed hail insurance under the provisions of this part; unless the owner's application is accompanied by a cash payment for the *delinquent amount, including interest imposed under 80-2-230, plus the amount* that would be due on the application for that year.

(2) Any grower who is unable to secure state hail insurance under the provisions of this part because of delinquent fees or for other reasons may make an application to the department of revenue, and the department of revenue may ~~receive and~~ accept the application when the applicant furnishes a sufficient crop lien that is subject only to a seed lien. The crop lien may be accepted only under rules and requirements ~~that may be~~ prescribed by the board of hail insurance and under the provision that the board may cancel any hail insurance accepted in violation of the rules and requirements. Upon receipt of the application, the department of revenue shall make a record of the application and shall file the ~~original in the office of the clerk and recorder of the county~~ *lien with the secretary of state*. The department of revenue shall also send a bill to the grower for the proper amount due for hail insurance under the provisions of this part.

(3) A tenant who has delinquent hail insurance that was secured by a crop lien ~~and was not secured~~ *but not* by real estate ~~may~~ is not be allowed another policy in any succeeding year until the delinquent amount, *including interest imposed pursuant to 80-2-230*, is paid ~~or until the tenant pays cash for the current hail insurance.~~

(4) If a tenant becomes delinquent *in paying* for hail insurance after having failed to apply for relief as provided by the board under 80-2-229, the tenant may apply to the board for a reduction *in the fee initially charged*. If the reasons for requesting a reduction are approved by the board, the board may reduce the ~~charge fee~~ to not less than one-half the original amount charged.”

**Section 5.** Section 80-2-208, MCA, is amended to read:

**“80-2-208. Maximum insurance.** ~~When the reserve fund is determined actuarially sound, as provided in 80-2-228, the~~ *The* board may write not more than \$50 of insurance on each acre of crops on nonirrigated land and not more than \$76 of insurance on each acre on irrigated land, *except that the board may specify different maximums for specialty crops*. When more than one party desires hail insurance on the same crop, each party is entitled to the share of the maximum provided on each acre as represented by that person’s interest in the crop. ~~Either~~ *Any* party may insure the party’s share in the crop for any amount up to and including the maximum on each acre if the ~~others~~ *other parties* waive their right to insure.”

**Section 6.** Section 80-2-221, MCA, is amended to read:

**“80-2-221. Fee for hail insurance.** (1) A fee is imposed on all ~~lands~~ *land* in this state growing crops subject to injury or destruction by hail; ~~if the owners of which the land have elected to become subject to the provisions of this part.~~

(2) The board of hail insurance shall annually estimate, as accurately as possible, the amount required to pay all losses, interest on warrants, and costs of administration and shall recommend *to the department* a fee to be imposed on each kind of land ~~respectively~~; subject to the provisions of this part, ~~to the department of revenue~~. The rates recommended to apply on the ~~lands of owners~~ *land* must be applied in the same proportions to the crops of those ~~landowners~~ *landowners* insured on a personal basis.”

**Section 7.** Section 80-2-222, MCA, is amended to read:

**“80-2-222. Board to establish amount of rates — disposition of funds.** (1) The board of hail insurance may, when it considers it advisable, establish as many districts as it considers advisable and may maintain maximum rates in various parts of the state. The rates must be commensurate with the risk incurred as nearly as it can determine from past experiences or from any records available.

(2) Notice of the various rates established for any year must be plainly printed on the application for hail insurance, and the rates for the year must be determined and imposed by the board of hail insurance for each of the various districts as established, in proportions that will in the board’s judgment be fair and equitable.

(3) ~~The board of hail insurance~~ *department* may accept and expend all funds received by it, including amounts repaid as principal and interest on investments. The funds are statutorily appropriated, as provided in 17-7-502, to the board of hail insurance for the purposes of this chapter. Expenditures for actual and necessary expenses required for the efficient administration of this part must be made from temporary appropriations, as described in 17-7-501(1) or (2), made for that purpose.

(4) In establishing the rates provided in this section, the board of hail insurance shall provide for:

(a) the payment of all expenses of administration, together with all interest owed or to be owing on registered warrants;

(b) that portion of the losses incurred during the current year that are not paid from funds drawn from the reserve;

(c) the maintenance of the reserve, a part or all of which may be used in any 1 year for the purpose of paying the costs of administration, interest on the warrants, and losses as settled and adjusted by the board, including the losses sustained in any prior year or years under the hail insurance law that have not been paid.

(5) If at the end of any hail insurance season the board determines that more funds are accumulating from the current year's rates than were estimated when the rates were established and are in excess of the need for the payment of losses and expenses and maintenance of the reserve, the board may, at its discretion, refund the excess to the persons insured for the year; on a pro rata or percentage basis.

(6) The board of hail insurance may direct the board of investments to invest funds from the enterprise fund pursuant to the provisions of the unified investment program for state funds. The income from the investments must be credited to the board of hail insurance account in the enterprise fund."

**Section 8.** Section 80-2-224, MCA, is amended to read:

**"80-2-224. Fee — notice — when payable.** Notice of the fee must be mailed by the department of revenue to *No later than November 1, the department shall notify each person insured in the same manner and at the same time as notices of property taxes of the amount of the fee due. The for hail insurance and that the fee is payable must be paid to the department of revenue by November 30.*"

**Section 9.** Section 80-2-225, MCA, is amended to read:

**"80-2-225. Real estate lien — creation.** The hail insurance fees chargeable to the lands of each person who elects to become subject to this part must be collected by the department of revenue. If the fees are not paid, they are a lien on the lands against which they are imposed."

**Section 10.** Section 80-2-230, MCA, is amended to read:

**"80-2-230. Collection of fees — release of lien — interest.** (1) The department of revenue shall collect all fees imposed under this part. ~~The department of revenue shall deposit and transfer the money with collected to the state treasurer for deposit pursuant to 80-2-232.~~ The department of revenue shall use due diligence in ~~making the collections of~~ *collecting* the fees provided *for* in this part.

(2) All insurance fees, ~~whether imposed against land or in the form of special assessments secured by crop liens,~~ are payable in full ~~and not in semiannual payments~~ on or before November 30 of each year in which the fees are imposed.

(3) When the amount due on any hail insurance secured by a ~~crop~~ lien is paid, the department of revenue shall promptly endorse on the lien ~~on file in the office of the county clerk and recorder the amount paid with and the date of payment.~~ The endorsement is considered a satisfaction and release of the lien.

(4) ~~The penalty and department shall impose interest provisions of 15-1-216 apply to~~ for late payments of fees imposed under this part: *at the rate of 2% a month or fraction of a month on the unpaid fees. The interest imposed under this*



*subsection accrues daily on all unpaid fees from the date on which the fees were originally due.”*

**Section 11.** Section 80-2-232, MCA, is amended to read:

**“80-2-232. Department of revenue’s Department’s duty — warrants — transfers to state general fund.** (1) The department of revenue shall receive *transfer to the state treasurer* all money ~~paid collected~~ under this part and shall place the money in trust for the hail insurance program to the credit of the enterprise fund. ~~All money collected by the board must be deposited for deposit in the enterprise fund, and all.~~ *All covered losses must be paid from that the fund.*

(2) (a) All ~~other~~ costs *other than covered losses* are administrative expenses and must be paid from the board’s enterprise fund.

(b) If registered warrants are presented and there is no money to pay the warrants, the warrants must be registered and bear interest at the rate of 4% a year until called for payment by the state treasurer.

~~(2) The department of revenue may retain 2% of the gross annual fees imposed and collected under this part for administrative costs associated with billing and collection of hail insurance premiums.~~

(3) Upon authorization from the board of hail insurance, the state treasurer ~~department~~ shall transfer ~~out of the board’s from the~~ enterprise fund to the state general fund of the state of Montana 1.5% of the gross annual fees imposed and hail insurance premiums collected in the state of Montana during the calendar year not to exceed \$100,000.”

**Section 12.** Section 80-2-242, MCA, is amended to read:

**“80-2-242. Appraisers Adjusters — appointment — qualifications — duties.** (1) The department of agriculture shall as soon as practicable each year retain a sufficient number of appraisers *adjusters* to appraise all losses by hail incurred *that are covered by hail insurance* under this part in the various counties. The persons so appointed shall be actively engaged in farming or shall have had practical experience in farming.

(2) The board ~~department~~ may call on one or more of the ~~duly appointed~~ appraisers for the adjustment of *adjusters to appraise* each and every loss, and the said appraisers *adjusters* shall promptly report their findings to the board ~~department~~ according to the rules ~~provided adopted~~ by the board.

(3) ~~No appraiser who shall be~~ *An adjuster who is* a relative, attorney, agent, employee, or creditor of a person incurring a crop loss due to hail and subject to insurance coverage under this part or in any manner interested by who has an interest in a lien, or mortgage, or otherwise in on the crop injured or destroyed shall ~~may not appraise or assist in adjusting any such appraising the~~ loss.

~~(4) The board may send any duly appointed appraiser or appraisers into any county as the occasion may require.”~~

**Section 13.** Section 80-2-243, MCA, is amended to read:

**“80-2-243. Disputed appraisal.** (1) If the party that has sustained the loss is dissatisfied with and refuses to accept the ~~adjustment appraisal~~ made by the official ~~appraiser adjuster~~, the party has the right to appeal to the board of hail insurance. The party shall make the appeal by certified mail within 10 days after receiving the ~~adjustment offer of the board in writing appraisal.~~ *The board of hail insurance shall arrange for a second appraisal by another adjuster.* Also the board may require the posting of a cash bond of \$25 with the request for reappraisal of the first adjustment. If the board requires the posting of the \$25



bond, the board may retain it if an increase is not allowed. If an increase is obtained, the board shall return the bond to the claimant.

(2) If the adjuster who makes the *a* second appraisal pursuant to the appeal fails to secure an agreement, the claimant may submit the matter to arbitration as provided in this subsection or sue the board in the district court of the county where the loss occurred, within 90 days from the date of receipt of written notice of the second appraisal. The actions must be trials de novo and the Montana Rules of Civil Procedure apply. If a claimant demands arbitration, the claimant shall, if required by the board, furnish a cash bond to the board in the sum of \$50, which must accompany the application. If there is not sufficient allowance made to any claimant after arbitration to cover the cost of arbitration without the use of the \$50 bond, the board may use a part or all of the cash bond. If the claimant secures an increase, the bond must be promptly returned to the claimant. If the claimant elects to submit the matter to arbitration, the claimant shall then appoint one disinterested person as appraiser *an adjuster*, the official appraiser *adjuster* shall appoint another person as appraiser *an adjuster*, the two shall select a third disinterested person *as an adjuster*, and the three shall then proceed to adjust *appraise* the loss in the same manner as specified in 80-2-242. The judgment of the majority is the judgment of the appraisers *adjusters* and is binding upon both parties as the final determination of the loss.

(3) (a) If the insured does not recover a greater sum than allowed by the official appraiser *adjuster* in the first instance, the insured shall pay the expenses of the three appraisers *adjusters* and their witnesses in making the adjustment appraisal, but if the insured is awarded a larger sum, the expenses must be paid by the board *department*.

(b) If the insured is required to pay the expenses of the reappraisal *reappraisal* as provided in subsection (3)(a), the board *department* may deduct the amount of the expenses from the amount allowed the insured before making settlement for the loss.

(4) The *department or the* board shall examine all reports of appraisers *adjusters* and verify the reports and adjust all losses and for those purposes may order hearings, subpoena witnesses, conduct examinations, and do all things necessary to secure a fair and impartial appraisal *appraisal* of losses by hail.”

**Section 14.** Section 80-2-244, MCA, is amended to read:

**“80-2-244. Payment of losses.** (1) The board of hail insurance *department* shall, as soon as practicable after the loss has been sustained, arrange for the payment of the loss in the following manner. From the amount of the loss as adjusted for each claimant, the board *department* shall deduct the amount that the claimant then owes as a delinquent hail insurance fee and the maximum amount assessed as a hail insurance fee for the current year.

(2) The board *department* shall on or before November 1 order payment for the balance of the adjustment to be sent to the claimant, provided that the payment for loss may not exceed the maximum amounts established in 80-2-208. A claimant may not receive payment for any loss incurred if the loss does not equal or exceed 5% of the total value of the crop insured. If the losses in any year exceed the current fees plus the reserve, then the payment of all losses must be prorated among all growers having loss claims adjusted and approved, and the unpaid balance of the losses must be paid out of the reserve without interest in the order that the board *department* directs when, in the judgment of the board *department*, there is sufficient money to provide for the payment of the claims and other items payable out of the reserve. In any year, the board may by

resolution authorize its presiding officer and secretary to borrow money that the board may consider necessary for the purpose of paying all warrants as issued.

~~(3) For any money borrowed under the provisions of this part, the board shall cause warrants to be drawn. The warrants must bear interest at a rate not to exceed 6% a year, and the warrants and the interest on the warrants must be paid out of funds from the state hail insurance program as they are collected. The board may not at any time borrow a total sum greater than the amount of the fees imposed for the current year, together with delinquent fees that remain unpaid.”~~

**Section 15. Rules — hail insurance fees.** The department and the board of hail insurance shall adopt rules necessary for the administration and collection of hail insurance fees pursuant to this part.

**Section 16. Repealer.** The following sections of the Montana Code Annotated are repealed:

80-2-226. Crop lien — when created — assessment.

80-2-231. Foreclosure of lien.

**Section 17. Codification instruction.** [Section 15] is intended to be codified as an integral part of Title 80, chapter 2, part 2, and the provisions of Title 80, chapter 2, part 2, apply to [section 15].

**Section 18. Effective date.** [This act] is effective January 1, 2014.

Approved May 6, 2013

## CHAPTER NO. 400

[SB 175]

AN ACT GENERALLY REVISING SCHOOL FINANCE LAWS BY INCREASING FUNDING, REDUCING SCHOOL DISTRICT PROPERTY TAXES, AND INCREASING FLEXIBILITY TO SUPPORT IMPROVED ACADEMIC PERFORMANCE OF STUDENTS ENROLLED IN PUBLIC SCHOOLS; CREATING A K-12 DATA TASK FORCE; ESTABLISHING A DATA-FOR-ACHIEVEMENT PAYMENT; REDIRECTING OIL AND NATURAL GAS PRODUCTION TAX REVENUE FROM THE STATE GENERAL FUND TO A NEW NATURAL RESOURCE DEVELOPMENT K-12 FUNDING PAYMENT TO SUPPORT BASE BUDGETS OF SCHOOL DISTRICTS; ENHANCING THE STATEWIDE K-12 DATA SYSTEM TO IMPROVE TIMELY ACCESS TO INFORMATION NEEDED TO POSITIVELY IMPACT STUDENT PERFORMANCE; STRENGTHENING SAFEGUARDS TO PROTECT THE PRIVACY OF STUDENT DATA; AMENDING THE DEFINITION OF BASE AID TO INCLUDE THE NATURAL RESOURCE DEVELOPMENT K-12 FUNDING PAYMENT AND THE TOTAL DATA-FOR-ACHIEVEMENT PAYMENT; APPLYING INFLATIONARY ADJUSTMENTS TO ENTITLEMENTS; REVISING AND INCREASING THE BASIC ENTITLEMENT; ALLOWING SCHOOL DISTRICTS TO ADD INCREASES IN THEIR BASIC AND PER-ANB ENTITLEMENT TO THE PREVIOUS YEAR'S GENERAL FUND BUDGET; REVISING AND CREATING EXCEPTIONS TO THE LIMITS, ALLOCATION, AND BUDGETING REQUIREMENTS FOR A SCHOOL DISTRICT RECEIVING OIL AND NATURAL GAS PRODUCTION TAX REVENUE; ADDING A THIRD ENROLLMENT COUNT TO CALCULATE ANB; REVISING THE CALCULATION OF ANB TO INCLUDE STUDENTS MASTERING CONTENT IN FEWER HOURS THAN OTHERWISE REQUIRED; ALIGNING

THE REQUIREMENT OF REMOVING FUNDING FOR A SCHOOL LOSING ACCREDITATION WITH THE BOARD OF PUBLIC EDUCATION'S ACCREDITATION MODEL; REVISING WHEN AN INCREASE TO ANB IS APPROVED BASED ON UNUSUAL ENROLLMENT FOR PURPOSES OF ESTABLISHING THE DISTRICT'S ENSUING YEAR'S BASIC ENTITLEMENT AND PER-ANB ENTITLEMENT; EXTENDING THE DEADLINE FOR CERTAIN SCHOOL DISTRICT FUND BALANCE LIMITS; AMENDING BONDING PROVISIONS TO ALLOW FOR THE ISSUANCE AND NEGOTIATION OF OIL AND NATURAL GAS REVENUE BONDS FOR SCHOOL PURPOSES; PROVIDING FOR SECURITY FOR OIL AND NATURAL GAS PRODUCTION BONDS; MODIFYING RECIPIENTS OF THE STATE OIL AND NATURAL GAS IMPACT ACCOUNT; PROVIDING THAT ANY EXCESS INTEREST AND INCOME REVENUE ABOVE \$1 MILLION IN THE GUARANTEE ACCOUNT MUST BE ALLOCATED TO THE DISTRIBUTION OF THE REVENUE BETWEEN SCHOOL DISTRICT PROPERTY TAX RELIEF AND INCREASED BUDGET AUTHORITY FOR FACILITIES REPAIRS AND OTHER PURPOSES; SPECIFYING AN INTENT THAT INCREASED BUDGET AUTHORITY OF SCHOOL DISTRICTS ABOVE INFLATION BE USED TO IMPLEMENT RECENT CHANGES TO THE ACCREDITATION STANDARDS ADOPTED BY THE BOARD OF PUBLIC EDUCATION; PROVIDING AN APPROPRIATION; ESTABLISHING A STATE SPECIAL REVENUE ACCOUNT TO TRANSFER MONEY TO THE GUARANTEE ACCOUNT TO SUPPORT INCREASES IN THE BASIC ENTITLEMENT AND PROVIDING FOR A TRANSFER FROM THE GENERAL FUND TO THE ACCOUNT; ESTABLISHING A STATE SCHOOL OIL AND NATURAL GAS DISTRIBUTION ACCOUNT; AMENDING SECTIONS 20-7-102, 20-7-104, 20-9-141, 20-9-306, 20-9-308, 20-9-310, 20-9-311, 20-9-314, 20-9-323, 20-9-326, 20-9-342, 20-9-344, 20-9-403, 20-9-406, 20-9-408, 20-9-422, 20-9-423, 20-9-426, 20-9-427, 20-9-430, 20-9-437, 20-9-438, 20-9-440, 20-9-517, 20-9-518, AND 20-9-622, MCA; AMENDING SECTION 29, CHAPTER 418, LAWS OF 2011; AND PROVIDING EFFECTIVE DATES, AN APPLICABILITY DATE, AND A TERMINATION DATE.

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

**Section 1. K-12 data task force.** (1) There is a K-12 data task force established by the office of public instruction.

(2) The K-12 data task force is composed of:

(a) The presiding officer and vice presiding officer of the senate and house standing committees on education and the presiding officer and vice presiding officer of the joint subcommittee for education that deals with appropriations or their designees;

(b) additional positions appointed by the majority vote of the presiding officers and vice presiding officers referred to in subsection (2)(a), as follows:

(i) three elected school board trustees consisting of one each from a class 1, class 2, and class 3 school district;

(ii) three school administrators consisting of one each employed by a class 1, class 2, and class 3 school district;

(iii) three teachers consisting of one each employed by a class 1, class 2, and class 3 school district;

(iv) three technology staff consisting of one each employed by a class 1, class 2, and class 3 school district;

(v) six parents, consisting of one parent of an elementary pupil currently enrolled in each of a class 1, class 2, and class 3 school district and one parent of a high school pupil currently enrolled in each of a class 1, class 2, and class 3 school district; and

(vi) three school district clerks, as provided in 20-3-325, consisting of one each employed by a class 1, class 2, and class 3 school district.

(3) The K-12 data task force shall serve in an advisory capacity to the office of public instruction. The task force shall review, monitor, and provide input and guidance in enhancing the statewide K-12 data system pursuant to 20-7-104.

(4) Unless otherwise provided by law, each member is entitled to be paid \$50 for each day in which the member is engaged in the performance of duties under this section and is also entitled to be reimbursed for travel expenses, as provided for in 2-18-501 through 2-18-503, incurred while in the performance of task force duties. Members who are full-time salaried officers or employees of this state or of a political subdivision of this state are not entitled to be compensated for their service as members except when they perform their task force duties outside their regular working hours or during hours charged against their leave time, but those members are entitled to be reimbursed for travel expenses as provided for in 2-18-501 through 2-18-503.

**Section 2. Data-for-achievement payment.** (1) The state shall provide a data-for-achievement payment to public school districts as defined in 20-6-101 and 20-6-701. The data-for-achievement payment is the district's ANB, calculated in accordance with 20-9-311, multiplied by:

(a) \$10 for fiscal year 2014;

(b) \$15 for fiscal year 2015; and

(c) \$20 for fiscal year 2016 and subsequent fiscal years.

(2) Funds received for the data-for-achievement payment must be used by a school district to pay for access fees or other costs associated with use of or participation in the statewide data system administered by the office of public instruction or a comparable data system provided by a private vendor, including data entry and staff training on use of the systems.

(3) Unless funds are otherwise appropriated at higher amounts by the legislature, the office of public instruction may spend no more than \$500,000 per biennium for the purposes of mediating with vendors, developing a plan, preparing a request for proposal solicitation package, managing the vendor contract, and implementing a plan with school districts for the statewide data system. This limitation does not apply if the office of public instruction develops and administers the statewide data system without a vendor.

**Section 3.** Section 20-7-102, MCA, is amended to read:

**“20-7-102. Accreditation of schools.** (1) The conditions under which each elementary school, each middle school, each junior high school, 7th and 8th grades funded at high school rates, and each high school operates must be reviewed by the superintendent of public instruction to determine compliance with the standards of accreditation. The accreditation status of each school must then be established by the board of public education upon the recommendation of the superintendent of public instruction. Notification of the accreditation status for the applicable school year or years must be given to each district by the superintendent of public instruction.

(2) A school may be accredited for a period consisting of 1, 2, 3, 4, or 5 school years, except that multiyear accreditation may be granted only to schools that are in compliance with 20-4-101.

(3) A nonpublic school may, through its governing body, request that the board of public education accredit the school. Nonpublic schools may be accredited in the same manner as provided in subsection (1).

(4) As used in this section, "7th and 8th grades funded at high school rates" means an elementary school district or K-12 district elementary program whose 7th and 8th grades are funded as provided in ~~20-9-306(14)(e)(ii)~~ *20-9-306(15)(c)(ii)*."

**Section 4.** Section 20-7-104, MCA, is amended to read:

**"20-7-104. Transparency and public availability of public school performance data — reporting — *availability for timely use to improve instruction.*** (1) The office of public instruction shall develop a publicly available instruction's statewide data system ~~that must, at a minimum:~~

(a) *include data entry and intuitive reporting options that school districts can use to make timely decisions that improve instruction and impact student performance while creating a collaborative environment for parents, teachers, and students to work together in improving student performance. Options that the office of public instruction shall incorporate and make available for each school district must include data linkages to provide for automated conversion of data from systems already in use by school districts or by the office of public instruction that allow districts to collect, manage, and present local classroom assessment scores, grades, attendance, and other data to assist in instructional intervention alongside the existing school accountability and statewide student achievement results. The office of public instruction shall ensure that the design of the system is enhanced to prioritize collaborative support of each student's needs by classroom educators, administrators, and parents.*

(b) ~~displays an~~ *display a publicly available educational data profile for each school district that protects each student's education records in compliance with the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. 1232g, as amended, and its implementing regulations at 34 CFR, part 99.*

(2) ~~Each~~ *Subject to subsection (1)(b), each* school district's educational profile must include, at a minimum, the following elements:

(a) school district contact information and links to district websites, when available;

(b) state criterion-referenced testing results;

(c) program and course offerings;

(d) student enrollment and demographics by grade level; and

(e) graduation rates.

(3) Each school district shall annually report to the office of public instruction and publish and post on the school district's internet website the following district data for the preceding school year:

(a) the number and type of employee positions, including administrators;

(b) for the current employee in each position:

(i) the total amount of compensation paid to the employee by the district. The total amount of compensation includes but is not limited to the employee's base wage or salary, overtime pay, and other income from school-sanctioned extracurricular activities, including coaching and similar activities; and

(ii) the certification held by and required of the employee;

(c) the student-teacher ratio by grade;

(d) (i) the amount, by category, spent by the district for operation and maintenance, stated in total cost and cost per square foot; and

- (ii) the amount of principal and interest paid on bonds;
- (e) the total district expenditures per student;
- (f) the total budget for all funds;
- (g) the total number of students enrolled and the average daily attendance;
- (h) the total amount spent by the district on extracurricular activities and the total number of students that participated in extracurricular activities; and
- (i) the number of students that entered the 9th grade in the school district but did not graduate from a high school in that district and for which the school district did not receive a transfer request. For reporting purposes, the students identified under this subsection (3)(i) are considered to have dropped out of school.

(4) Each school district shall also post on the school district's internet website a copy of every working agreement the district has with any organized labor organization and the district's costs, if any, associated with employee union representation, collective bargaining, and union grievance procedures and litigation resulting from union employee grievances.

(5) If a school district does not have an internet website, the school district shall publish the information required under subsections (2) and (3) in printed form and provide a copy of the information upon request at the cost incurred by the school district for printing only.

(6) The superintendent of public instruction shall continually *work in consultation with the K-12 data task force provided for in [section 1] to analyze the best options for a statewide data system that will best enhance the ability of school districts to use data for the purposes identified in this section. Emphasis must be placed on developing or purchasing and customizing a statewide data system that promotes and preserves community ownership and local control and that incorporates innovative technologies available in the marketplace that may be in use and that are successfully working in other states. The office of public instruction and the K-12 data task force shall collaborate to enhance the statewide data system to support:*

*(a) the needs of school districts in using data to improve instruction and student performance;*

*(b) the collection of data from schools through a process that provides for automated conversion of data from systems already in use by school districts or the office of public instruction and that resolves the repetition of data entry and redundancy of data requested that has been characteristic of the data system in the past and that otherwise reduces the diversion of district staff time away from instruction and supervision;* ~~implement a data collection plan to reduce redundant data requests;~~

*(c) increase increased use of data use from the centralized system by various functions within the office of public instruction;* and

*(d) promote transparency in reporting to schools, school districts, communities, and the public. Actionable data analysis must be produced to promote academic improvement.*

(7) The superintendent of public instruction shall gather, maintain, and distribute longitudinal, actionable data in the following areas:

- (a) statewide student identifier;
- (b) student-level enrollment data, including average daily attendance;
- (c) student-level statewide assessment data;
- (d) information on untested students;



- (e) student-level graduation and dropout data;
- (f) ability to match student-level K-12 and higher education data;
- (g) a statewide data audit system;
- (h) a system to track student achievement with a direct teacher-to-student match to help track, report, and create opportunities for improved individual student performance;
- (i) student-level course completion data, including transcripts, to assess career and college readiness; and
- (j) student-level ACT results, scholastic achievement test results, and advanced placement exam data.

(8) The superintendent of public instruction shall emphasize the creation of and distribution of individual diagnostic data for each student in a manner that is timely and protects the privacy rights of students and families as they relate to education so that school districts may use the data to support timely academic intervention as needed and to otherwise improve the academic achievement of the students of each school district.

(9) *In addition to the data privacy protections in subsection (1)(b), the superintendent of public instruction may provide personally identifiable information gathered, maintained, and distributed pursuant to subsection (7) and any other personally identifiable data only to the office of public instruction, the school district where the student is or has been enrolled, the parent, and the student. The superintendent of public instruction may not share, sell, or otherwise release personally identifiable information to any for-profit business, nonprofit organization, public-private partnership, governmental unit, or other entity unless the student's parent has provided written consent specifying the data to be released, the reason for the release, and the recipient to whom the data may be released.*

(9)(10) On or before June 30, 2013, the superintendent of public instruction shall begin presenting longitudinal data on academic achievement and shall develop plans for a measurement of growth for the statewide student assessment required by the board of public education.”

**Section 5.** 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, *the natural resource development K-12 funding payment*, 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; and

(v) school district block grants distributed under 20-9-630.

(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 any amount remaining after the determination in subsection (1)(c) and 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 6.** Section 20-9-306, MCA, is amended to read:

**"20-9-306. Definitions.** As used in this title, unless the context clearly indicates otherwise, the following definitions apply:

(1) "BASE" means base amount for school equity.

(2) "BASE aid" means:

(a) direct state aid for 44.7% of the basic entitlement and 44.7% of the total per-ANB entitlement for the general fund budget of a district;

(b) *starting in fiscal year 2015, the natural resource development K-12 funding payment for a variable percentage of the basic and per-ANB*

*entitlements above the direct state aid for the general fund budget of a district, as referenced in subsection (10);*

~~(b)~~(c) guaranteed tax base aid for an eligible district for any amount up to 35.3% of the basic entitlement, up to 35.3% of the total per-ANB entitlement budgeted in the general fund budget of a district, and 40% of the special education allowable cost payment;

~~(e)~~(d) the total quality educator payment;

~~(d)~~(e) the total at-risk student payment;

~~(e)~~(f) the total Indian education for all payment; ~~and~~

~~(f)~~(g) the total American Indian achievement gap payment; *and*

~~(h)~~ *the total data-for-achievement payment.*

(3) "BASE budget" means the minimum general fund budget of a district, which includes 80% of the basic entitlement, 80% of the total per-ANB entitlement, 100% of the total quality educator payment, 100% of the total at-risk student payment, 100% of the total Indian education for all payment, 100% of the total American Indian achievement gap payment, *100% of the total data-for-achievement payment*, and 140% of the special education allowable cost payment.

(4) "BASE budget levy" means the district levy in support of the BASE budget of a district, which may be supplemented by guaranteed tax base aid if the district is eligible under the provisions of 20-9-366 through 20-9-369.

(5) "BASE funding program" means the state program for the equitable distribution of the state's share of the cost of Montana's basic system of public elementary schools and high schools, through county equalization aid as provided in 20-9-331 and 20-9-333 and state equalization aid as provided in 20-9-343, in support of the BASE budgets of districts and special education allowable cost payments as provided in 20-9-321.

(6) "Basic entitlement" means:

(a) for each high school district:

~~(i) \$256,003 for fiscal year 2012; and~~

~~(ii) \$260,099 for each succeeding fiscal year;~~

*(i) \$290,000 for fiscal years 2014 and 2015 and \$300,000 for each succeeding fiscal year for school districts with an ANB of 800 or fewer; and*

*(ii) \$290,000 for fiscal years 2014 and 2015 and \$300,000 for each succeeding fiscal year for school districts with an ANB of more than 800, plus \$12,000 for fiscal years 2014 and 2015 and \$15,000 for each succeeding fiscal year for each additional 80 ANB over 800;*

(b) for each elementary school district or K-12 district elementary program without an approved and accredited junior high school, 7th and 8th grade program, or middle school:

~~(i) \$23,033 for fiscal year 2012;~~

~~(ii) \$23,402 for each succeeding fiscal year; and~~

*(i) \$40,000 for fiscal years 2014 and 2015 and \$50,000 for each succeeding fiscal year for school districts or K-12 district elementary programs with an ANB of 250 or fewer; and*

*(ii) \$40,000 for fiscal years 2014 and 2015 and \$50,000 for each succeeding fiscal year for school districts or K-12 district elementary programs with an ANB of more than 250, plus \$2,000 for fiscal years 2014 and 2015 and \$2,500 for each succeeding fiscal year for each additional 25 ANB over 250;*

(c) for each elementary school district or K-12 district elementary program with an approved and accredited junior high school, 7th and 8th grade program, or middle school:

(i) for *the district's* kindergarten through grade 6 elementary program::

~~(A) \$23,033 for fiscal year 2012; and~~

~~(B) \$23,402 for each succeeding fiscal year; plus~~

~~(A) \$40,000 for fiscal years 2014 and 2015 and \$50,000 for each succeeding fiscal year for school districts or K-12 district elementary programs with an ANB of 250 or fewer; and~~

~~(B) \$40,000 for fiscal years 2014 and 2015 and \$50,000 for each succeeding fiscal year for school districts or K-12 district elementary programs with an ANB of more than 250, plus \$2,000 for fiscal years 2014 and 2015 and \$2,500 for each succeeding fiscal year for each additional 25 ANB over 250; and~~

(ii) for ~~an~~ *the district's* approved and accredited junior high school ~~program,~~ 7th and 8th grade ~~program programs,~~ or middle school:

~~(A) \$65,231 for fiscal year 2012; and~~

~~(B) \$66,275 for each succeeding fiscal year.~~

~~(A) \$80,000 for fiscal years 2014 and 2015 and \$100,000 for each succeeding fiscal year for the school districts or K-12 district elementary programs with combined grades 7 and 8 with an ANB of 450 or fewer; and~~

~~(B) \$80,000 for fiscal years 2014 and 2015 and \$100,000 for each succeeding fiscal year for school districts or K-12 district elementary programs with combined grades 7 and 8 with an ANB of more than 450, plus \$4,000 for fiscal years 2014 and 2015 and \$5,000 for each succeeding fiscal year for each additional 45 ANB over 450.~~

(7) "Budget unit" means the unit for which the ANB of a district is calculated separately pursuant to 20-9-311.

(8) "Direct state aid" means 44.7% of the basic entitlement and 44.7% of the total per-ANB entitlement for the general fund budget of a district and funded with state and county equalization aid.

(9) "Maximum general fund budget" means a district's general fund budget amount calculated from the basic entitlement for the district, the total per-ANB entitlement for the district, the total quality educator payment, the total at-risk student payment, the total Indian education for all payment, the total American Indian achievement gap payment, *the total data-for-achievement payment*, and the greater of:

(a) 175% of special education allowable cost payments; or

(b) the ratio, expressed as a percentage, of the district's special education allowable cost expenditures to the district's special education allowable cost payment for the fiscal year that is 2 years previous, with a maximum allowable ratio of 200%.

(10) "*Natural resource development K-12 funding payment*" means *the payment, starting in fiscal year 2015, of a variable percentage of the basic and per-ANB entitlements above the direct state aid for the general fund budget of a district. The total payment to school districts may not exceed the greater of 50% of the fiscal year 2012 oil and natural gas production taxes deposited into the general fund pursuant to 15-36-331(4) or 50% of the oil and natural gas production taxes deposited into the general fund pursuant to 15-36-331(4) for the fiscal year occurring 2 fiscal years prior to the school fiscal year in which the payment is provided, plus any excess interest and income revenue appropriated*

by the legislature pursuant to 20-9-622(3)(a). The amount of the natural resource development K-12 funding payment must be determined as follows:

(a) for fiscal year 2015, \$3 million; and

(b) for fiscal year 2016 and each subsequent year, the payment must be, subject to the limitations of this subsection (10), an amount sufficient to offset any estimated increase in statewide revenue from the general fund BASE budget levy provided for in 20-9-141 that is anticipated to result from increases in the basic or per-ANB entitlements plus any excess interest and income revenue appropriated by the legislature pursuant to 20-9-622(3)(a). The superintendent of public instruction shall incorporate a natural resource development K-12 funding payment calculated in compliance with this subsection (10)(b) in preparing and submitting an agency budget pursuant to 17-7-111 and 17-7-112.

(10)(11) "Over-BASE budget levy" means the district levy in support of any general fund amount budgeted that is above the BASE budget and below the maximum general fund budget for a district.

(11)(12) "Total American Indian achievement gap payment" means the payment resulting from multiplying \$200 times the number of American Indian students enrolled in the district as provided in 20-9-330.

(12)(13) "Total at-risk student payment" means the payment resulting from the distribution of any funds appropriated for the purposes of 20-9-328.

(13)(14) "Total Indian education for all payment" means the payment resulting from multiplying \$20.40 times the ANB of the district or \$100 for each district, whichever is greater, as provided for in 20-9-329.

(14)(15) "Total per-ANB entitlement" means the district entitlement resulting from the following calculations and using either the current year ANB or the 3-year ANB provided for in 20-9-311:

(a) for a high school district or a K-12 district high school program, a maximum rate of ~~\$6,343~~ \$6,555 for fiscal year ~~2012~~ 2014 and \$6,444 \$6,691 for each succeeding fiscal year for the first ANB, decreased at the rate of 50 cents per ANB for each additional ANB of the district up through 800 ANB, with each ANB in excess of 800 receiving the same amount of entitlement as the 800th ANB;

(b) for an elementary school district or a K-12 district elementary program without an approved and accredited junior high school, 7th and 8th grade program, or middle school, a maximum rate of ~~\$4,955~~ \$5,120 for fiscal year ~~2012~~ 2014 and ~~\$5,034~~ \$5,226 for each succeeding fiscal year for the first ANB, decreased at the rate of 20 cents per ANB for each additional ANB of the district up through 1,000 ANB, with each ANB in excess of 1,000 receiving the same amount of entitlement as the 1,000th ANB; and

(c) for an elementary school district or a K-12 district elementary program with an approved and accredited junior high school, 7th and 8th grade program, or middle school, the sum of:

(i) a maximum rate of ~~\$4,955~~ \$5,120 for fiscal year ~~2012~~ 2014 and ~~\$5,034~~ \$5,226 for each succeeding fiscal year for the first ANB for kindergarten through grade 6, decreased at the rate of 20 cents per ANB for each additional ANB up through 1,000 ANB, with each ANB in excess of 1,000 receiving the same amount of entitlement as the 1,000th ANB; and

(ii) a maximum rate of ~~\$6,343~~ \$6,555 for fiscal year ~~2012~~ 2014 and ~~\$6,444~~ \$6,691 for each succeeding fiscal year for the first ANB for grades 7 and 8, decreased at the rate of 50 cents per ANB for each additional ANB for grades 7

and 8 up through 800 ANB, with each ANB in excess of 800 receiving the same amount of entitlement as the 800th ANB.

(16) *“Total data-for-achievement payment” means the payment calculated as provided in [section 2].*

~~(15)~~(17) *“Total quality educator payment” means the payment resulting from multiplying \$3,036 for fiscal year 2008 and \$3,042 for each succeeding fiscal year times by the number of full-time equivalent educators as provided in 20-9-327.”*

**Section 7.** Section 20-9-308, MCA, is amended to read:

**“20-9-308. BASE budgets and maximum general fund budgets.** (1) (a) The trustees of a district shall adopt a general fund budget that is at least equal to the BASE budget established for the district. The trustees of a district may adopt a general fund budget up to the maximum general fund budget or the previous year’s general fund budget, whichever is greater.

(b) For purposes of the budget limitation in subsection (1)(a), the trustees may add any increase in ~~state funding~~ *direct state aid for the basic and per-ANB entitlements and any increases in state funding of the data-for-achievement payment under [section 2] and in the general fund payments in 20-9-327 through 20-9-330 to the district’s previous year’s general fund budget.*

(2) (a) ~~Whenever~~ *Except as provided in subsection (2)(b), whenever the trustees of a district propose to adopt a general fund budget that exceeds the BASE budget for the district and propose to increase the over-BASE budget levy over the highest revenue previously authorized by the electors of the district or imposed by the district in any of any of the previous 5 years to support the general fund budget, the trustees shall submit a proposition to the electors of the district, as provided in 20-9-353.*

(b) *The intent of this section is to increase the flexibility and efficiency of elected school boards without increasing school district property taxes. In furtherance of this intent and provided that budget limitations otherwise specified in law are not exceeded, the trustees of a district may increase the district’s over-BASE budget levy without a vote if the board of trustees reduces nonvoted property tax levies authorized by law to be imposed by action of the trustees of the district by at least as much as the amount by which the over-BASE budget levy is increased. The ongoing authority for any nonvoted increase in the over-BASE budget levy imposed under this subsection must be decreased in future years to the extent that the trustees of the district impose any increase in other nonvoted property tax levies.*

(3) The BASE budget for the district must be financed by the following sources of revenue:

(a) state equalization aid, as provided in 20-9-343, including any guaranteed tax base aid for which the district may be eligible, as provided in 20-9-366 through 20-9-369;

(b) county equalization aid, as provided in 20-9-331 and 20-9-333;

(c) a district levy for support of a school not approved as an isolated school under the provisions of 20-9-302;

(d) payments in support of special education programs under the provisions of 20-9-321;

(e) nonlevy revenue, as provided in 20-9-141; and

(f) a BASE budget levy on the taxable value of all property within the district.



(4) The over-BASE budget amount of a district must be financed by a levy on the taxable value of all property within the district or other revenue available to the district, as provided in 20-9-141.”

**Section 8.** Section 20-9-310, MCA, is amended to read:

**“20-9-310. (Temporary) Oil and natural gas production taxes for school districts — allocation and limits.** (1) (a) ~~The~~ *Except as provided in subsections (1)(b) and (8), the maximum amount of oil and natural gas production taxes that a school district may retain is 130% of the school district’s maximum budget, determined in accordance with 20-9-308.*

(b) *For fiscal years 2014 through 2017 for a school district with a maximum general fund budget of less than \$1.5 million, the maximum amount of oil and gas production taxes that a school district may retain is 150% of the school district’s maximum general fund budget.*

(2) Upon receipt of school district budget reports required under 20-9-134, the superintendent of public instruction shall provide the department of revenue with a list reporting the maximum general fund budget for each school district.

(3) The department of revenue shall make the full quarterly distribution of oil and natural gas production taxes as required under 15-36-332(6) until the amount distributed reaches the limitation in subsection (1) of this section. *The department of revenue shall deposit any amount exceeding the limitation in subsection (1) in the state school oil and natural gas distribution account provided for in [section 34].*

(4) (a) ~~For fiscal year 2012, any~~ *By the last day of the month immediately following the month in which the quarterly distribution of oil and natural gas production taxes in subsection (3) is made, the office of public instruction shall distribute any amount of oil and natural gas production taxes exceeding the limitation in subsection (1) must be deposited in the guarantee account as provided in 20-9-622: based on allocations determined by the department of revenue pursuant to subsection (3) in the following priority:*

(i) *to the other school district within the unified school system from which the oil and natural gas production revenue originates or to any school district having a joint board status with the district, as provided in 20-3-361, from which the oil and natural gas production revenue originates, up to 130% of the maximum budget of the school district receiving a distribution of revenue under this subsection (4)(a)(i) on a prorated basis;*

(ii) *if funds remain to be distributed after distribution to school districts under subsection (4)(a)(i), to all school districts immediately contiguous to the district from which the oil and natural gas production revenue originates, up to 130% of the maximum budget of each school district receiving a distribution of revenue under this subsection (4)(a)(ii) on a prorated basis. If there is more than one school district from which distributable oil and natural gas production revenue originates and is available for a distribution under this subsection (4)(a)(ii) that is immediately contiguous to a school district qualifying for receipt of a distribution of oil and natural gas revenue under this subsection (4)(a)(ii), the distribution of oil and natural gas production revenue must be prorated from the districts from which oil and natural gas production revenue originates in relative proportion to the amount that the oil and natural gas revenue available for distribution from each school district bears to the total oil and natural gas revenue available for distribution from all school districts from which the distributable revenue originates;*

*(iii) if funds remain to be distributed after distribution to school districts under subsection (4)(a)(ii), to all school districts that are located in whole or in part in the same county as the school district from which the oil and natural gas production revenue originates, up to 130% of the maximum budget of each school district receiving a distribution of revenue under this subsection (4)(a)(iii) on a prorated basis. If there is more than one school district from which distributable oil and natural gas production revenue originates and is available for distribution under this subsection (4)(a)(iii), the distribution of oil and natural gas production revenue must be prorated from the districts from which oil and natural gas production revenue originates in relative proportion to the amount that the oil and natural gas revenue available for distribution from each school district bears to the total oil and natural gas revenue available for distribution from all school districts from which the distributable revenue originates; and*

*(iv) if funds remain to be distributed after distribution to school districts under subsection (4)(a)(iii), to all school districts that are located in whole or in part in a county contiguous to a county where a horizontally completed well, as defined in 15-36-303, has been drilled within the last 3 years according to the department of natural resources and conservation, up to 130% of the maximum budget of each school district receiving a distribution under this subsection (4)(a)(iv) on a prorated basis. If there is more than one school district from which distributable oil and natural gas production revenue originates and is available for distribution under this subsection (4)(a)(iv), the distribution of oil and natural gas production revenue must be prorated from the districts from which oil and natural gas production revenue originates in relative proportion to the amount that the oil and natural gas revenue available for distribution from each school district bears to the total oil and natural gas revenue available for distribution from all school districts from which the distributable revenue originates.*

*(b) Any funds remaining after distribution under subsections (4)(a)(i) through (4)(a)(iv) must be deposited as follows:*

*(i) 70% of the retained amount must be deposited in the guarantee account provided for in 20-9-622;*

*(ii) 5% of the retained amount must be deposited in the state school oil and natural gas impact account provided for in 20-9-517; and*

*(iii) 25% of the retained amount must be distributed to the counties for deposit in the county school oil and natural gas impact fund provided for in 20-9-518.*

*(5) Subject to the limitation in subsection (1) and except as provided in subsection (7), the trustees shall budget and allocate the oil and natural gas production taxes received by the district as follows:*

~~*(a) for fiscal year 2012, the trustees shall budget in the general fund an amount of oil and natural gas production taxes equal to the lesser of 25% of the total oil and natural gas production taxes received by the district in the prior year or the general fund levy requirement;*~~

~~*(b) for fiscal year 2013, the trustees shall budget in the general fund an amount of oil and natural gas production taxes equal to the lesser of 35% of the total oil and natural gas production taxes received by the district in the prior year or the general fund levy requirement;*~~

~~*(c) for fiscal year 2014, the trustees shall budget in the general fund an amount of oil and natural gas production taxes equal to the lesser of 45% of the*~~



total oil and natural gas production taxes received by the district in the prior year or the general fund levy requirement;

~~(d)(a)~~ for each succeeding fiscal year, the trustees shall budget in the general fund an amount of oil and natural gas production taxes equal to the lesser of ~~55%~~ 25% of the total oil and natural gas production taxes received by the district in the prior year or the general fund levy requirement;

~~(e)(b)~~ oil and natural gas production taxes received by the district must be deposited in the general fund until the ~~budgeted amount~~ limit under subsection (5)(a) is reached; and

~~(f)(c)~~ all remaining oil and natural gas production tax revenue may be deposited in any budgeted fund.

*(6) Except as provided in subsection (7), 50% of the oil and natural gas production taxes deposited in the general fund pursuant to subsection (5)(a) must be applied to the BASE budget levy. Remaining oil and natural gas production taxes deposited in the general fund may be applied to either the BASE budget levy or the over-BASE budget levy at the discretion of the board of trustees.*

*(7) The provisions of subsections (5) and (6) do not apply to the following:*

*(a) a district that has a maximum general fund budget of less than \$1 million;*

*(b) a district whose oil and gas revenue combined with its adopted general fund budget total 105% or less of its maximum general fund budget;*

*(c) a district that has a maximum general fund budget of \$1 million or more and has had an unusual enrollment increase approved by the superintendent of public instruction as provided in 20-9-314 in the year immediately preceding the fiscal year to which subsections (5) and (6) would otherwise apply;*

*(d) a district that has issued outstanding oil and natural gas revenue bonds. Any funds received pursuant to this section must first be applied by the district to payment of debt service obligations for oil and natural gas revenue bonds for the next 12-month period.*

*(8) The limit on oil and natural gas production taxes that a school district may retain under subsection (1) must be increased for any school district with an unusual enrollment increase approved by the superintendent of public instruction as provided in 20-9-314. The increase in the limit on oil and natural gas production taxes that a school district may retain under subsection (1) applies in the year immediately following the fiscal year in which the office of public instruction has approved the district's unusual enrollment increase and must be calculated by multiplying \$45,000 times each additional ANB approved by the superintendent of public instruction as provided in 20-9-314.*

~~(6)(9)~~ In any year in which the actual oil and natural gas production taxes received by a school district are less than 50% of the total oil and natural gas production taxes received by the district in the prior year, the district may transfer money from any budgeted fund to its general fund in an amount not to exceed the amount of the shortfall.

~~(7)~~ Beginning in fiscal year 2013, for any amount retained by the department of revenue in compliance with the limitation in subsection (1), the amount retained must be allocated as follows:

~~(a)~~ 70% of the retained amount must be deposited in the guarantee account provided for in 20-9-622;

~~(b) 5% of the retained amount must be deposited in the state school oil and natural gas impact account provided for in 20-9-517; and~~

~~(c) 25% of the retained amount must be distributed to the counties for deposit in the county school oil and natural gas impact fund provided for in 20-9-518. (Terminates June 30, 2016 2016—sec. 29, Ch. 418, L. 2011.)”~~

**Section 9.** Section 20-9-310, MCA, is amended to read:

**“20-9-310. (Temporary) Oil and natural gas production taxes for school districts — allocation and limits.** (1) *The Except as provided in subsection (8), the maximum amount of oil and natural gas production taxes that a school district may retain is 130% of the school district’s maximum budget, determined in accordance with 20-9-308.*

(2) Upon receipt of school district budget reports required under 20-9-134, the superintendent of public instruction shall provide the department of revenue with a list reporting the maximum general fund budget for each school district.

(3) The department of revenue shall make the full quarterly distribution of oil and natural gas production taxes as required under 15-36-332(6) until the amount distributed reaches the limitation in subsection (1) of this section. *The department of revenue shall deposit any amount exceeding the limitation in subsection (1) in the state school oil and natural gas distribution account provided for in [section 34].*

(4) ~~For fiscal year 2012, By the last day of the month immediately following the month in which the quarterly distribution of oil and natural gas production taxes in subsection (3) is made, the office of public instruction shall distribute any amount of oil and natural gas production taxes exceeding the limitation in subsection (1) must be deposited in the guarantee account as provided in 20-9-622, based on allocations determined by the department of revenue pursuant to subsection (3) as follows:~~

~~(a) 70% of the retained amount must be deposited in the guarantee account provided for in 20-9-622;~~

~~(b) 5% of the retained amount must be deposited in the state school oil and natural gas impact account provided for in 20-9-517; and~~

~~(c) 25% of the retained amount must be distributed to the counties for deposit in the county school oil and natural gas impact fund provided for in 20-9-518.~~

(5) Subject to the limitation in subsection (1) *and except as provided in subsection (7), the trustees shall budget and allocate the oil and natural gas production taxes received by the district as follows:*

~~(a) for fiscal year 2012, the trustees shall budget in the general fund an amount of oil and natural gas production taxes equal to the lesser of 25% of the total oil and natural gas production taxes received by the district in the prior year or the general fund levy requirement;~~

~~(b) for fiscal year 2013, the trustees shall budget in the general fund an amount of oil and natural gas production taxes equal to the lesser of 35% of the total oil and natural gas production taxes received by the district in the prior year or the general fund levy requirement;~~

~~(c) for fiscal year 2014, the trustees shall budget in the general fund an amount of oil and natural gas production taxes equal to the lesser of 45% of the total oil and natural gas production taxes received by the district in the prior year or the general fund levy requirement;~~

~~(d)(a)~~ for each succeeding fiscal year, the trustees shall budget in the general fund an amount of oil and natural gas production taxes equal to the lesser of ~~55%~~ 25% of the total oil and natural gas production taxes received by the district in the prior year or the general fund levy requirement;

~~(e)(b)~~ oil and natural gas production taxes received by the district must be deposited in the general fund until the ~~budgeted amount~~ limit under subsection (5)(a) is reached; and

~~(f)(c)~~ all remaining oil and natural gas production tax revenue may be deposited in any budgeted fund.

*(6) Except as provided in subsection (7), 50% of the oil and natural gas production taxes deposited in the general fund pursuant to subsection (5)(a) must be applied to the BASE budget levy. Remaining oil and natural gas production taxes deposited in the general fund may be applied to either the BASE budget levy or the over-BASE budget levy at the discretion of the board of trustees.*

*(7) The provisions of subsections (5) and (6) do not apply to the following:*

*(a) a district that has a maximum general fund budget of less than \$1 million;*

*(b) a district whose oil and gas revenue combined with its adopted general fund budget total 105% or less of its maximum general fund budget;*

*(c) a district that has a maximum general fund budget of \$1 million or more and has had an unusual enrollment increase approved by the superintendent of public instruction as provided in 20-9-314 in the year immediately preceding the fiscal year to which subsections (5) and (6) would otherwise apply; or*

*(d) a district that has issued outstanding oil and natural gas revenue bonds. Any funds received pursuant to this subsection (7) must first be applied by the district to payment of debt service obligations for oil and natural gas revenue bonds for the next 12-month period.*

*(8) The limit on oil and natural gas production taxes that a school district may retain under subsection (1) must be increased for any school district with an unusual enrollment increase approved by the superintendent of public instruction as provided in 20-9-314. The increase in the limit on oil and natural gas production taxes that a school district may retain under subsection (1) applies in the year immediately following the fiscal year in which the office of public instruction has approved the district's unusual enrollment increase and must be calculated by multiplying \$45,000 times each additional ANB approved by the superintendent of public instruction as provided in 20-9-314.*

~~(6)(9)~~ In any year in which the actual oil and natural gas production taxes received by a school district are less than 50% of the total oil and natural gas production taxes received by the district in the prior year, the district may transfer money from any budgeted fund to its general fund in an amount not to exceed the amount of the shortfall.

~~(7) Beginning in fiscal year 2013, for any amount retained by the department of revenue in compliance with the limitation in subsection (1), the amount retained must be allocated as follows:~~

~~(a) 70% of the retained amount must be deposited in the guarantee account provided for in 20-9-622;~~

~~(b) 5% of the retained amount must be deposited in the state school oil and natural gas impact account provided for in 20-9-517; and~~

~~(c) 25% of the retained amount must be distributed to the counties for deposit in the county school oil and natural gas impact fund provided for in 20-9-518. (Terminates June 30, 2016—sec. 29, Ch. 418, L. 2011.)~~

**Section 10.** Section 20-9-311, MCA, is amended to read:

**“20-9-311. Calculation of average number belonging (ANB) — ~~three-year~~ 3-year averaging.** (1) Average number belonging (ANB) must be computed for each budget unit as follows:

(a) compute an average enrollment by adding a count of regularly enrolled full-time pupils who were enrolled as of the first Monday in October of the prior school fiscal year to a count of regularly enrolled pupils on ~~February 1 the first Monday in December~~ of the prior school fiscal year *and to a count of regularly enrolled pupils on the first Monday in February of the prior school fiscal year; or the next school day if those dates do not fall on a school day*, and divide the sum by ~~two~~ *three*; and

(b) multiply the average enrollment calculated in subsection (1)(a) by the sum of 180 and the approved pupil-instruction-related days for the current school fiscal year and divide by 180.

(2) For the purpose of calculating ANB under subsection (1), up to 7 approved pupil-instruction-related days may be included in the calculation.

(3) When a school district has approval to operate less than the minimum aggregate hours under 20-9-806, the total ANB must be calculated in accordance with the provisions of 20-9-805.

(4) (a) ~~For~~ *Except as provided in subsection (4)(d),* for the purpose of calculating ANB, enrollment in an education program:

(i) from 180 to 359 aggregate hours of pupil instruction per school year is counted as one-quarter-time enrollment;

(ii) from 360 to 539 aggregate hours of pupil instruction per school year is counted as half-time enrollment;

(iii) from 540 to 719 aggregate hours of pupil instruction per school year is counted as three-quarter-time enrollment; and

(iv) 720 or more aggregate hours of pupil instruction per school year is counted as full-time enrollment.

(b) *Except as provided in subsection (4)(d),* ~~Enrollment~~ enrollment in a program intended to provide fewer than 180 aggregate hours of pupil instruction per school year may not be included for purposes of ANB.

(c) Enrollment in a self-paced program or course may be converted to an hourly equivalent based on the hours necessary and appropriate to provide the course within a regular classroom schedule.

(d) *A school district may include in its calculation of ANB a pupil who is enrolled in a program providing fewer than the required aggregate hours of pupil instruction required under subsection (4)(a) or (4)(b) if the pupil has demonstrated proficiency in the content ordinarily covered by the instruction as determined by the school board using district assessments. The ANB of a pupil under this subsection (4)(d) must be converted to an hourly equivalent based on the hours of instruction ordinarily provided for the content over which the student has demonstrated proficiency.*

~~(d)~~(e) A pupil in kindergarten through grade 12 who is concurrently enrolled in more than one public school, program, or district may not be counted as more than one full-time pupil for ANB purposes.

(5) For a district that is transitioning from a half-time to a full-time kindergarten program, the state superintendent shall count kindergarten enrollment in the previous year as full-time enrollment for the purpose of calculating ANB for the elementary programs offering full-time kindergarten in the current year. For the purposes of calculating the 3-year ANB, the superintendent of public instruction shall count the kindergarten enrollment as one-half enrollment and then add the additional kindergarten ANB to the 3-year average ANB for districts offering full-time kindergarten.

(6) When a pupil has been absent, with or without excuse, for more than 10 consecutive school days, the pupil may not be included in the enrollment count used in the calculation of the ANB unless the pupil resumes attendance prior to the day of the enrollment count.

(7) The enrollment of preschool pupils, as provided in 20-7-117, may not be included in the ANB calculations.

(8) The average number belonging of the regularly enrolled, full-time pupils for the public schools of a district must be based on the aggregate of all the regularly enrolled, full-time pupils attending the schools of the district, except that:

(a) the ANB is calculated as a separate budget unit when:

(a) (i) a school of the district is located more than 20 miles beyond the incorporated limits of a city or town located in the district and at least 20 miles from any other school of the district, the number of regularly enrolled, full-time pupils of the school must be calculated as a separate budget unit for ANB purposes and the district must receive a basic entitlement for the school calculated separately from the other schools of the district;

(ii) a school of the district is located more than 20 miles from any other school of the district and incorporated territory is not involved in the district, the number of regularly enrolled, full-time pupils of the school must be calculated separately for ANB purposes and the district must receive a basic entitlement for the school calculated separately from the other schools of the district;

(iii) the superintendent of public instruction approves an application not to aggregate when conditions exist affecting transportation, such as poor roads, mountains, rivers, or other obstacles to travel, or when any other condition exists that would result in an unusual hardship to the pupils of the school if they were transported to another school, the number of regularly enrolled, full-time pupils of the school must be calculated separately for ANB purposes and the district must receive a basic entitlement for the school calculated separately from the other schools of the district; or

(iv) two or more districts consolidate or annex under the provisions of 20-6-422 or 20-6-423, the ANB and the basic entitlements of the component districts must be calculated separately for a period of 3 years following the consolidation or annexation. Each district shall retain a percentage of its basic entitlement for 3 additional years as follows:

(A) 75% of the basic entitlement for the fourth year;

(B) 50% of the basic entitlement for the fifth year; and

(C) 25% of the basic entitlement for the sixth year.

(b) *when* a junior high school has been approved and accredited as a junior high school, all of the regularly enrolled, full-time pupils of the junior high school must be considered as high school district pupils for ANB purposes;

(c) *when* a middle school has been approved and accredited, all pupils below the 7th grade must be considered elementary school pupils for ANB purposes

and the 7th and 8th grade pupils must be considered high school pupils for ANB purposes; or

(d) *when a school has ~~not been accredited~~ been designated as nonaccredited by the board of public education because of failure to meet the board of public education's assurance and performance standards*, the regularly enrolled, full-time pupils attending the nonaccredited school are not eligible for average number belonging calculation purposes, nor will an average number belonging for the nonaccredited school be used in determining the BASE funding program for the district.

(9) The district shall provide the superintendent of public instruction with semiannual reports of school attendance, absence, and enrollment for regularly enrolled students, using a format determined by the superintendent.

(10) (a) Except as provided in subsections (10)(b) and (10)(c), enrollment in a basic education program provided by the district through any combination of onsite or offsite instruction may be included for ANB purposes only if the pupil is offered access to the complete range of educational services for the basic education program required by the accreditation standards adopted by the board of public education.

(b) Access to school programs and services for a student placed by the trustees in a private program for special education may be limited to the programs and services specified in an approved individual education plan supervised by the district.

(c) Access to school programs and services for a student who is incarcerated in a facility, other than a youth detention center, may be limited to the programs and services provided by the district at district expense under an agreement with the incarcerating facility.

(d) This subsection (10) may not be construed to require a school district to offer access to activities governed by an organization having jurisdiction over interscholastic activities, contests, and tournaments to a pupil who is not otherwise eligible under the rules of the organization.

(11) A district may include only, for ANB purposes, an enrolled pupil who is otherwise eligible under this title and who is:

(a) a resident of the district or a nonresident student admitted by trustees under a student attendance agreement and who is attending a school of the district;

(b) unable to attend school due to a medical reason certified by a medical doctor and receiving individualized educational services supervised by the district, at district expense, at a home or facility that does not offer an educational program;

(c) unable to attend school due to the student's incarceration in a facility, other than a youth detention center, and who is receiving individualized educational services supervised by the district, at district expense, at a home or facility that does not offer an educational program;

(d) receiving special education and related services, other than day treatment, under a placement by the trustees at a private nonsectarian school or private program if the pupil's services are provided at the district's expense under an approved individual education plan supervised by the district;

(e) participating in the running start program at district expense under 20-9-706;

(f) receiving educational services, provided by the district, using appropriately licensed district staff at a private residential program or private



residential facility licensed by the department of public health and human services;

(g) enrolled in an educational program or course provided at district expense using electronic or offsite delivery methods, including but not limited to tutoring, distance learning programs, online programs, and technology delivered learning programs, while attending a school of the district or any other nonsectarian offsite instructional setting with the approval of the trustees of the district. The pupil shall:

(i) meet the residency requirements for that district as provided in 1-1-215;

(ii) live in the district and must be eligible for educational services under the Individuals With Disabilities Education Act or under 29 U.S.C. 794; or

(iii) attend school in the district under a mandatory attendance agreement as provided in 20-5-321.

(h) a resident of the district attending the Montana youth challenge program or a Montana job corps program under an interlocal agreement with the district under 20-9-707.

(12) A district shall, for ANB purposes, calculate the enrollment of an eligible Montana youth challenge program participant as half-time enrollment.

(13) (a) For an elementary or high school district that has been in existence for 3 years or more, the district's maximum general fund budget and BASE budget for the ensuing school fiscal year must be calculated using the current year ANB for all budget units or the 3-year average ANB for all budget units, whichever generates the greatest maximum general fund budget.

(b) For a K-12 district that has been in existence for 3 years or more, the district's maximum general fund budget and BASE budget for the ensuing school fiscal year must be calculated separately for the elementary and high school programs pursuant to subsection (13)(a) and then combined.

(14) The term "3-year ANB" means an average ANB over the most recent 3-year period, calculated by:

(a) adding the ANB for the budget unit for the ensuing school fiscal year to the ANB for each of the previous 2 school fiscal years; and

(b) dividing the sum calculated under subsection (14)(a) by three."

**Section 11.** Section 20-9-314, MCA, is amended to read:

**"20-9-314. Procedures for determining eligibility and amount of increased average number belonging due to unusual enrollment increase.** A district that anticipates an unusual increase in enrollment in the ensuing school fiscal year, as provided for in 20-9-313(1)(d), may increase its basic entitlement and total per-ANB entitlement for the ensuing school fiscal year in accordance with the following provisions:

(1) Prior to June 1, the district shall estimate the elementary or high school enrollment to be realized during the ensuing school fiscal year, based on as much factual information as may be available to the district.

(2) No later than June 1, the district shall submit its application for an *anticipated* unusual enrollment increase by elementary or high school level to the superintendent of public instruction. The application must include:

(a) the enrollment for the current school fiscal year;

(b) the average number belonging used to calculate the basic entitlement and total per-ANB entitlement for the current school fiscal year;

(c) the average number belonging that will be used to calculate the basic entitlement and total per-ANB entitlement for the ensuing school fiscal year;



(d) the ~~estimated~~ *anticipated* enrollment, including the factual information on which the estimate is based, as provided in subsection (1); and

(e) any other information or data that may be requested by the superintendent of public instruction.

(3) The superintendent of public instruction shall immediately review all the factors of the application and shall approve or disapprove the application or adjust the ~~estimated enrollment used to calculate the budgeted~~ average number belonging for the ensuing ANB ~~calculation period~~ school fiscal year. After approving an estimate, with or without adjustment, the superintendent of public instruction shall:

(a) determine the percentage by which the ~~estimated~~ *adjusted* enrollment exceeds the enrollment used for the budgeted ANB *average number belonging*; and

(b) approve an increase of the average number belonging used to establish the ensuing year's basic entitlement and total per-ANB entitlement in accordance with subsection (5) if the increase in subsection (3)(a) is at least 6% *4% or 40 students, whichever is less*.

(4) The superintendent of public instruction shall notify the district of the decision by the fourth Monday in June.

(5) Whenever an unusual enrollment increase is approved by the superintendent of public instruction, ~~the increase of the average number belonging used to establish the basic entitlement and total per-ANB entitlement for the ensuing ANB calculation period is determined using the difference between the enrollment for the ensuing school fiscal year and 106% of the enrollment used to calculate the budgeted ANB. The amount determined is the maximum allowable increase added to the average number belonging for the purpose of establishing the ensuing year's basic entitlement and total per-ANB entitlement~~ *the maximum allowable increase to the average number belonging is equal to the adjusted enrollment as determined by the superintendent of public instruction in subsection (3) minus the sum of:*

(a) *the enrollment used to calculate the budgeted average number belonging for the ensuing school fiscal year; and*

(b) *the lesser of 40 students or 4% of the enrollment used to calculate the budgeted average number belonging for the ensuing school fiscal year.*

(6) (a) Any entitlement increases resulting from provisions of this section must be reviewed at the end of the ensuing school fiscal year.

(b) If the actual enrollment is less than the enrollment used to determine the budgeted ANB, the superintendent of public instruction shall revise the total per-ANB entitlement and basic entitlement calculations, as provided in subsection (5), using the actual enrollment in place of the ~~estimated~~ *adjusted* enrollment. All total per-ANB entitlements received by the district in excess of the revised entitlements are overpayments subject to the refund provisions of 20-9-344(4)."

**Section 12.** Section 20-9-323, MCA, is amended to read:

**"20-9-323. Ending fund balance limits.** (1) Beginning July 1, ~~2016~~ *2020*, the combined ending fund balance for all budgeted funds of a school district may not exceed 300% of the maximum general fund budget. The 300% limit is not applicable to the building reserve fund, the debt service fund, or the bus depreciation reserve fund.

(2) The county superintendent shall, upon completion of a school fiscal year, redistribute any amounts in excess of the 300% limit among any other school

districts in the same county whose combined ending fund balance for all budgeted funds included in subsection (1) has not exceeded the 300% limit. The county superintendent shall redistribute funds equally to the school districts qualifying for redistribution on a per-quality-educator basis, calculated by dividing the total funds by the total number of quality educators, as defined in 20-4-502, employed by the qualifying school districts in the county in the immediately preceding school fiscal year. School districts receiving the funds may place the funds in any budgeted fund of the district at the discretion of the board of trustees of each district.

(3) Unless an exception is granted under subsection (5), upon completion of a school fiscal year, a school district with combined ending fund balances in excess of the 300% limit shall cooperate with the county superintendent in effectuating the redistribution of excess funds as provided in subsection (2). A school district may make the payment required under this subsection from any fund or funds of the district other than the debt service fund, the building reserve fund, and the bus depreciation reserve fund.

(4) Any funds that cannot be redistributed within a county without causing a school district in the county to exceed the 300% limit must be remitted by the county treasurer to the state for deposit in the guarantee account *and distribution provided for in in the same manner as provided in 20-9-622 20-9-622(3)*.

(5) In accordance with 20-9-161, a school district shall report to the education and local government interim committee for any exception taken to the limits prescribed by subsection (1) of this section.

(6) This section does not apply to school districts that are in a nonoperating status under 20-9-505 or that are in the first year of operation after reopening under 20-6-502 or 20-6-503.

(7) Beginning July 1, ~~2013~~ 2020, the balance of a school district's flexibility fund may not exceed 150% of the school district's maximum general fund budget."

**Section 13.** Section 20-9-326, MCA, is amended to read:

**"20-9-326. Annual inflation-related adjustments to basic entitlements and per-ANB entitlements.** (1) In preparing and submitting an agency budget pursuant to 17-7-111 and 17-7-112, the superintendent of public instruction shall determine the inflation factor for the basic and per-ANB entitlements, *the data-for-achievement payment, and the general fund payments in 20-9-327 through 20-9-330* in each fiscal year of the ensuing biennium. The inflation factor is calculated as follows:

(a) for the first year of the biennium, divide the consumer price index for July 1 of the prior calendar year by the consumer price index for July 1 of the calendar year 3 years prior to the prior calendar year and raise the resulting ratio to the power of one-third; and

(b) for the second year of the biennium, divide the consumer price index for July 1 of the current calendar year by the consumer price index for July 1 of the calendar year 3 years prior to the current calendar year and raise the resulting ratio to the power of one-third.

(2) The present law base for the ~~basic and per-ANB~~ entitlements *referenced in subsection (1)*, calculated under Title 17, chapter 7, part 1, must consist of any enrollment increases or decreases plus the inflation factor calculated pursuant to this section, not to exceed 3% in each year, applied to both years of the biennium.

(3) For the purposes of this section, “consumer price index” means the consumer price index, U.S. city average, all urban consumers, for all items, using the 1982-84 base of 100, as published by the bureau of labor statistics of the U.S. department of labor.”

**Section 14.** Section 20-9-342, MCA, is amended to read:

**“20-9-342. Deposit of interest and income money by state board of land commissioners.** (1) Except as provided in 20-9-516, the state board of land commissioners shall deposit the interest and income money for each fiscal year into the guarantee account, provided for in 20-9-622, ~~for state equalization aid~~ by the last business day of February and June before the close of the fiscal year in which the money was received. *Except as provided in subsection (2), money in the guarantee account must be used for state equalization aid.*

(2) *Subject to subsection (3), any excess interest and income revenue deposited in the guarantee account in each fiscal year must be distributed in accordance with 20-9-622(3).*

(3) *The excess interest and income revenue must equal at least \$1 million in order to be distributed pursuant to subsection (2). Excess interest and income revenue of \$1 million or less must be carried forward and added to the excess interest and income revenue in the next ensuing school fiscal year and distributed in accordance with 20-9-622(3).*

(4) *For purposes of this section, “excess interest and income revenue” means an annual amount in excess of \$56 million.”*

**Section 15.** Section 20-9-344, MCA, is amended to read:

**“20-9-344. Duties of board of public education for distribution of BASE aid.** (1) The board of public education shall administer and distribute the BASE aid and state advances for county equalization in the manner and with the powers and duties provided by law. The board of public education:

(a) shall adopt policies for regulating the distribution of BASE aid and state advances for county equalization in accordance with the provisions of law;

(b) may require reports from the county superintendents, county treasurers, and trustees that it considers necessary; and

(c) shall order the superintendent of public instruction to distribute the BASE aid on the basis of each district’s annual entitlement to the aid as established by the superintendent of public instruction. In ordering the distribution of BASE aid, the board of public education may not increase or decrease the BASE aid distribution to any district on account of any difference that may occur during the school fiscal year between budgeted and actual receipts from any other source of school revenue.

(2) The board of public education may order the superintendent of public instruction to withhold distribution of BASE aid from a district when the district fails to:

(a) submit reports or budgets as required by law or rules adopted by the board of public education; or

(b) maintain accredited status *because of failure to meet the board of public education’s assurance and performance standards.*

(3) Prior to any proposed order by the board of public education to withhold distribution of BASE aid or county equalization money, the district is entitled to a contested case hearing before the board of public education, as provided under the Montana Administrative Procedure Act.

(4) If a district or county receives more BASE aid than it is entitled to, the county treasurer shall return the overpayment to the state upon the request of the superintendent of public instruction in the manner prescribed by the superintendent of public instruction.

(5) Except as provided in 20-9-347(2), the BASE aid payment must be distributed according to the following schedule:

(a) from August to October of the school fiscal year, to each district 10% of:

(i) direct state aid;

(ii) the total quality educator payment;

(iii) the total at-risk student payment;

(iv) the total Indian education for all payment; ~~and~~

(v) the total American Indian achievement gap payment;

*(vi) the total data-for-achievement payment; and*

*(vii) the total natural resource development K-12 funding payment;*

(b) from December to April of the school fiscal year, to each district 10% of:

(i) direct state aid;

(ii) the total quality educator payment;

(iii) the total at-risk student payment;

(iv) the total Indian education for all payment; ~~and~~

(v) the total American Indian achievement gap payment;

*(vi) the total data-for-achievement payment;*

*and*

*(vii) the total natural resource development K-12 funding payment;*

(c) in November of the school fiscal year, one-half of the guaranteed tax base aid payment to each district or county that has submitted a final budget to the superintendent of public instruction in accordance with the provisions of 20-9-134;

(d) in May of the school fiscal year, the remainder of the guaranteed tax base aid payment to each district or county; and

(e) in June of the school fiscal year, the remaining payment to each district of direct state aid, the total quality educator payment, the total at-risk student payment, the total Indian education for all payment, ~~and~~ the total American Indian achievement gap payment, *the total data-for-achievement payment, and the total natural resource development K-12 funding payment.*

(6) The distribution provided for in subsection (5) must occur by the last working day of each month."

**Section 16.** Section 20-9-403, MCA, is amended to read:

**"20-9-403. Bond issues for certain purposes.** (1) The trustees of a school district may issue and negotiate general obligation bonds, *oil and natural gas revenue bonds*, or impact aid bonds of the school district for the purpose of:

(a) building, altering, repairing, buying, furnishing, equipping, purchasing lands for, or obtaining a water supply for a school, teacherage, dormitory, gymnasium, other building, or combination of buildings for school purposes;

(b) buying a school bus or buses;

(c) providing the necessary money to redeem matured bonds, maturing bonds, or coupons appurtenant to bonds when there is not sufficient money to redeem them;

(d) providing the necessary money to redeem optional or redeemable bonds when it is for the best interest of the school district to issue refunding bonds;

(e) funding a judgment against the district, including the repayment of tax protests lost by the district; or

(f) funding a debt service reserve account that may be required for *oil and natural gas revenue bonds* or impact aid revenue bonds.

(2) Money realized from the sale of bonds issued on the credit of a high school district may not be used for any of the purposes listed in subsection (1) in an elementary school district, and the money may be used for any of the purposes listed in subsection (1) for a junior high school but only to the extent that the 9th grade of the high school is served.

(3) If applicable, the trustees shall specify whether the bonds are qualified school construction bonds as described in 17-5-116(1) or tax credit bonds as provided in 17-5-117.”

**Section 17.** Section 20-9-406, MCA, is amended to read:

**“20-9-406. Limitations on amount of bond issue — definition of federal impact aid basic support payment — *oil and natural gas payment.*** (1) (a) Except as provided in subsection (1)(c), the maximum amount for which an elementary district or a high school district may become indebted by the issuance of general obligation bonds, including all indebtedness represented by outstanding general obligation bonds of previous issues, registered warrants, outstanding obligations under 20-9-471, *oil and natural gas revenue bonds to which a deficiency tax levy is pledged*, and any other loans or notes payable that are held as general obligations of the district, is 50% of the taxable value of the property subject to taxation, as ascertained by the last assessment for state, county, and school taxes previous to the incurring of the indebtedness.

(b) Except as provided in subsection (1)(c), the maximum amount for which a K-12 school district, as formed pursuant to 20-6-701, may become indebted by the issuance of general obligation bonds, including all indebtedness represented by outstanding general obligation bonds of previous issues, registered warrants, outstanding obligations under 20-9-471, *oil and natural gas revenue bonds to which a deficiency tax levy is pledged*, and any other loans or notes payable that are held as general obligations of the district, is up to 100% of the taxable value of the property subject to taxation, as ascertained by the last assessment for state, county, and school taxes previous to the incurring of the indebtedness.

(c) (i) The maximum amount for which an elementary district or a high school district with a district mill value per elementary ANB or per high school ANB that is less than the facility guaranteed mill value per elementary ANB or high school ANB under 20-9-366 may become indebted by the issuance of general obligation bonds, including all indebtedness represented by outstanding general obligation bonds of previous issues, registered warrants, outstanding obligations under 20-9-471, *oil and natural gas revenue bonds to which a deficiency tax levy is pledged*, and any other loans or notes payable that are held as general obligations of the district, is 50% of the corresponding facility guaranteed mill value per ANB times 1,000 times the ANB of the district. For a K-12 district, the maximum amount for which the district may become indebted is 50% of the sum of the facility guaranteed mill value per elementary ANB times 1,000 times the elementary ANB of the district and the facility guaranteed mill value per high school ANB times 1,000 times the high school ANB of the district. For the purpose of calculating ANB under this subsection, a district

may use the greater of the current year ANB or the 3-year ANB calculated under 20-9-311.

(ii) If mutually agreed upon by the affected districts, for the purpose of calculating its maximum bonded indebtedness under this subsection (1)(c), a district may include the ANB of the district plus the number of students residing within the district for which the district or county pays tuition for attendance at a school in an adjacent district. The receiving district may not use out-of-district ANB for the purpose of calculating its maximum indebtedness if the out-of-district ANB has been included in the ANB of the sending district pursuant to the mutual agreement. For the purpose of calculating ANB under this subsection, a district may use the greater of the current year ANB or the 3-year ANB calculated under 20-9-311.

(2) The maximum amounts determined in subsection (1) do not pertain to indebtedness imposed by special improvement district obligations or assessments against the school district or to general obligation bonds issued for the repayment of tax protests lost by the district. All general obligation bonds issued in excess of the amount are void, except as provided in this section.

(3) The maximum amount of impact aid revenue bonds that an elementary district, high school district, or K-12 school district may issue may not exceed a total aggregate amount equal to three times the average of the school district's annual federal impact aid basic support payments for the 5 years immediately preceding the issuance of the bonds. However, at the time of issuance of the bonds, the average annual payment of principal of and interest on the impact aid bonds each year may not exceed 35% of the total federal impact aid basic support payments of the school district for the current year.

*(4) The maximum amount of oil and natural gas revenue bonds that an elementary district, high school district, or K-12 school district may issue may not exceed a total aggregate amount equal to three times the average of the school district's annual oil and natural gas production taxes received pursuant to 15-36-331, 15-36-332, and 20-9-310 for the 2 fiscal years immediately preceding the issuance of the bonds. At the time of the issuance of the bonds, the average annual payment of principal of and interest on the oil and natural gas revenue bonds each year may not exceed 35% of the total oil and natural gas production taxes received by the school district under the limitations in 20-9-310 for the immediately preceding fiscal year. If the oil and natural gas revenue bonds are also secured by a deficiency tax levy as provided in 20-9-437, the debt limitation provided in subsection (1) of this section applies to the bonds.*

~~(4)~~(5) When the total indebtedness of a school district has reached the limitations prescribed in this section, the school district may pay all reasonable and necessary expenses of the school district on a cash basis in accordance with the financial administration provisions of this chapter.

~~(5)~~(6) Whenever bonds are issued for the purpose of refunding bonds, any money to the credit of the debt service fund for the payment of the bonds to be refunded is applied toward the payment of the bonds and the refunding bond issue is decreased accordingly.

~~(6)~~(7) As used in this part, "federal impact aid basic support payment" means the annual impact aid revenue received by a district under 20 U.S.C. 7703(b) but excludes revenue received for impact aid special education under 20 U.S.C. 7703(d) and impact aid construction under 20 U.S.C. 7707."



**Section 18.** Section 20-9-408, MCA, is amended to read:

**“20-9-408. Definition of forms of bonds.** As used in this part, the following definitions apply:

(1) “Amortization bond” means that form of bond on which a part of the principal is required to be paid each time that interest becomes due and payable. The part payment of principal increases with each following installment in the same amount that the interest payment decreases, so that the combined amount payable on principal and interest is the same on each payment date. However, the payment on the initial interest payment date may be less or greater than the amount of other payments on the bond, reflecting the payment of interest only or the payment of interest for a period different from that between other interest payment dates. The final payment may vary from prior payments in amount as a result of rounding prior payments.

(2) “General obligation bonds” means bonds that pledge the full faith and credit and the taxing power of a school district.

(3) “Impact aid revenue bonds” means bonds that pledge and are payable solely from federal impact aid basic support payments received and deposited to the credit of the fund established in 20-9-514.

(4) “*Oil and natural gas revenue bonds*” means bonds that pledge and are payable from a first lien on oil and natural gas production taxes received by a school district pursuant to 20-9-310. *Oil and natural gas revenue bonds to which a tax deficiency is pledged are not considered general obligation bonds that are eligible to receive guaranteed tax base aid pursuant to 20-9-367 but are to be considered in determining the debt limit of a school district for the purposes of 20-9-406.*

~~(4)~~(5) “Serial bonds” means a bond issue payable in annual installments of principal commencing not more than 2 years from the date of issue, any one installment consisting of one or more bonds, with the principal amount of bonds maturing or subject to mandatory sinking fund redemption in each installment, commencing with the installment payable in the fourth year after the date of issue, not exceeding three times the principal amount of the bonds payable in the immediately preceding installment.”

**Section 19.** Section 20-9-422, MCA, is amended to read:

**“20-9-422. Additional requirements for trustees’ resolution calling bond election.** (1) In addition to the requirements for calling an election that are prescribed in 20-20-201 and 20-20-203, the trustees’ resolution calling a school district bond election must:

(a) specify whether the bonds will be general obligation bonds, *oil and natural gas revenue bonds*, or impact aid revenue bonds *and, if oil and natural gas revenue bonds, whether a tax deficiency is pledged to the repayment of the bonds*;

(b) fix the exact amount of the bonds proposed to be issued, which may be more or less than the amounts estimated in a petition;

(c) fix the maximum number of years in which the proposed bonds would be paid;

(d) in the case of initiation by a petition, state the essential facts about the petition and its presentation; and

(e) state the amount of the state advance for school facilities estimated, pursuant to subsection (2), to be received by the district in the first school fiscal year in which a debt service payment would be due on the proposed bonds.

(2) Prior to the adoption of the resolution calling for a school bond election for a general obligation bond, the trustees of a district may request from the superintendent of public instruction a statement of the estimated amount of state advance for school facilities that the district will receive for debt service payments on the proposed general obligation bonds in the first school fiscal year in which a debt service payment is due. The district shall provide the superintendent with an estimate of the debt service payment due in the first school fiscal year. The superintendent shall estimate the state advance for the general obligation bond issue pursuant to 20-9-371(2).”

**Section 20.** Section 20-9-423, MCA, is amended to read:

**“20-9-423. Form, contents, and circularization of petition proposing school district bond election.** Any petition for the calling of an election on the proposition of issuing school district bonds must:

(1) specify whether the bonds will be general obligation bonds, *oil and natural gas revenue bonds*, or impact aid revenue bonds *and, if oil and natural gas revenue bonds, whether a tax deficiency is pledged to the repayment of the bonds*;

(2) plainly state each purpose of the proposed bond issue and the estimated amount of the bonds that would be issued for each purpose;

(3) be signed by not less than 20% of the school district electors qualified to vote under the provisions of 20-20-301 in order to constitute a valid petition;

(4) be a single petition or it may be composed of more than one petition, all being identical in form, and after being circulated and signed, they must be fastened together to form a single petition when submitted to the county registrar;

(5) be circulated by any one or more qualified electors of the school district; and

(6) contain an affidavit of each registered elector circulating a petition attached to the portion of the petition circulated. The affidavit must attest to the authenticity of the signatures and that the signers knew the contents of the petition at the time of signing it.”

**Section 21.** Section 20-9-426, MCA, is amended to read:

**“20-9-426. Preparation and form of ballots for bond election.** (1) The school district shall cause ballots to be prepared for all bond elections, and whenever bonds for more than one purpose are to be voted upon at the same election, separate ballots must be prepared for each purpose.

(2) For bond elections that are not held in conjunction with a school election, the ballots for absentee voting must be printed and made available at least 30 days before the bond election.

(3) All ballots must be substantially in the following form:

OFFICIAL BALLOT  
SCHOOL DISTRICT BOND ELECTION

INSTRUCTIONS TO VOTERS: Make an X or similar mark in the vacant square before the words “BONDS—YES” if you wish to vote for the bond issue; if you are opposed to the bond issue, make an X or similar mark in the square before the words “BONDS—NO”.

Shall the board of trustees be authorized to issue and sell (state type of bonds here: general obligation, *oil and natural gas revenue*, *oil and natural gas revenue for which a tax deficiency is pledged*, or impact aid revenue) bonds of this school district in the amount of ..... dollars (\$ .....), payable semiannually,

during a period not more than ..... years, for the purpose ..... (here state the purpose the same way as in the notice of election)?

- BONDS — YES.
- BONDS — NO.”

**Section 22.** Section 20-9-427, MCA, is amended to read:

**“20-9-427. Notice of bond election by separate purpose.** (1) A school district bond election must be conducted in accordance with the school election provisions of this title, except that the election notice must be in substantially the following form:

**NOTICE OF SCHOOL DISTRICT BOND ELECTION**

Notice is hereby given by the trustees of School District No. .... of..... County, state of Montana, that pursuant to a certain resolution adopted at a meeting of the board of trustees of the school district held on the..... day of....., an election of the registered electors of School District No..... of..... County, state of Montana, will be held on the..... day of....., at..... for the purpose of voting upon the question of whether or not the trustees may issue and sell (state here: general obligation, *oil and natural gas revenue*, *oil and natural gas revenue for which a tax deficiency is pledged*, or impact aid revenue) bonds of the school district in the amount of..... dollars (\$.....), payable semiannually, for the purpose of..... (here state purpose). The bonds to be issued will be payable in installments over a period not exceeding..... (state number) years.

The polls will be open from..... o'clock .....m. and until..... o'clock .....m. of the election day.

Dated and posted this..... day of.....

.....  
Presiding officer, School District No.....  
of..... County  
Address.....

(2) If the bonds proposed to be issued are for more than one purpose, then each purpose must be separately stated in the notice, together with the proposed amount of bonds for each purpose.

(3) The notice must specify whether the bonds will be general obligation bonds, *oil and natural gas revenue bonds*, or impact aid revenue bonds.”

**Section 23.** Section 20-9-430, MCA, is amended to read:

**“20-9-430. Sale of school district bonds and notice of public sale.** The trustees may sell school district bonds at public or private sale pursuant to 17-5-107. If the trustees conduct a public sale, the trustees shall give notice of the sale of school district bonds. The notice must state the purpose for which the bonds are to be issued and the amount proposed to be issued and must be substantially in the following form:

**NOTICE OF SALE OF SCHOOL DISTRICT BONDS**

Notice is hereby given by the trustees of School District No. .... of ..... County, state of Montana, that the trustees will on the ..... day of ..... , ..... , at the hour of ..... o'clock .....m. at ..... , in the school district, sell to the highest and best bidder for cash (state here: general obligation, *oil and natural gas revenue*, or impact aid revenue) bonds of the school district in the total amount of ..... dollars (\$ .....), for the purpose of .....

The bonds will be issued and sold in the aggregate principal amount of ..... dollars (\$ .....) each and will become payable according to the maturity schedule set forth below (set forth maturity schedule adopted by the school district). (If the bonds are to be issued as amortization bonds, indicate that here.)

The bonds will bear an original issue date of ....., ....., will pay interest commencing on the ..... day of ..... (month), ....., will be payable semiannually on the ..... day of ..... (month) and ..... (month) in each year thereafter, and will be redeemable in full. (Here insert optional provisions, if any, to be recited on the bonds.)

The bonds will be sold for not less than \$ ....., with accrued interest on the principal amount of the bonds to the date of their delivery, and all bidders shall state the lowest rate of interest at which they will purchase the bonds at the price specified for the bonds. The trustees reserve the right to reject any bids and to sell the bonds at private sale.

All bids must be accompanied by (insert appropriate bid security as permitted by 18-1-202) in the sum of ..... dollars (\$ .....) payable to the order of the district, which will be forfeited by the successful bidder in the event that the bidder refuses to purchase the bonds.

All bids should be addressed to the undersigned district.

.....  
Presiding officer, School District No.....  
of..... County  
Address: .....

ATTEST:

Subscribed and sworn to before me this ..... day of ....., .....; ..... Notary Public for the State residing at ....., Montana. My commission expires ....."

**Section 24.** Section 20-9-437, MCA, is amended to read:

**“20-9-437. School district liable on bonds.** (1) The full faith, credit, and taxable resources of a school district issuing general obligation bonds under the provisions of this title are pledged for the repayment of the bonds with interest according to the terms of the bonds. For the purpose of making the provisions of this part enforceable, each school district is a body corporate that may sue and be sued by or in the name of the trustees of the school district.

(2) A school district may use up to 25% of its federal impact aid funds received pursuant to 20-9-514 for repayment of general obligation bonds.

(3) Impact aid revenue bonds must be payable solely from the federal impact aid basic support payment received by the school district and deposited to the credit of the impact aid fund established in 20-9-514 and do not constitute a general obligation of the school district. The school district’s taxing power is not pledged for the repayment of impact aid revenue bonds.

(4) (a) *Oil and natural gas revenue bonds must be payable from the oil and natural gas production taxes received by the school district under the limitations in 20-9-310 and deposited to the debt service fund.*

(b) *A school district, as long as it has specified that its oil and natural gas revenue bonds are further secured by a deficiency tax levy in the bond election question and notice under 20-9-426 and 20-9-427, may additionally provide that if for any reason the oil and natural gas production taxes received by the school district and the amounts in the debt service reserve account are inadequate to pay*

*the principal of or interest on the bonds as they become due, payment will be made from a deficiency tax levy.*

*(5) If for any reason the oil and natural gas taxes or the amounts in the debt service reserve account are inadequate to pay the principal of or interest on any oil and natural gas revenue bonds as to which the school district has pledged a deficiency tax levy in accordance with subsection (4) as it becomes due, the school district shall, at least 15 days before the first day of the month in which the board of county commissioners of the county or counties in which the school district is located levies the amount of taxes required, furnish to the county treasurer an estimate in writing of the amount of money required:*

*(a) by the school district for the payment of the principal of or interest on the bonded debt as it becomes due and to replenish the debt service reserve account;*

*(b) to establish reasonable reserve funds for either purpose; and*

*(c) by the school district for any other purpose set forth in this section.*

*(6) Annually and at the time and in the manner of levying other county or city and county taxes, the county treasurer shall, as instructed by the school district, to the extent of any deficiency resulting from oil and natural gas taxes to pay or secure oil and natural gas revenue bonds to which a deficiency tax is pledged and for any other purpose set forth in this section:*

*(a) until the bonded debt is fully paid, levy upon the taxable property located in the school district and collect a school district oil and natural gas revenue bond deficiency tax sufficient for the payment or reimbursement of the payment of the bonded debt in the current or ensuing fiscal year, or both; and*

*(b) until the bonded debt is fully paid, levy upon all of the taxable property located in the school district and collect a school district oil and natural gas revenue bond deficiency tax sufficient for replenishing amounts in the debt service reserve account.*

*(7) Taxes for the payment of any oil and natural gas revenue bonds to which the school district has pledged a deficiency tax must be levied on the taxable property located in the school district as stated in the resolution fixing the terms and conditions of the bonds, and all taxes for other purposes must be levied on all property located within the school district.”*

**Section 25.** Section 20-9-438, MCA, is amended to read:

**“20-9-438. Preparation of general obligation debt service fund budget — operating reserve.** (1) The trustees of each school district having outstanding general obligation bonds shall include in the debt service fund of the final budget adopted in accordance with 20-9-133 an amount of money that is necessary to pay the interest and the principal amount becoming due during the ensuing school fiscal year for each series or installment of bonds, according to the terms and conditions of the bonds and the redemption plans of the trustees.

(2) The trustees shall also include in the debt service fund of the final budget:

(a) the amount of money necessary to pay the special improvement district assessments levied against the school district that become due during the ensuing school fiscal year; ~~and~~

(b) a limited operating reserve for the school fiscal year following the ensuing school fiscal year as provided in subsection ~~(3)~~ (4); ~~and~~

(c) an amount to satisfy the reserve requirement for oil and natural gas revenue bonds.

(3) *The trustees of a school district having outstanding oil and natural gas bonds shall include in the debt service reserve account of the final budget adopted in accordance with 20-9-133 oil and natural gas production taxes received by a school district or other legally available funds sufficient to satisfy the reserve requirement. Funds remaining in the debt service reserve account may not be reappropriated or reverted and must be used for the purposes set forth in [section 28].*

(3)(4) At the end of each school fiscal year, the trustees of a school district may designate a portion of the end-of-the-year fund balance of the debt service fund to be earmarked as a limited operating reserve for the purpose of paying, whenever a cash flow shortage occurs, debt service fund warrants and bond obligations that must be paid from July 1 through November 30 of the school fiscal year following the ensuing school fiscal year. Any portion of the debt service fund end-of-the-year fund balance not earmarked for limited operating reserve purposes must be reappropriated to be used for property tax reduction as provided in 20-9-439.

(4)(5) The county superintendent shall compare the final budgeted amount for the debt service fund with the bond retirement and interest requirement and the special improvement district assessments for the school fiscal year just beginning as reported by the county treasurer in the statement supplied under the provisions of 20-9-121. If the county superintendent finds that the requirement stated by the county treasurer is more than the final budget amount, the county superintendent shall increase the budgeted amount for interest or principal in the debt service fund of the final budget. The amount confirmed or revised by the county superintendent is the final budget expenditure amount for the debt service fund of the school district.”

**Section 26.** Section 20-9-440, MCA, is amended to read:

**“20-9-440. Payment of debt service obligations — termination of interest.** (1) The school district shall provide the county treasurer with a general obligation bond, *oil and natural gas revenue bond*, or impact aid revenue bond debt services schedule. The county treasurer shall maintain a separate debt service fund for each school district and, if bonds are to be issued as *either impact aid revenue bonds or oil and natural gas revenue bonds*, shall maintain a separate impact aid revenue bond debt service fund *or oil and natural gas revenue bond debt service fund, as applicable*, and an impact aid revenue bond debt service reserve account *or oil and natural gas revenue bond debt service reserve account*, if required, ~~and~~. *The school district shall credit all tax money, oil and natural gas revenue, or impact aid revenue collected for debt service to the appropriate fund and use the money credited to the fund for the payment of debt service obligations in accordance with the school financial administration provisions of this title.*

(2) The county treasurer shall pay from the debt service fund all amounts of interest and principal on school district bonds as the interest or principal becomes due when the coupons or bonds are presented and surrendered for payment and shall pay all special improvement district assessments as they become due. If the bonds are held by the state of Montana, then all payments must be remitted to the state treasurer who shall cancel the coupons or bonds and return the coupons or bonds to the county treasurer with the state treasurer’s receipt. If the bonds are not held by the state of Montana and the interest or principal is made payable at some designated bank or financial institution, the county treasurer shall remit the amount due for interest or principal to the bank or financial institution for payment against the surrender of the canceled coupons or bonds.



(3) Whenever any school district bond or installment on school district bonds becomes due and payable, interest ceases on that date unless sufficient funds are available to pay the bond when it is presented for payment or when payment of an installment is demanded. In either case, interest on the bond or installment continues until payment is made.

(4) Any installment on interest and principal on bonds held by the state that is not promptly paid when due draws interest at an annual rate of 6% from the date due until actual payment, irrespective of the rate of interest on the bonds.”

**Section 27. Security for oil and natural gas revenue bonds.** (1) To secure the payment of principal of and interest on oil and natural gas revenue bonds, the trustees of a school district, by resolution or indenture of trust, may provide that oil and natural gas revenue bonds are secured by a first lien on the oil and natural gas production revenue received pursuant to 20-9-310 and pledge to the holders of the oil and natural gas revenue bonds all of the oil and natural gas revenue deposited in the district's debt service fund.

(2) Upon receipt of oil and natural gas revenue, the county treasurer shall deposit in the district's debt service fund the amount that is required to pay the principal of and interest on the oil and natural gas revenue bonds due in the next 12-month period and to restore any deficiency in the oil and natural gas revenue debt service reserve account up to reserve requirements. Any remaining oil and natural gas revenue must be deposited as directed by the board of trustees as provided in 20-9-310. The school district and county treasurer may designate a trustee for holders of the bonds to receive the school district's oil and natural gas revenue for purposes of making the annual debt service payments on oil and natural gas revenue bonds and may authorize the trustee to establish and maintain the oil and natural gas revenue bond debt service fund and oil and natural gas revenue bond debt service reserve account.

(3) Any pledge made pursuant to this section is valid and binding from the time the pledge is made, and the money pledged and received by the county treasurer on behalf of the school district to be placed in the debt service fund is immediately subject to the lien of the pledge without any future physical delivery or further act. A lien of any pledge is valid and binding against all parties that have claims of any kind against the school district regardless of whether the parties have notice of the lien. The bond resolution or indenture of trust that creates the pledge, when adopted by the trustees of any district, is notice of the creation of the pledge, and those instruments are not required to be recorded in any other place to perfect the pledge.

(4) The state may not limit, alter, or impair the ability of a school district to qualify for oil and natural gas revenue or in any way impair the rights and remedies of the bondholders until all bonds issued under this section, together with interest on the bonds, interest on any unpaid installments of principal or interest, and all costs and expenses in connection with any action or proceedings by or on behalf of the bondholders, are fully met and discharged. The trustees of any district, as agents for the state, may include a pledge and undertaking in resolutions and indentures authorizing and securing the bonds as described in this subsection.

**Section 28. Debt service reserve account.** (1) If a school district issues oil and natural gas revenue bonds, the school district shall establish and maintain an oil and natural gas revenue bond debt service reserve account, to which there must be deposited or transferred an amount from bond proceeds or oil and natural gas production taxes received by a school district or other legally available funds sufficient to satisfy the reserve requirement.

(2) All money held in the oil and natural gas revenue bond debt service reserve account must be used solely for the payment of the principal of or interest on the bonds secured in whole or in part by the account or the debt service fund payments with respect to the bonds, the purchase or redemption of the bonds, the payment of interest on the bonds, or the payment of any redemption premium required to be paid when the bonds are redeemed prior to maturity.

**Section 29.** Section 20-9-517, MCA, is amended to read:

**“20-9-517. (Effective July 1, 2013) State school oil and natural gas impact account.** (1) There is a state school oil and natural gas impact account in the state special revenue fund provided for in 17-2-102. The purpose of the account is to provide money to schools that are ~~not~~ receiving oil and natural gas production taxes under 15-36-331 *in an amount less than 20% of the district's maximum general fund budget but that* are impacted by ~~contiguous counties that are benefiting from receipt of oil and natural gas production taxes development.~~

(2) There must be deposited in the account oil and natural gas production taxes, if any, pursuant to ~~20-9-310(7)~~ 20-9-310(4)(b) and any amounts pursuant to 20-9-104(6).

(3) A school district may apply to the superintendent of public instruction for funds from the account for circumstances that are directly related to impacts resulting from the development or cessation of development of oil and natural gas as follows:

- (a) an unusual enrollment increase as determined pursuant to 20-9-314;
  - (b) a district's need to hire new teachers or staff as a result of increased enrollment;
  - (c) the opening or reopening of an elementary or high school approved by the superintendent of public instruction pursuant to 20-6-502 or 20-6-503; or
  - (d) major maintenance for a school or district.
- (4) In reviewing an applicant's request for funding, the superintendent of public instruction shall consider the following:
- (a) the local district's or school's need;
  - (b) the severity of the energy development impacts;
  - (c) availability of funds in the account; and
  - (d) the applicant district's ability to meet the needs identified in subsection (3).

(5) The superintendent of public instruction shall adopt rules necessary to implement the application and distribution process.

(6) The amount in the account may not exceed \$7.5 million. Any amount over \$7.5 million must be deposited in the state ~~general fund guarantee account and distributed in the same manner as provided in 20-9-622(3).~~

**Section 30.** Section 20-9-517, MCA, is amended to read:

**“20-9-517. (Effective July 1, 2013 2016) State school oil and natural gas impact account.** (1) There is a state school oil and natural gas impact account in the state special revenue fund provided for in 17-2-102. The purpose of the account is to provide money to schools that are not receiving oil and natural gas production taxes under 15-36-331 ~~but are impacted by contiguous counties that are benefiting from receipt of oil and natural gas production taxes~~ *in an amount sufficient to address oil and gas development impacts.*

(2) There must be deposited in the account oil and natural gas production taxes, if any, pursuant to ~~20-9-310(7)~~ *20-9-310(4)(b)* and any amounts pursuant to 20-9-104(6).

(3) A school district may apply to the superintendent of public instruction for funds from the account for circumstances that are directly related to impacts resulting from the development or cessation of development of oil and natural gas as follows:

(a) an unusual enrollment increase as determined pursuant to 20-9-314;

(b) a district's need to hire new teachers or staff as a result of increased enrollment;

(c) the opening or reopening of an elementary or high school approved by the superintendent of public instruction pursuant to 20-6-502 or 20-6-503; or

(d) major maintenance for a school or district.

(4) In reviewing an applicant's request for funding, the superintendent of public instruction shall consider the following:

(a) the local district's or school's need;

(b) the severity of the energy development impacts;

(c) availability of funds in the account; and

(d) the applicant district's ability to meet the needs identified in subsection (3).

(5) The superintendent of public instruction shall adopt rules necessary to implement the application and distribution process.

(6) The amount in the account may not exceed \$7.5 million. Any amount over \$7.5 million must be deposited in the ~~state general fund~~ *state general fund guarantee account and distributed in the same manner as provided in 20-9-622(3).*

**Section 31.** Section 20-9-518, MCA, is amended to read:

**"20-9-518. (Effective July 1, 2013) County school oil and natural gas impact fund.** (1) The governing body of a county receiving an allocation under 20-9-104(6) and ~~20-9-310(7)~~ *20-9-310(4)(b)* shall establish a county school oil and natural gas impact fund.

(2) Money received by a county pursuant to 20-9-104(6) and ~~20-9-310(7)~~ *20-9-310(4)(b)* must remain in the fund and may not be appropriated by the governing body until:

(a) the amount of oil and natural gas production taxes received by a school district for the fiscal year is 30% or less of the amount of the average received by the district in the previous 4 fiscal years;

(b) the average price of oil is \$50 a barrel or less for the fiscal year; or

(c) the production of oil in the county drops 50% or more below the average oil production in the county during the immediately preceding 5-year period.

(3) Within 30 days of any of the circumstances described in subsections (2)(a) through (2)(c) occurring, the governing body of the county shall allocate 80% of the money proportionally to affected high school districts and elementary school districts in the county, *which must be calculated by dividing the total funds available for distribution by the total number of quality educators, as defined in 20-4-502, employed by the qualifying school districts in the county in the immediately preceding school fiscal year. School districts receiving the funds may place the funds in any budgeted fund of the district at the discretion of the board of trustees.*

(4) The governing body of the county may use 20% of the money in the fund to:

(a) pay for outstanding capital project bonds or other expenses incurred prior to the reduction in the price of oil described in subsection (2)(b);

(b) offset property tax levy increases that are directly caused by the cessation or reduction of oil and natural gas activity;

(c) promote diversification and development of the economic base within the jurisdiction;

(d) attract new industry to the area impacted by the changes in oil and natural gas activity described in subsection (2); or

(e) provide cash incentives for expanding the employment base of the area impacted by the changes in oil and natural gas activity described in subsection (2).

(5) Except as provided in subsection (4)(b), money held in the fund may not be considered as fund balance for the purpose of reducing mill levies.

(6) Money in the fund must be invested as provided by law. Interest and income from the investment of money in the fund must be credited to the fund.”

**Section 32.** Section 20-9-622, MCA, is amended to read:

**“20-9-622. Guarantee account.** (1) There is a guarantee account in the state special revenue fund. The guarantee account is intended to:

(a) stabilize the long-term growth of the permanent fund; and

(b) maintain a constant and increasing distributable revenue stream. All realized capital gains and all distributable revenue must be deposited in the guarantee account. Except as provided in subsection (2), the guarantee account is statutorily appropriated, as provided in 17-7-502, for distribution to school districts through school equalization aid as provided in 20-9-343.

(2) As long as a portion of the coal severance tax loan authorized in section 8, Chapter 418, Laws of 2001, is outstanding, the department of natural resources and conservation shall monthly transfer from the guarantee account to the general fund an amount that represents the amount of interest income that would be earned from the investment of the amount of the loan that is currently outstanding. When the loan is fully paid, all mineral royalties deposited in the guarantee account must be transferred to the school facility and technology account pursuant to 17-6-340.

(3) *Any excess interest and income revenue deposited in the guarantee account for distribution under this section must be allocated as follows:*

(a) *50% of the excess interest and income revenue must be reserved for an appropriation in the next regular session of the legislature as part of the natural resource development K-12 funding payment referred to in 20-9-306; and*

(b) *50% of the excess interest and income revenue must be distributed to schools on a per-quality-educator basis, with the amount to be distributed to each district calculated by dividing the total funds available for distribution under this subsection (3)(b) by the total number of quality educators, as defined in 20-4-502, employed by each school district in the state in the immediately preceding school fiscal year. A school district receiving funds under this section shall deposit the funds in its miscellaneous programs fund provided for in 20-9-507 and shall use the funds in the following order:*

(i) *to address 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 prepared by the Montana department of administration pursuant to section 1, Chapter 1, Special Laws of December 2005; and*

*(ii) if repairs under subsection (3)(b)(i) have been completed, to any other purpose authorized by 20-9-543.”*

**Section 33. Purpose of increased funding beyond inflation.** The purpose of increases in state funding of BASE aid, as defined in 20-9-306, that a school district uses to increase its previous year’s adopted general fund budget by an amount in excess of the inflation calculated in compliance with 20-9-326 are for the purpose of assisting school districts in meeting costs of implementing the changes to the Administrative Rules of Montana adopted by the Montana board of public education during fiscal years 2012 and 2013 and to continue to enhance efforts at improving academic achievement for students enrolled in Montana’s public schools.

**Section 34. State school oil and natural gas distribution account.** (1) There is a state school oil and natural gas distribution account in the state special revenue fund provided for in 17-2-102. The purpose of the account is for distribution of the oil and natural gas production revenue exceeding the limitation in 20-9-310(1) to school districts in accordance with 20-9-310(4).

(2) The department of revenue shall deposit in the account oil and natural gas production taxes that exceeds 130% of a school district’s maximum budget.

(3) The superintendent of public instruction shall distribute the money from the account in accordance with 20-9-310(4) as long as funds remain in the account.

(4) If funds remain after all of the provisions of 20-9-310(4)(a)(i) through (4)(a)(iv) have occurred, the superintendent of public instruction will deposit the remaining funds in accordance with 20-9-310(4)(b).

**Section 35. Montana support for schools special revenue account.** (1) There is a Montana support for schools special revenue account within the state special revenue fund established in 17-2-102.

(2) Money must be transferred into the Montana support for schools special revenue account pursuant to [section 36].

(3) Money in the account must be transferred to the guarantee account pursuant to and for the purposes described in [section 36].

**Section 36. Transfers of funds.** (1) Prior to June 30, 2013, there is transferred \$22,950,178 from the state general fund to the Montana support for schools special revenue account, provided for in [section 35], for purposes of funding the costs of restructuring the basic entitlement for fiscal years 2014 and 2015 under the provisions of [this act].

(2) After July 1, 2013, and prior to July 30, 2013, there is transferred from the Montana support for schools special revenue account to the guarantee account, provided for in 20-9-622, \$11,475,089 for state equalization aid in fiscal year 2014.

(3) After July 1, 2014, and prior to July 30, 2014, there is transferred from the Montana support for schools special revenue account to the guarantee account, provided for in 20-9-622, \$11,475,089 for state equalization aid in fiscal year 2015.

(4) The amounts transferred to the guarantee account under this section must be excluded from the calculation of excess interest and income revenue under 20-9-342.

**Section 37. Appropriation.** For the biennium beginning July 1, 2013, there is appropriated:

(1) \$25.8 million from the state general fund to the office of public instruction for school district BASE aid;

(2) \$22.3 million from the state school oil and natural gas distribution account for the purposes specified in [section 34]; and

(3) \$13,522 from the state general fund to the office of public instruction for costs associated with the K-12 data task force under [section 1].

**Section 38.** Section 29, Chapter 418, Laws of 2011, is amended to read:

**“Section 29. Termination.** ~~{Sections 1, 7, and 8}~~ *[Sections 1 and 7]* terminate June 30, ~~2016~~ *2020.*”

**Section 39. Notification to tribal governments.** The secretary of state shall send a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell Chippewa tribe.

**Section 40. Codification instruction.** (1) [Section 1] is intended to be codified as an integral part of Title 20, chapter 7, part 1, and the provisions of Title 20, chapter 7, part 1, apply to [section 1].

(2) [Sections 2, 28, 33, 34, and 35] are intended to be codified as an integral part of Title 20, chapter 9, part 3, and the provisions of Title 20, chapter 9, part 3, apply to [sections 2, 28, 33, 34, and 35].

(3) [Section 27] is intended to be codified as an integral part of Title 20, chapter 9, part 4, and the provisions of Title 20, chapter 9, part 4, apply to [section 27].

**Section 41. Coordination instruction.** If both House Bill No. 378 and [this act] are passed and approved, then House Bill No. 378 is void.

**Section 42. Effective dates — applicability.** (1) Except as provided in subsections (2) and (3), [this act] is effective on passage and approval and applies to school fiscal year 2014 and subsequent school fiscal years.

(2) [Sections 9 and 30] are effective July 1, 2016.

(3) [Sections 29 and 31] are effective July 1, 2013.

**Section 43. Termination.** [Sections 8, 29, and 35] terminate June 30, 2016.

Approved May 6, 2013

## CHAPTER NO. 401

[SB 201]

AN ACT GENERALLY REVISING LAWS RELATED TO WILDLAND FIRE; FINDING THAT CATASTROPHIC WILDLAND FIRE HAS THE POTENTIAL TO JEOPARDIZE MONTANANS' CONSTITUTIONAL RIGHT TO A CLEAN AND HEALTHFUL ENVIRONMENT; REQUIRING THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION TO ADVOCATE FOR AUTHORITY TO ENGAGE IN FOREST MANAGEMENT ACTIVITIES TO REDUCE FIRE RISK AND INTENSITY ON FEDERALLY MANAGED LAND LOCATED WITHIN THE WILDLAND-URBAN INTERFACE; AUTHORIZING THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION AND THE ATTORNEY GENERAL TO INTERVENE IN CERTAIN LITIGATION OR APPEALS; AND AMENDING SECTIONS 76-13-104 AND 76-13-115, MCA.



WHEREAS, Article II, section 3, of the Montana Constitution provides that all persons have a constitutional right to a clean and healthful environment; and

WHEREAS, sound forest management activities to reduce fire risk are critical to preventing catastrophic wildland fires that jeopardize the constitutional right to a clean and healthful environment;

WHEREAS, sound forest management activities to reduce fire risk are not occurring on some federally managed lands located within Montana's wildland-urban interface; and

WHEREAS, the state has the inherent power to enact reasonable legislation to protect the health, safety, and welfare of the public, which includes the protection of property in the wildland-urban interface from catastrophic wildland fire and the resulting devastation.

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

**Section 1.** Section 76-13-104, MCA, is amended to read:

**"76-13-104. Functions of department — rulemaking.** (1) (a) The department has the duty to ensure the protection of land under state and private ownership and to suppress wildfires on land under state and private ownership. Fees may not be collected for this purpose except fees provided for in 76-13-201.

(b) The department may engage in wildfire initial attack on all lands if the fire threatens to move onto state or private land.

(2) (a) The department shall adopt rules to protect the natural resources of the state, especially the natural resources owned by the state, from destruction by fire and for that purpose, in declared emergencies, may employ personnel and incur other expenses when necessary.

(b) The department may adopt and enforce reasonable rules for the purpose of enforcing and accomplishing the provisions and purposes of part 2 and this part.

(3) The duty imposed on the department under this section is not exclusive to the department and does not absolve private property owners or local governmental fire agencies organized under Title 7, chapter 33, from any fire protection or suppression responsibilities.

(4) The department may give technical and practical advice concerning forest, range, water, and soil conservation and the establishment and maintenance of woodlots, windbreaks, shelterbelts, and fire protection.

(5) The department shall cooperate with all public and other agencies in the development, protection, and conservation of the forest, range, and water resources in this state.

(6) The department shall establish and maintain wildland fire control training programs.

(7) The department shall appoint firewardens in the number and localities that it considers necessary, subject to confirmation by the local county government, and shall adopt rules prescribing the qualifications and duties of firewardens that are in addition to those provided in 76-13-116.

(8) The department shall adopt rules addressing development within the wildland-urban interface, including but not limited to:

(a) best practices for development within the wildland-urban interface; and

(b) criteria for providing grant and loan assistance to local government entities to encourage adoption of best practices for development within the wildland-urban interface.

(9) (a) *The department shall advocate for the inclusion of Montana in federal legislation to establish a good neighbor policy that would allow the secretary of the interior or the secretary of agriculture to enter into a cooperating and coordinating agreement or contract that would authorize the state forester to engage in forest management and education activities to reduce wildland fire risk and intensity on federal land designated as wildland-urban interface under 76-13-145.*

(b) *Forest management activities to reduce wildland fire risk and intensity included in the good neighbor policy must include the authority to:*

(i) *treat insect-infested trees;*

(ii) *reduce hazardous fuels; and*

(iii) *any other activities to improve the overall diversity and vigor of forested landscapes.*

(10) *The department has the authority to intervene in litigation or appeals on federal forest management projects that involve reduction of hazardous fuels or other activities to mitigate the risk of wildland fire in the wildland-urban interface.”*

**Section 2. Federal forest management projects — attorney general authority to intervene.** The attorney general has the authority to intervene in litigation or appeals on federal forest management projects.

**Section 3.** Section 76-13-115, MCA, is amended to read:

**“76-13-115. State fire policy.** The legislature finds and declares that:

(1) the safety of the public and of firefighters is paramount in all wildfire suppression activities;

(2) it is a priority to minimize property and resource loss resulting from wildfire and to minimize expense to Montana taxpayers, which is generally accomplished through an aggressive and rapid initial attack effort;

(3) interagency cooperation and coordination among local, state, and federal agencies are intended and encouraged, including cooperation when restricting activity or closing areas to access becomes necessary;

(4) fire prevention, hazard reduction, and loss mitigation are fundamental components of this policy;

(5) all property in Montana has wildfire protection from a recognized fire protection entity;

(6) all private property owners and federal and state public land management agencies have a responsibility to manage resources, mitigate fire hazards, and otherwise prevent fires on their property;

(7) sound forest management activities to reduce fire risk, such as thinning, prescribed burning, and insect and disease treatments, improve the overall diversity and vigor of forested landscapes and improve the condition of related water, wildlife, recreation, and aesthetic resources; ~~and~~

(8) development of fire protection guidelines for the wildland-urban interface is critical to improving public safety and for reducing risk and loss; *and*

(9) *catastrophic wildland fire in wildland-urban interface areas resulting from inadequate federal land management activities to reduce fire risk has the potential to jeopardize Montanans’ inalienable right to a clean and healthful environment guaranteed in Article II, section 3, of the Montana constitution.”*

**Section 4. Codification instruction.** [Section 2] is intended to be codified as an integral part of Title 76, chapter 13, part 1, and the provisions of Title 76, chapter 13, part 1, apply to [section 2].

**Section 5. Coordination instruction.** If both Senate Bill No. 201 and Senate Bill No. 217 are passed and approved and if both contain a section authorizing the attorney general to intervene in litigation on federal forest management projects, then those sections are void and the new [section 2 of Senate Bill No. 201] must read as follows:

**“NEW SECTION. Section 2. Federal forest management projects — attorney general authority to intervene.** (1) The attorney general has the authority to intervene in litigation or appeals on federal forest management projects.

(2) The authority provided in subsection (1) includes the authority to fulfill the purposes of Title 76, chapter 13, to intervene in litigation or appeals on federal forest management projects that could affect watershed protection or restoration.”

Approved May 6, 2013

## CHAPTER NO. 402

[SB 215]

AN ACT TRANSFERRING THE ADMINISTRATIVE ATTACHMENT OF THE BOARD OF HORSERACING FROM THE DEPARTMENT OF LIVESTOCK TO THE DEPARTMENT OF COMMERCE; AMENDING SECTION 23-4-101, MCA; AND PROVIDING AN EFFECTIVE DATE.

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

**Section 1.** Section 23-4-101, MCA, is amended to read:

**“23-4-101. Definitions.** Unless the context requires otherwise, in this chapter, the following definitions apply:

(1) “Advance deposit wagering” means a form of parimutuel wagering in which a person deposits money in an account with an advance deposit wagering hub operator licensed by the board to conduct advance deposit wagering. The money is used to pay for parimutuel wagers made in person, by telephone, or through a communication by other electronic means on horse or greyhound races held in or outside this state.

(2) “Advance deposit wagering hub operator” means a simulcast and interactive wagering hub business licensed by the board that, through a subscriber-based service located in this or another state, conducts parimutuel wagering on the races that it simulcasts and on other races that it carries in its wagering menu and that uses a computer that registers bets and divides the total amount bet among those who won.

(3) “Board” means the board of horseracing provided for in ~~2-15-3106~~ *Title 2, chapter 15, part 20*.

(4) “Board of stewards” means a board composed of three stewards who supervise race meets.

(5) “Department” means the department of ~~livestock~~ *commerce* provided for in Title 2, chapter 15, part ~~31~~ *18*.

(6) “Fantasy sports league” has the meaning provided in 23-5-801.

(7) “Immediate family” means the spouse, parents, children, grandchildren, brothers, or sisters of an official or licensee regulated by this chapter who have a permanent or continuous residence in the household of the official or licensee and all other persons who have a permanent or continuous residence in the household of the official or licensee.

(8) “Match bronc ride” means a saddle bronc riding contest consisting of two sections known as a “long go” and a “short go” in which the win, place, and show winners are determined by judges of the rides for each go.

(9) “Minor” means a person under 18 years of age.

(10) “Parimutuel facility” means a facility licensed by the board at which fantasy sports leagues are conducted and wagering on the outcome under a parimutuel system is permitted.

(11) “Parimutuel network” means an association licensed by the board to compile and distribute fantasy sports league rosters and weekly point totals for licensed parimutuel facilities and to manage statewide parimutuel wagering pools on fantasy sports leagues.

(12) “Persons” means individuals, firms, corporations, fair boards, and associations.

(13) (a) “Race meet” means racing of registered horses or mules, match bronc rides, and wild horse rides at which the parimutuel system of wagering is used. The term includes horseraces, mule races, and greyhound races that are simulcast.

(b) The term does not include live greyhound racing.

(14) “Racing” means live racing of registered horses or mules and simulcast racing of horses, mules, and greyhounds.

(15) “Simulcast” means a live broadcast of an actual horserace, mule race, or greyhound race at the time it is run. The term includes races of local or national prominence.

(16) “Simulcast facility” means a facility at which horseraces, mule races, or greyhound races are simulcast and wagering on the outcome is permitted under the parimutuel system.

(17) “Simulcast parimutuel network” means an association that has contracted with the board to receive or originate intrastate and interstate simulcast race signals, relay the race signals to licensed simulcast facilities, and manage statewide parimutuel wagering pools on simulcast races or has been licensed by the board to operate a statewide parimutuel wagering pool for fantasy sports leagues. The board may act as a simulcast parimutuel network provider with respect to simulcast races.

(18) “Source market fee” means the portion of a wager made with a licensed advance deposit wagering hub operator by a Montana resident that is paid to the board.

(19) “Steward” means an official hired by the department and by persons sponsoring a race meet to regulate and control the day-to-day conduct and operation of a sanctioned meet.

(20) “Wild horse ride” means a wild horse riding contest in which three-person teams attempt to saddle a wild horse and ride it completely around a track with the first to do so declared the winner.”

**Section 2. Directions to code commissioner.** (1) Section 2-15-3106 is intended to be renumbered and codified as an integral part of Title 2, chapter 15, part 18.

(2) Any enactment of the 2013 legislature that references the board of horseracing as a part of the department of livestock must be changed to reflect assignment of the board of horseracing to the department of commerce.

**Section 3. Effective Date.** [This act] is effective July 1, 2013.

Approved May 6, 2013

**CHAPTER NO. 403**

[SB 217]

AN ACT REVISING LAWS RELATED TO WATERSHEDS AND CATASTROPHIC FIRES; FINDING THAT WATERSHEDS AND THE DRINKING WATER SUPPLIES OF MANY MONTANA COMMUNITIES ARE AT RISK FROM CATASTROPHIC FIRES IN FEDERALLY MANAGED WATERSHEDS; DIRECTING THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION TO ANALYZE FOREST LAND FOR POTENTIAL ZONES OF INFESTATION AND ADVOCATE FOR AUTHORITY TO CONDUCT WATERSHED RESTORATION AND PROTECTION SERVICES ON FEDERAL LAND; AUTHORIZING THE ATTORNEY GENERAL TO INTERVENE IN LITIGATION OF FEDERAL FOREST MANAGEMENT PROJECTS; AND AMENDING SECTIONS 76-13-301, 76-13-303, 76-13-701, AND 76-13-702, MCA.

WHEREAS, properly functioning watersheds are critical to Montana's economic prosperity, the health of its citizens, and the culture of the state but the management of many of these watersheds has left them impaired or at risk for not functioning properly; and

WHEREAS, the Montana Constitution provides that the waters of the state are the property of the state for the use of its people and are subject to appropriation for beneficial uses as provided by law; and

WHEREAS, all persons have a constitutional right to a clean and healthful environment, which includes the protection and restoration of watersheds; and

WHEREAS, the state has inherent power to enact reasonable legislation for the health, safety, and welfare of the public, which includes the protection of drinking water supplies that originate in watersheds; and

WHEREAS, wildfires in critical watersheds and across Montana degrade the quality of our water by overloading streams with sediment and nutrients and clogging our air with pollutants from smoke, resulting last year in 88 days on which the air quality was poor because of smoke; and

WHEREAS, the 2012 fire season was severe, with suppression costs to the state topping \$50 million, and comprehensive watershed restoration and protection could significantly reduce fire season costs by preventing fires.

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

**Section 1.** Section 76-13-301, MCA, is amended to read:

**“76-13-301. Policy.** (1) It is the public policy of the state to:

(a) protect and preserve forest resources from destruction by forest insect pests and tree diseases;;

(b) ~~to~~ protect the forests and watersheds of Montana; *and restore those watersheds that are most affected by insect pests and tree diseases and are critical to water supplies;*

(c) ~~to~~ enhance the production of forests;;

(d) ~~to~~ promote the stability of forest industry; *and*

(e) ~~to~~ protect the recreational values of the forest; ~~and to~~.

(2) *It is further the public policy of the state to independently and through cooperation with the federal government and private forest landowners adopt measures to control, suppress, and eradicate outbreaks of forest insect pests and tree diseases.”*

**Section 2.** Section 76-13-303, MCA, is amended to read:

**“76-13-303. Creation of zone of infestation.** *(1) Whenever the department determines that The department shall annually produce a list of areas where:*

*(a) there exists an infestation of forest insect pests or forest tree diseases injurious to the timber or forest growth on forest lands within the state and that the infestation is of such a character as to be a menace to the timber or forest growth of this state; and*

*(b) an infestation of forest insect pests or forest tree diseases in a watershed makes the watershed at risk for wildfire, places the functionality of the watershed at risk, or creates other conditions that threaten the watershed. +the*

*(2) The department shall, with the approval of present the list annually to the board of land commissioners, declare the existence of to determine if a zone of infestation exists and, if so, and shall fix the boundaries so as to definitely describe and identify the each zone.”*

**Section 3.** Section 76-13-701, MCA, is amended to read:

**“76-13-701. Findings and policy.** *(1) The legislature finds that the sustainable management of public forests in Montana is vital to conserving the state’s natural resources and their economic and ecological potential for the benefit of all Montanans.*

*(2) The legislature finds that public forests in Montana should be sustainably managed to maintain biodiversity, productivity, regeneration capacity, vitality, and potential to fulfill relevant ecological, economic, and social functions.*

*(3) The legislature finds that sustainable forest stewardship and management of Montana’s public forests requires a balanced approach that ensures a stable timber supply, active restoration, healthy watersheds and fish and wildlife habitat, areas for natural processes, and allowances for multiple uses.*

*(4) The legislature finds that:*

*(a) there is overwhelming evidence that the management, protection, and conservation of watersheds in Montana is critical to the well-being of the state;*

*(b) the water supplies of some of the state’s most populous cities and surrounding areas originate in federally managed watersheds that are at risk for catastrophic wildfire, the severity of which could be reduced by proper management;*

*(c) a catastrophic wildfire in any one of those municipal watersheds would result in ash and sediment inundating and degrading the water supply, leaving tens of thousands of residents without drinking water, creating a severe public safety situation, and decimating millions of dollars worth of water infrastructure;*

*(d) a burned-out watershed also affects the timing of snow melt and stream flow, which detrimentally affects irrigation and fisheries; and*

*(e) federal land managers are not giving due consideration to the constitutionally protected water rights of the state and its citizens, the exercise of which would be impaired by a catastrophic wildfire.*

*(4)(5) The legislature declares that it is the policy of this state to promote the sustainable use of all public forests within the state through sound management and collaboration with local, state, and federal entities.”*



**Section 4.** Section 76-13-702, MCA, is amended to read:

**“76-13-702. Duties — authority.** To implement the policy of 76-13-701, the department of natural resources and conservation:

(1) shall support sustainable forest management practices, including forest restoration, on public forests in Montana consistent with all applicable laws and administrative requirements;

(2) shall provide technical information and educational assistance to nonindustrial, private forest landowners;

(3) shall promote forest management activities within and adjacent to the wildland-urban interface and promote the implementation of community wildfire protection plans;

(4) shall promote a viable forest and wood products industry and other businesses and individual activities that rely on public forest lands;

(5) shall represent the state’s interest in the federal forest management planning and policy process, including establishing cooperative agency status and coordination with federal agencies;

(6) *shall advocate that Montana be included in federal legislation to establish a good neighbor policy that would allow the secretary of the interior or the secretary of agriculture to enter into a cooperative agreement or contract that would authorize the state forester to provide watershed restoration and protection services on federal land. Watershed restoration and protection services included in the good neighbor policy must include the authority to:*

(a) *treat insect-infested trees;*

(b) *reduce hazardous fuels; and*

(c) *conduct any other activities to restore or improve forest, rangeland, and watershed health, including fish and wildlife habitat.*

~~(6)~~(7) may assist local government entities in establishing cooperative agency status and coordination with federal agencies;

~~(7)~~(8) shall promote the development of an independent, long-term sustained yield calculation on Montana’s federal forests;

~~(8)~~(9) has the authority to intervene in litigation or appeals on federal forest management projects that:

(a) comply with the policy in 76-13-701 and in which local and state interests are clearly involved; or

(b) involve fuel-loading conditions that the department considers to be a significant threat to public health and safety *or to hamper watershed restoration and protection;*

~~(9)~~(10) has the authority to enter into agreements with federal agencies to participate in forest management activities on federal lands; and

~~(10)~~(11) shall participate in and facilitate collaboration between traditional forest interests in reaching consensus-based solutions on federal land management issues.”

**Section 5. Federal forest management projects — attorney general authority to intervene.** To fulfill the purposes of Title 76, chapter 13, the attorney general has the authority to intervene in litigation or appeals on federal forest management projects that could affect watershed protection or restoration.

**Section 6. Codification instruction.** [Section 5] is intended to be codified as an integral part of Title 76, chapter 13, part 1, and the provisions of Title 76, chapter 13, part 1, apply to [section 5].

Approved May 6, 2013

## CHAPTER NO. 404

[SB 223]

AN ACT REQUIRING A PLAN FOR TERMINATING THE MONTANA COMPREHENSIVE HEALTH ASSOCIATION AND PLANS; PROVIDING FOR REVIEW OF THE PLAN BY THE INSURANCE COMMISSIONER AND THE LEGISLATURE; PROVIDING FOR TERMINATION OF THE ASSOCIATION BOARD OF DIRECTORS; AMENDING SECTIONS 33-22-1501, 33-22-1502, AND 33-22-1504, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

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

**Section 1.** Section 33-22-1501, MCA, is amended to read:

**“33-22-1501. Definitions.** As used in this part, the following definitions apply:

(1) “Association” means the comprehensive health association created by 33-22-1503.

(2) “Association plan” means a policy of insurance coverage that is offered by the association and that is certified by the association as required by 33-22-1521.

(3) “Association plan premium” means the charge determined pursuant to 33-22-1512 for membership in the association plan based on the benefits provided in 33-22-1521.

(4) “Association portability plan” means a policy of insurance coverage that is offered by the association to a federally defined eligible individual.

(5) “Association portability plan premium” means the charge determined by the association and approved by the commissioner for an association portability plan.

(6) “Block of business” means a separate risk pool grouping of covered individuals, enrollees, and dependents as defined by rules of the commissioner.

(7) (a) “Eligible person” means an individual who:

(i) is a resident of this state and applies for coverage under the association plan;

(ii) is not eligible for any other form of health insurance coverage or health service benefits, except:

(A) for coverage consisting solely of excepted benefits, as defined in 33-22-140; or

(B) subject to eligibility limitations adopted pursuant to 33-22-1502(2), if the individual has coverage comparable to the association plan but is paying a premium or has received a renewal notice to pay a premium that is more than 150% of the average premium rate used to calculate the association plan premium rate pursuant to 33-22-1512(1); and

(iii) meets one or more of the following criteria:

(A) has, within 6 months prior to the date of application, been rejected for disability insurance or health service benefits by at least one insurer, society, or health service corporation, unless the association waives this requirement; or

(B) has had a restrictive rider or preexisting conditions limitation required by at least one insurer, society, or health service corporation that has the effect of substantially reducing coverage from that received by a person considered a standard risk.

(b) The term does not apply to an individual who is certified as eligible for federal trade adjustment assistance or for pension benefit guaranty corporation assistance, as provided by the federal Trade Adjustment Assistance Reform Act of 2002, and is eligible for the association portability plan.

(8) "Federally defined eligible individual" means a person who is an individual enrolling in the association portability plan:

(a) for whom, as of the date on which the individual seeks coverage under the association portability plan, the aggregate of the periods of creditable coverage is 18 months or more and whose most recent prior creditable coverage was under a group health plan, governmental plan, or church plan;

(b) who does not have other health insurance coverage;

(c) who is not eligible for coverage under:

(i) a group health plan;

(ii) Title XVIII, part A or B, of the Social Security Act, 42 U.S.C. 1395c through 1395i-4 or 42 U.S.C. 1395j through 1395w-4; or

(iii) a state plan under Title XIX of the Social Security Act, 42 U.S.C. 1396a through 1396u, or a successor program;

(d) for whom the most recent coverage was not terminated for factors relating to nonpayment of premiums or fraud;

(e) who, if offered the option of continuation coverage under a COBRA continuation provision or under a similar state program, elected that coverage; and

(f) who has exhausted continuation coverage under the COBRA continuation provision or program described in subsection (8)(e) if the individual elected the continuation coverage described in subsection (8)(e).

(9) "Health service corporation" means a corporation operating pursuant to Title 33, chapter 30, and offering or selling contracts of disability insurance.

(10) "Insurance arrangement" means any plan, program, contract, or other arrangement to the extent not exempt from inclusion by virtue of the provisions of the federal Employee Retirement Income Security Act of 1974 under which one or more employers, unions, or other organizations provide to their employees or members, either directly or indirectly through a trust of a third-party administrator, health care services or benefits other than through an insurer.

(11) "Insurer" means a company operating pursuant to Title 33, chapter 2 or 3, and offering or selling policies or contracts of disability insurance, as provided in Title 33, chapter 22.

(12) "Lead carrier" means the licensed administrator or insurer selected by the association to administer the association plan.

(13) "Medicare" means coverage under both parts A and B of Title XVIII of the Social Security Act, 42 U.S.C. 1395, et seq., as amended.

(14) "Preexisting condition" means any condition for which an applicant for coverage under the association plan has received medical attention during the 3 years immediately preceding the filing of an application.

(15) "Qualified TAA-eligible individual" means an individual and any dependent of that individual, in addition to meeting the requirements specified in subsection (18):

(a) who has 3 months of prior creditable coverage;

(b) whose application for association portability plan coverage is made within 63 days following termination of the applicant's most recent prior creditable coverage; and

(c) who, if eligible for COBRA, is not required to elect or exhaust continuation coverage under the COBRA continuation provision or under a similar state program.

(16) "Resident" means an individual who has been legally domiciled in this state for a period of at least 30 days, except that for a federally defined eligible individual there is no 30-day requirement. The criteria for determining residency must be specified in the association's operating rules.

(17) "Society" means a fraternal benefit society operating pursuant to Title 33, chapter 7, and offering or selling certificates of disability insurance.

(18) "TAA-eligible individual" means an individual and any dependent of that individual enrolling in the association portability plan:

(a) who is a resident of this state on the date of application to the pool;

(b) who has been certified as eligible for federal trade adjustment assistance and a health insurance tax credit or for pension benefit guaranty corporation assistance, as provided by the federal Trade Adjustment Assistance Reform Act of 2002;

(c) who does not have other health insurance coverage; and

(d) who is not covered under a group health plan maintained by an employer, including a group health plan available through a spouse, if the employer contributes 50% or more to the total cost of coverage.

(19) "*Termination plan*" means a contingency plan developed by the association board of directors that provides conditions for cessation of the block of business in the association plan and the association portability plan."

**Section 2.** Section 33-22-1502, MCA, is amended to read:

**"33-22-1502. Duties of commissioner — rules.** (1) The commissioner shall:

(a) supervise the creation of the association within the limits described in 33-22-1503;

(b) approve the selection of the lead carrier by the association and approve the association's contract with the lead carrier, including the association plan coverage and premiums to be charged;

(c) conduct periodic audits to ensure the general accuracy of the financial data submitted by the lead carrier and the association;

(d) undertake, directly or through contracts with other persons, studies or demonstration projects to develop awareness of the benefits of this part so that the residents of this state may best avail themselves of the health care benefits provided by this part; ~~and~~

(e) adopt rules to carry out the provisions and purposes of this part, including rules regarding late payment penalties or rates of interest charged on an unpaid assessment; *and*

*(f) review a termination plan and approve, in conjunction with the approval of the termination plan, the dissolution of the association board of directors and cessation of the association plan and the association portability plan in accordance with state and federal laws.*

(2) The commissioner may adopt rules that limit association plan eligibility under 33-22-1501(7)(a)(ii)(B) according to income level.”

**Section 3.** Section 33-22-1504, MCA, is amended to read:

**“33-22-1504. Association board of directors — organization — duties.** (1) There is a board of directors of the association, consisting of nine members as follows:

(a) one member from each of the five participating members of the association with the highest annual premium volume of disability insurance contracts, health maintenance organization health care services agreements, or health service corporation contracts, derived from or on behalf of residents in the previous calendar year, as determined by the commissioner;

(b) two members at large who must be participating members of the association, appointed by the commissioner; and

(c) two members at large, appointed by the commissioner to represent the public interest.

(2) The public interest board members provided for in subsection (1)(c) must be enrolled in a Montana comprehensive health association plan at the time of appointment.

(3) The public interest board members are entitled to one board vote each. Each of the seven board members representing the association members is entitled to a weighted average vote, in person or by proxy, based on the association member’s annual Montana premium volume. However, a board member may not have more than 50% of the vote.

(4) Members of the board may be reimbursed from the money of the association for expenses incurred by them because of their service as board members but may not otherwise be compensated by the association for their services. The costs of conducting the meetings of the association and reimbursing its board of directors must be borne by participating members of the association in accordance with 33-22-1513.

(5) The commissioner may replace a board member if the commissioner determines that the board member is not actively participating in the affairs of the board or if the participating member does not appoint a board representative within a reasonable time period. A board member appointed under subsection (1)(a) must be replaced by a participating member of the association with the next highest annual Montana premium volume of disability insurance contracts, health maintenance organization health care service agreements, or health service corporation contracts, derived from or on behalf of residents in the previous calendar year, as determined by the commissioner.

(6) The commissioner shall include the applicable premium volume of all affiliates, as defined in 33-2-1101, in making the determination required by subsection (1)(a) or (5).

*(7) (a) The board of directors of the association shall develop a termination plan that specifies a time when the eligibility requirements for an eligible person and a federally defined eligible individual are no longer valid because of changes in the health insurance market. The commissioner shall review the termination plan, which is subject to the commissioner’s approval.*

*(b) The termination plan must include:*

(i) a proposed timeline to allow enrolled members of the association plan and the association portability plan to acquire other health insurance;

(ii) financial data showing the general plan for completing all financial transactions within the association plan and the association portability plan as provided in 33-22-1513 and the effect that the plan will have on funding sources, including tobacco settlement funds allocated pursuant to 17-6-606;

(iii) documents and related educational materials designed to inform enrolled members of the association plan and the association portability plan of obligations and methods to transfer to other health insurance plans. The plan must include at least a 90-day notice of nonrenewal.

(iv) proposed language for the repeal of Title 33, chapter 22, part 15.

(8) The commissioner shall present the termination plan to the economic affairs interim committee.”

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

Approved May 6, 2013

## CHAPTER NO. 405

[SB 231]

AN ACT REVISING THE LIMITATION ON THE NUMBER OF ACRES THAT ARE ELIGIBLE FOR EXEMPTION FROM THE PROPERTY TAX IF OWNED BY AN INDIAN TRIBE AND DESIGNATED AS PARK LAND; PROVIDING THAT EXISTING PROPERTY TAXES DUE ARE NOT EXTINGUISHED; AMENDING SECTION 15-6-201, MCA; AND PROVIDING AN APPLICABILITY DATE.

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

**Section 1.** Section 15-6-201, MCA, is amended to read:

**“15-6-201. Governmental, charitable, and educational categories — exempt property.** (1) The following categories of property are exempt from taxation:

(a) except as provided in 15-24-1203, the property of:

(i) the United States, except:

(A) if congress passes legislation that allows the state to tax property owned by the federal government or an agency created by congress; or

(B) as provided in 15-24-1103;

(ii) the state, counties, cities, towns, and school districts;

(iii) irrigation districts organized under the laws of Montana and not operated for gain or profit;

(iv) municipal corporations;

(v) public libraries;

(vi) rural fire districts and other entities providing fire protection under Title 7, chapter 33;

(vii) special districts created pursuant to Title 7, chapter 11, part 10; and

(viii) subject to subsection (2), federally recognized Indian tribes in the state if the property is located entirely within the exterior boundaries of the reservation of the tribe that owns the property and the property is used exclusively by the tribe for essential government services. Essential government services are tribal government administration, fire, police, public



health, education, recreation, sewer, water, pollution control, public transit, and public parks and recreational facilities.

(b) buildings and furnishings in the buildings that are owned by a church and used for actual religious worship or for residences of the clergy, not to exceed one residence for each member of the clergy, together with the land that the buildings occupy and adjacent land reasonably necessary for convenient use of the buildings, which must be identified in the application, and all land and improvements used for educational or youth recreational activities if the facilities are generally available for use by the general public but may not exceed 15 acres for a church or 1 acre for a clergy residence after subtracting any area required by zoning, building codes, or subdivision requirements;

(c) land and improvements upon the land, not to exceed 15 acres, owned by a federally recognized Indian tribe when the land has been set aside by tribal resolution and designated as sacred land to be used exclusively for religious purposes;

(d) property owned and used exclusively for agricultural and horticultural societies not operated for gain or profit;

(e) property, not to exceed 80 acres, which must be legally described in the application for the exemption, used exclusively for educational purposes, including dormitories and food service buildings for the use of students in attendance and other structures necessary for the operation and maintenance of an educational institution that:

- (i) is not operated for gain or profit;
- (ii) has an attendance policy; and
- (iii) has a definable curriculum with systematic instruction;

(f) property, of any acreage, owned by a tribal corporation created for the sole purpose of establishing schools, colleges, and universities if the property meets the requirements of subsection (1)(e);

(g) property used exclusively for nonprofit health care facilities, as defined in 50-5-101, licensed by the department of public health and human services and organized under Title 35, chapter 2 or 3. A health care facility that is not licensed by the department of public health and human services and organized under Title 35, chapter 2 or 3, is not exempt.

(h) property that is:

(i) (A) owned and held by an association or corporation organized under Title 35, chapter 2, 3, 20, or 21; or

(B) owned by a federally recognized Indian tribe within the state and set aside by tribal resolution; and

(ii) devoted exclusively to use in connection with a cemetery or cemeteries for which a permanent care and improvement fund has been established as provided for in Title 35, chapter 20, part 3; and

(iii) not maintained and not operated for gain or profit;

(i) subject to subsection (2), property that is owned or property that is leased from a federal, state, or local governmental entity by institutions of purely public charity if the property is directly used for purely public charitable purposes;

(j) evidence of debt secured by mortgages of record upon real or personal property in the state of Montana;

(k) public museums, art galleries, zoos, and observatories that are not operated for gain or profit;

(l) motor vehicles, land, fixtures, buildings, and improvements owned by a cooperative association or nonprofit corporation organized to furnish potable water to its members or customers for uses other than the irrigation of agricultural land;

(m) the right of entry that is a property right reserved in land or received by mesne conveyance (exclusive of leasehold interests), devise, or succession to enter land with a surface title that is held by another to explore, prospect, or dig for oil, gas, coal, or minerals;

(n) (i) property that is owned and used by a corporation or association organized and operated exclusively for the care of persons with developmental disabilities, persons with mental illness, or persons with physical or mental impairments that constitute or result in substantial impediments to employment and that is not operated for gain or profit; and

(ii) property that is owned and used by an organization owning and operating facilities that are for the care of the retired, aged, or chronically ill and that are not operated for gain or profit; and

(o) property owned by a nonprofit corporation that is organized to provide facilities primarily for training and practice for or competition in international sports and athletic events and that is not held or used for private or corporate gain or profit. For purposes of this subsection (1)(o), "nonprofit corporation" means an organization that is exempt from taxation under section 501(c) of the Internal Revenue Code and incorporated and admitted under the Montana Nonprofit Corporation Act.

(2) (a) (i) For the purposes of tribal property under subsection (1)(a)(viii), the property subject to exemption may not be:

(A) operated for gain or profit;

(B) held under contract to operate, lease, or sell by a taxable individual;

(C) used or possessed exclusively by a taxable individual or entity; or

(D) held by a tribal corporation except for educational purposes as provided in subsection (1)(f).

(ii) For the purposes of parks and recreational facilities under subsection (1)(a)(viii), the property must be:

(A) set aside by tribal resolution and designated as park land, ~~not to exceed 15 acres,~~ *not to exceed 640 acres*, or be designated as a recreational facility; and

(B) open to the general public.

(b) For the purposes of subsection (1)(b), the term "clergy" means, as recognized under the federal Internal Revenue Code:

(i) an ordained minister, priest, or rabbi;

(ii) a commissioned or licensed minister of a church or church denomination that ordains ministers if the person has the authority to perform substantially all the religious duties of the church or denomination;

(iii) a member of a religious order who has taken a vow of poverty; or

(iv) a Christian Science practitioner.

(c) For the purposes of subsection (1)(i):

(i) the term "institutions of purely public charity" includes any organization that meets the following requirements:

(A) The organization offers its charitable goods or services to persons without regard to race, religion, creed, or gender and qualifies as a tax-exempt

organization under the provisions of section 501(c)(3), Internal Revenue Code, as amended.

(B) The organization accomplishes its activities through absolute gratuity or grants. However, the organization may solicit or raise funds by the sale of merchandise, memberships, or tickets to public performances or entertainment or by other similar types of fundraising activities.

(ii) agricultural property owned by a purely public charity is not exempt if the agricultural property is used by the charity to produce unrelated business taxable income as that term is defined in section 512 of the Internal Revenue Code, 26 U.S.C. 512. A public charity claiming an exemption for agricultural property shall file annually with the department a copy of its federal tax return reporting any unrelated business taxable income received by the charity during the tax year, together with a statement indicating whether the exempt property was used to generate any unrelated business taxable income.

(iii) up to 15 acres of property owned by a purely public charity is exempt at the time of its purchase even if the property must be improved before it can directly be used for its intended charitable purpose. If the property is not directly used for the charitable purpose within 8 years of receiving an exemption under this section or if the property is sold or transferred before it entered direct charitable use, the exemption is revoked and the property is taxable. In addition to taxes due for the first year that the property becomes taxable, the owner of the property shall pay an amount equal to the amount of the tax due that year times the number of years that the property was tax-exempt under this section. The amount due is a lien upon the property and when collected must be distributed by the treasurer to funds and accounts in the same ratio as property tax collected on the property is distributed. At the time the exemption is granted, the department shall file a notice with the clerk and recorder in the county in which the property is located. The notice must indicate that an exemption pursuant to this section has been granted. The notice must describe the penalty for default under this section and must specify that a default under this section will create a lien on the property by operation of law. The notice must be on a form prescribed by the department.

(iv) not more than 160 acres may be exempted by a purely public charity under any exemption originally applied for after December 31, 2004. An application for exemption under this section must contain a legal description of the property for which the exemption is requested.

(d) For the purposes of subsection (1)(k), the term "public museums, art galleries, zoos, and observatories" means governmental entities or nonprofit organizations whose principal purpose is to hold property for public display or for use as a museum, art gallery, zoo, or observatory. The exempt property includes all real and personal property owned by the public museum, art gallery, zoo, or observatory that is reasonably necessary for use in connection with the public display or observatory use. Unless the property is leased for a profit to a governmental entity or nonprofit organization by an individual or for-profit organization, real and personal property owned by other persons is exempt if it is:

- (i) actually used by the governmental entity or nonprofit organization as a part of its public display;
- (ii) held for future display; or
- (iii) used to house or store a public display."

**Section 2. Transition — existing property taxes not extinguished.** [This act] does not extinguish existing property taxes, including but not limited to taxes due and owing, delinquent taxes, tax liens, and tax deeds on property that are in effect on December 31, 2013.

**Section 3. Notification to tribal governments.** The secretary of state shall send a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell Chippewa tribe.

**Section 4. Applicability.** [This act] applies to tax years beginning after December 31, 2013.

Approved May 6, 2013

## CHAPTER NO. 406

[SB 264]

AN ACT CREATING THE PORTABLE ELECTRONICS INSURANCE ACT; REQUIRING LICENSURE TO SELL OR OFFER COVERAGE UNDER A POLICY OF PORTABLE ELECTRONICS INSURANCE; REVISING LICENSE APPLICATION REQUIREMENTS FOR NONRESIDENT INSURANCE ADJUSTERS; GRANTING THE COMMISSIONER OF INSURANCE RULEMAKING AUTHORITY; AMENDING SECTION 33-17-301, MCA; AND PROVIDING AN EFFECTIVE DATE.

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

**Section 1. Short title.** [Sections 1 through 9] may be cited as the “Portable Electronics Insurance Act”.

**Section 2. Definitions.** As used in [sections 1 through 9], the following definitions apply:

(1) “Customer” means a person who purchases portable electronics or services related to the use of portable electronics.

(2) “Enrolled customer” means a customer who elects coverage under a portable electronics insurance policy issued to a vendor of portable electronics.

(3) “Location” means any physical location in this state or any website, call center site, or similar location directed to residents of this state.

(4) “Portable electronics” means electronic devices that are portable in nature and their accessories.

(5) (a) “Portable electronics insurance” means insurance providing coverage for the repair or replacement of portable electronics that may provide coverage for portable electronics against loss, theft, inoperability due to mechanical failure, malfunction, damage, or other similar causes of loss. Portable electronics insurance also includes any agreement in which a person or any legal entity, in exchange for consideration paid, agrees to provide for the future repair, replacement, or provision of portable electronics.

(b) The term does not include:

(i) a service contract governed by Title 30, chapter 14, part 13;

(ii) a policy of insurance covering a seller’s or a manufacturer’s obligations under a warranty; or

(iii) a homeowner’s, renter’s, private passenger automobile, commercial, or similar policy.

(6) “Portable electronics transaction” means:

(a) the sale or lease of portable electronics by a vendor to a customer; or

(b) the sale of a service related to the use of portable electronics by a vendor to a customer.

(7) "Supervising entity" means a business entity that is a licensed insurer or insurance producer that is authorized by a licensed insurer to supervise the administration of a portable electronics insurance program.

(8) (a) "Vendor" means a person in the business of engaging in portable electronics transactions directly or indirectly.

(b) The term does not include a cooperative organized and transacting business in this state pursuant to Title 35, chapter 18, its subsidiaries, or any other entity affiliated with the cooperative or its subsidiaries through common ownership.

**Section 3. Licensure of vendors — rulemaking.** (1) A vendor must hold a limited lines insurance producer license to sell or offer coverage under a policy of portable electronics insurance.

(2) A license issued under [sections 1 through 9] authorizes any employee or authorized representative of the vendor to sell or offer coverage under a policy of portable electronics insurance to a customer at each location at which the vendor engages in portable electronics transactions.

(3) The supervising entity shall maintain a registry of vendor locations that are authorized to sell or solicit portable electronics insurance coverage in this state. Upon request by the commissioner and with 10 days' notice to the supervising entity, the registry must be open to inspection and examination by the commissioner during regular business hours of the supervising entity.

(4) A license issued under [sections 1 through 9] authorizes the licensee and its employees or authorized representatives to engage in those activities that are permitted in [sections 1 through 9].

(5) The commissioner may adopt rules to implement the provisions of [sections 1 through 9].

**Section 4. Requirements for sale of portable electronics insurance.**

(1) At each location where portable electronics insurance is offered to customers, brochures or other written materials must be made available to a prospective customer that:

(a) disclose that portable electronics insurance may provide a duplication of coverage already provided by a customer's homeowner's insurance policy, renter's insurance policy, or other source of coverage;

(b) state that the enrollment by the customer in a portable electronics insurance program is not required in order to purchase or lease portable electronics or services;

(c) summarize the material terms of the insurance coverage, including:

(i) the identity of the insurer;

(ii) the identity of the supervising entity;

(iii) the amount of any applicable deductible and how it is to be paid;

(iv) benefits of the coverage; and

(v) key terms and conditions of coverage such as whether portable electronics may be repaired or replaced with similar make and model reconditioned or nonoriginal manufacturer parts or equipment;

(d) summarize the process for filing a claim, including a description of how to return portable electronics and the maximum fee applicable in the event that the customer fails to comply with any equipment return requirements; and

(e) state that an enrolled customer may cancel enrollment for coverage under a portable electronics insurance policy at any time and that the person paying the premium shall receive a refund of any applicable unearned premium.

(2) The written materials required by this section are not subject to filing with or approval by the commissioner.

(3) Portable electronics insurance may be offered on a month-to-month or other periodic basis as a group or master commercial inland marine policy, subject to 33-1-221 through 33-1-229, issued to a vendor of portable electronics for its enrolled customers.

(4) Eligibility and underwriting standards for customers electing to enroll in coverage must be established by the supervising entity for each portable electronics insurance program.

**Section 5. Authority of vendors of portable electronics.** (1) An employee or authorized representative of a vendor may sell or offer portable electronics insurance to a customer and is not subject to licensure as an insurance producer under this title provided that:

(a) the vendor obtains a limited lines insurance producer license to authorize its employees or authorized representatives to sell or offer portable electronics insurance;

(b) the insurer issuing the portable electronics insurance either directly supervises or appoints a supervising entity to supervise the administration of the program, including development of a training program for employees and authorized representatives of the vendors. The training required by this subsection (1)(b) must comply with the following:

(i) the training must be delivered to employees and authorized representatives of a vendor who is directly engaged in the activity of selling or offering portable electronics insurance;

(ii) the training may be provided in electronic form. If the training is conducted in an electronic form, the supervising entity shall implement a supplemental education program regarding the portable electronics insurance product that is conducted and overseen by licensed insurance producers or adjusters employed by the supervising entity; and

(iii) each employee and authorized representative individually must receive basic instruction about the portable electronics insurance offered to customers and the disclosures required under [section 4].

(c) employees or authorized representatives of a vendor of portable electronics may not advertise, represent, or otherwise represent to the public that they are nonlimited lines licensed insurance producers.

(2) Employees or authorized representatives of a vendor of portable electronics may not be compensated based primarily on the number of customers enrolled for portable electronics insurance coverage but may receive compensation for activities under the limited lines insurance producer license that is incidental to their overall compensation.

(3) (a) The charges for portable electronics insurance coverage may be billed and collected by the vendor of portable electronics. Any charge to the enrolled customer for coverage that is not included in the cost associated with the purchase or lease of portable electronics or related services must be separately itemized on the enrolled customer's bill.

(b) If the portable electronics insurance coverage is included with the purchase or lease of portable electronics or related services, the vendor shall clearly and conspicuously disclose to the enrolled customer that the portable



electronics insurance coverage is included with the portable electronics or related services.

(c) Vendors that are billing and collecting the charges are not required to maintain the funds in a segregated account if the vendor is authorized by the insurer to hold the funds in an alternative manner and remits the amounts to the supervising entity within 60 days of receipt. All funds received by a vendor from an enrolled customer for the sale of portable electronics insurance are considered funds held in trust by the vendor in a fiduciary capacity for the benefit of the insurer. Vendors may receive compensation for billing and collection services.

**Section 6. Application for vendor license — fees.** (1) An applicant for a license under [sections 1 through 9] shall file with the commissioner an application on forms prescribed by the commissioner.

(2) The application must:

(a) provide the name, residence address, and other information required by the commissioner for an employee or officer of the vendor that is designated by the applicant as the person responsible for the vendor's compliance with the requirements of [sections 1 through 9], and if the vendor derives more than 50% of its revenue from the sale of portable electronics insurance, the information required by this subsection (2)(a) must be provided for all officers, directors, and shareholders of record having beneficial ownership of 10% or more of any class of securities registered under federal securities law; and

(b) the location of the applicant's home office.

(3) Any vendor engaging in portable electronics insurance transactions on or before [the effective date of this act] shall apply for licensure within 90 days of the application being made available by the commissioner. Any applicant commencing operations after [the effective date of this act] shall obtain a license prior to offering portable electronics insurance.

(4) Initial licenses issued under [sections 1 through 9] are valid for a period of 24 months.

(5) Each vendor of portable electronics licensed under [sections 1 through 9] shall pay to the commissioner a fee determined by the commissioner as follows:

(a) for a vendor that is engaged in portable electronics transactions at 10 or fewer locations in the state, the fee may not exceed \$100 for an initial license or for each renewal; and

(b) for a vendor that is engaged in portable electronics transaction at more than 10 locations in the state, the fee may not exceed \$1,000 for an initial license or \$500 for each renewal.

**Section 7. Suspension or revocation of vendor license.** If a vendor of portable electronics or its employee or authorized representative violates any provision of [sections 1 through 9], the commissioner may do any of the following after notice and the opportunity for a hearing:

(1) impose fines not to exceed \$500 for each violation or \$5,000 in the aggregate for violations;

(2) impose other penalties that the commissioner considers reasonable to carry out the purpose of [sections 1 through 9], including:

(a) suspending the privilege of transacting portable electronics insurance under [sections 1 through 9], at specific business locations where violations have occurred; or

(b) suspending or revoking the ability of individual employees or authorized representatives to act under the license.

**Section 8. Termination of portable electronics insurance.** (1) Except as provided in subsections (3) through (5), an insurer may terminate or otherwise change the terms and conditions of a policy of portable electronics insurance upon providing the vendor policyholder and enrolled customers with at least 30 days' notice.

(2) If the insurer changes the terms and conditions of a policy of portable electronics insurance, the insurer shall provide the vendor policyholder with a revised policy or endorsement and each enrolled customer with a revised certificate, endorsement, updated brochure, or other evidence indicating that a change in the terms and conditions has occurred and a summary of material changes.

(3) An insurer may terminate an enrolled customer's enrollment under a portable electronics insurance policy upon 15 days' notice for discovery of fraud or material misrepresentation in obtaining coverage or in the presentation of a claim under the coverage.

(4) An insurer may terminate an enrolled customer's enrollment under a portable electronics insurance policy for nonpayment of premium with at least 10 days' notice.

(5) An insurer may immediately terminate an enrolled customer's enrollment under a portable electronics insurance policy without prior notice:

(a) if the enrolled customer ceases to have an active service agreement with the vendor of portable electronics; or

(b) if an enrolled customer exhausts the aggregate limit of liability, if any, under the terms of the portable electronics insurance policy and the insurer sends notice of termination to the enrolled customer within 30 calendar days after exhaustion of the limit. If the notice of exhaustion is not timely sent, the customer's enrollment must continue regardless of the aggregate limit of liability until the insurer sends notice of termination to the enrolled customer.

(6) When a portable electronics insurance policy is terminated by a vendor policyholder, the vendor policyholder shall mail or deliver written notice to each enrolled customer advising the enrolled customer of the termination of the policy and the effective date of termination. The written notice must be mailed or delivered to the enrolled customer at least 30 days prior to the termination.

(7) Any notice or correspondence with respect to a policy of portable electronics insurance required by this section or other applicable law must be in writing and sent within the required notice period. Notices and correspondence may be sent either by mail or by electronic means as set forth in this subsection. If the notice or correspondence is mailed, it must be sent to the vendor of portable electronics at the vendor's mailing address specified for the purpose and to an affected enrolled customer's last-known mailing address on file with the insurer. The insurer or vendor of portable electronics shall maintain proof of mailing in a form authorized or accepted by the United States postal service or other commercial mail delivery service. If the notice or correspondence is sent by electronic means, it must be sent to the vendor of portable electronics at the vendor's electronic mail address specified for the purpose and to an affected enrolled customer's last-known electronic mail address as provided by each enrolled customer to the insurer or vendor of portable electronics. For purposes of this subsection, an enrolled customer's provision of an electronic mail address to the insurer or vendor of portable electronics is considered to be consent to receive notices and correspondence by electronic means. The insurer or vendor

of portable electronics shall maintain proof that the notice or correspondence was sent.

(8) Notices or correspondence required by [sections 1 through 9] or otherwise required by law may be sent on behalf of an insurer or vendor by the supervising entity appointed by the insurer.

**Section 9. Portable electronics insurance claims.** (1) An individual who collects claim information from or furnishes claim information to insureds or claimants and who conducts data entry, including entering data into an automated claims adjudication system, is exempt from licensure under this title if no more than 25 of these individuals are under the supervision of one licensed independent adjuster or licensed insurance producer who is exempt from licensure pursuant to 33-17-102(1)(b)(iii).

(2) For purposes of portable electronics insurance claims, residents of Canada may not be licensed as nonresident adjusters unless they have obtained a resident license in another state or designated another state as their home state.

(3) For purposes of this section, “automated claims adjudication system” means a preprogrammed computer system designed for the collection, data entry, calculation, and final resolution of portable electronics insurance claims that:

(a) may be utilized only by a licensed independent adjuster, licensed insurance producer, or supervised individual operating pursuant to this section;

(b) must comply with all claims payment requirements of this title; and

(c) must be certified as compliant with this section by a licensed independent adjuster that is an officer of the entity that employs the individuals operating pursuant to this section.

**Section 10.** Section 33-17-301, MCA, is amended to read:

**“33-17-301. Adjuster license — qualifications — catastrophe adjustments — public adjuster — education and examination exemption.** (1) An individual may not act as or purport to be an adjuster in this state unless licensed as an adjuster under this chapter. An individual shall apply to the commissioner for an adjuster license in a form approved by the commissioner. The commissioner shall issue the adjuster license to individuals qualified to be licensed as an adjuster.

(2) To be licensed as an adjuster, the applicant:

(a) must be an individual 18 years of age or more;

(b) must be a resident of Montana or a resident of another state that permits residents of Montana regularly to act as adjusters in the other state;;

(c) *except as provided in subsection (4)*, shall pass an adjuster licensing examination as prescribed by the commissioner and pay the fee pursuant to 33-2-708;

(d) must be trustworthy and of good character and reputation; and

(e) must have and shall maintain ~~in this state~~ *in this state* an office accessible to the public and shall keep in the office for not less than 5 years the usual and customary records pertaining to transactions under the license. This provision does not prohibit maintenance of the office in the home of the licensee.

(3) A business entity, whether or not organized under the laws of this state, may be licensed as an adjuster if each individual who is to exercise the adjuster license powers is separately licensed or is named in the business entity adjuster license and is qualified for an individual adjuster license.

(4) (a) Subject to the provisions of subsection (4)(b), an individual who applies for a nonresident adjuster license in this state and who was previously licensed in another state may not be required to complete any prelicensing education or examination.

(b) The exemption in subsection (4)(a) is available only if the individual is currently licensed in the other state or the individual's application is received within 90 days of the cancellation of the individual's previous license and the other state issues a certification or the state's database records indicate that, at the time of the cancellation, the individual was in good standing in that state.

(4)(5) An adjuster license or qualifications are not required for an adjuster who is sent into this state by and on behalf of an insurer or adjusting business entity for the purpose of investigating or making adjustments of a particular loss under an insurance policy or for the adjustment of a series of losses resulting from a catastrophe common to all losses.

(5)(6) An adjuster license continues in force until lapsed, suspended, revoked, or terminated. The licensee shall renew the license by the biennial renewal date and pay the appropriate fee or the license will lapse. The biennial fee is established pursuant to 33-2-708.

(6)(7) The commissioner may adopt rules providing for the examination, licensure, bonding, and regulation of public adjusters."

**Section 11. Codification instruction.** [Sections 1 through 9] are intended to be codified as an integral part of Title 33, chapter 24, and the provisions of Title 33, chapter 24, apply to [sections 1 through 9].

**Section 12. Effective date.** [This act] is effective August 1, 2013.

Approved May 6, 2013

## CHAPTER NO. 407

[SB 323]

AN ACT PERMITTING A QUERY OF THE PRESCRIPTION DRUG REGISTRY PRIOR TO PRESCRIBING A SCHEDULE II OR SCHEDULE III DRUG FOR TREATMENT OF A WORKERS' COMPENSATION INJURY OR OCCUPATIONAL DISEASE; AND PROVIDING AN EFFECTIVE DATE.

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

**Section 1. Schedule II and III drugs — prescriber obligation.** (1) In order to ensure high-quality health care for an individual with a compensable occupational injury or disease, prescriptions for Schedule II or Schedule III drugs identified in Title 50, chapter 32, part 2, may be carefully monitored for potential abuse, dependence, interaction, and diversion. Ongoing prescriptions for Schedule II and Schedule III drugs may be prescribed only by a treating physician.

(2) (a) A treating physician authorized to prescribe prescription drugs may query the prescription drug registry provided for in Title 37, chapter 7, part 15, prior to the initial prescribing or refilling of a Schedule II or Schedule III drug for treatment of a workers' compensation injury or occupational disease. After consulting the prescription drug registry, a treating physician may decline to prescribe or refill a Schedule II or Schedule III drug if, in the treating physician's judgment, the drug should not be prescribed or refilled.

(b) Prior to the initial prescribing of a Schedule II or Schedule III drug, a treating physician may discuss the risks and benefits of the use of the controlled

substance, including risk of tolerance and drug dependence, with the patient or the patient's legal guardian.

(c) A treating physician shall note in the patient's medical file each query conducted.

(3) This section does not apply to a health care provider administering a Schedule II or Schedule III drug under the following circumstances:

(a) immediately prior to or after surgery;

(b) at the scene of an emergency;

(c) in a licensed ambulance; or

(d) in the emergency department or intensive care unit of a licensed hospital.

**Section 2. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 39, chapter 71, part 11, and the provisions of Title 39, chapter 71, part 11, apply to [section 1].

**Section 3. Effective date.** [This act] is effective July 1, 2013.

Approved May 6, 2013

## CHAPTER NO. 408

[SB 335]

AN ACT PROVIDING FOR REMOVAL OF A NATURAL OBSTRUCTION THAT IMPAIRS A PRIOR WATER RIGHT; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

WHEREAS, inflexible notions of private property rights in the context of real-life situations hamper the common-sense approach that competing uses of property between two interested owners should be accommodated when possible.

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

**Section 1. Removal of natural obstruction to exercise water right — consent or court ruling required.** (1) A person who owns a water right but cannot exercise the right because a natural obstruction on another person's property prevents the flow of the water shall, in writing, seek consent from the landowner to remove the natural obstruction.

(2) The water right owner may remove the natural obstruction if the landowner consents in writing and the water right owner complies with applicable laws and regulations.

(3) If the landowner does not consent in writing to the removal of the natural obstruction, the water right owner may seek a declaration from district court that the removal of the natural obstruction would not harm the landowner and is necessary for the water right owner to exercise the water right.

(4) In seeking a district court declaration, the water right owner shall:

(a) agree to pay all costs of the removal;

(b) show that the utility of the landowner's property would not be lessened;

(c) show that the landowner would not incur additional, uncompensated burdens from the removal of the natural obstruction; and

(d) agree to comply with applicable laws and regulations.

(5) The landowner may present evidence showing that the removal is not necessary for the water right owner to exercise the right or that the provisions of subsection (4) could not be met if the removal is permitted.

- (6) The court shall determine if the removal of the natural obstruction:
  - (a) is necessary for the water right owner to exercise the right; and
  - (b) would meet the provisions of subsection (4).
- (7) If the court permits the removal, the court may require any conditions to ensure that the provisions of subsection (4) are met.
- (8) The court may award court costs and attorney fees.
- (9) Removal of a natural obstruction under this section does not impair any existing right of the landowner.

**Section 2. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 85, chapter 2, part 1, and the provisions of Title 85, chapter 2, part 1, apply to [section 1].

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

Approved May 6, 2013

## CHAPTER NO. 409

[SB 336]

AN ACT CLARIFYING THE DEFINITION OF THE TERM “DEVELOPED SPRING”; AND AMENDING SECTION 85-2-102, MCA.

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

**Section 1.** Section 85-2-102, MCA, is amended to read:

**“85-2-102. Definitions.** Unless the context requires otherwise, in this chapter, the following definitions apply:

- (1) “Appropriate” means:
  - (a) to divert, impound, or withdraw, including by stock for stock water, a quantity of water for a beneficial use;
  - (b) in the case of a public agency, to reserve water in accordance with 85-2-316;
  - (c) in the case of the department of fish, wildlife, and parks, to change an appropriation right to instream flow to protect, maintain, or enhance streamflows to benefit the fishery resource in accordance with 85-2-436;
  - (d) in the case of the United States department of agriculture, forest service:
    - (i) instream flows and in situ use of water created in 85-20-1401, Article V; or
    - (ii) to change an appropriation right to divert or withdraw water under subsection (1)(a) to instream flow to protect, maintain, or enhance streamflows in accordance with 85-2-320;
  - (e) temporary changes or leases for instream flow to maintain or enhance instream flow to benefit the fishery resource in accordance with 85-2-408;
  - (f) a use of water for aquifer recharge or mitigation; or
  - (g) a use of water for an aquifer storage and recovery project as provided in 85-2-368.
- (2) “Aquifer recharge” means either the controlled subsurface addition of water directly to the aquifer or controlled application of water to the ground surface for the purpose of replenishing the aquifer to offset adverse effects resulting from net depletion of surface water.
- (3) “Aquifer storage and recovery project” means a project involving the use of an aquifer to temporarily store water through various means, including but not limited to injection, surface spreading and infiltration, drain fields, or



another department-approved method. The stored water may be either pumped from the injection well or other wells for beneficial use or allowed to naturally drain away for a beneficial use.

(4) "Beneficial use", unless otherwise provided, means:

(a) a use of water for the benefit of the appropriator, other persons, or the public, including but not limited to agricultural, stock water, domestic, fish and wildlife, industrial, irrigation, mining, municipal, power, and recreational uses;

(b) a use of water appropriated by the department for the state water leasing program under 85-2-141 and of water leased under a valid lease issued by the department under 85-2-141;

(c) a use of water by the department of fish, wildlife, and parks through a change in an appropriation right for instream flow to protect, maintain, or enhance streamflows to benefit the fishery resource authorized under 85-2-436;

(d) a use of water through a temporary change in appropriation right or lease to enhance instream flow to benefit the fishery resource in accordance with 85-2-408;

(e) a use of water for aquifer recharge or mitigation; or

(f) a use of water for an aquifer storage and recovery project as provided in 85-2-368.

(5) "Certificate" means a certificate of water right issued by the department.

(6) "Change in appropriation right" means a change in the place of diversion, the place of use, the purpose of use, or the place of storage.

(7) "Commission" means the fish, wildlife, and parks commission provided for in 2-15-3402.

(8) "Correct and complete" means that the information required to be submitted conforms to the standard of substantial credible information and that all of the necessary parts of the form requiring the information have been filled in with the required information for the department to begin evaluating the information.

(9) "Declaration" means the declaration of an existing right filed with the department under section 8, Chapter 452, Laws of 1973.

(10) "Department" means the department of natural resources and conservation provided for in Title 2, chapter 15, part 33.

~~(11) "Developed spring" means any artificial opening or excavation in the ground, however made, including any physical alteration at the point of discharge regardless of whether it results in any increase in the yield of ground water, from which ground water is sought or can be obtained or through which it flows under natural pressures or is artificially withdrawn.~~

*(11) "Developed spring" means any point where ground water emerges naturally, that has subsequently been physically altered, and from which ground water flows under natural pressures or is artificially withdrawn.*

(12) "Existing right" or "existing water right" means a right to the use of water that would be protected under the law as it existed prior to July 1, 1973. The term includes federal non-Indian and Indian reserved water rights created under federal law and water rights created under state law.

(13) "Ground water" means any water that is beneath the ground surface.

(14) "Late claim" means a claim to an existing right forfeited pursuant to the conclusive presumption of abandonment under 85-2-226.

(15) "Mitigation" means the reallocation of surface water or ground water through a change in appropriation right or other means that does not result in surface water being introduced into an aquifer through aquifer recharge to offset adverse effects resulting from net depletion of surface water.

(16) "Municipality" means an incorporated city or town organized and incorporated under Title 7, chapter 2.

(17) "Permit" means the permit to appropriate issued by the department under 85-2-301 through 85-2-303 and 85-2-306 through 85-2-314.

(18) "Person" means an individual, association, partnership, corporation, state agency, political subdivision, the United States or any agency of the United States, or any other entity.

(19) (a) "Political subdivision" means any county, incorporated city or town, public corporation, or district created pursuant to state law or other public body of the state empowered to appropriate water.

(b) The term does not mean a private corporation, association, or group.

(20) "Salvage" means to make water available for beneficial use from an existing valid appropriation through application of water-saving methods.

(21) "State water reservation" means a water right created under state law after July 1, 1973, that reserves water for existing or future beneficial uses or that maintains a minimum flow, level, or quality of water throughout the year or at periods or for defined lengths of time.

(22) "Substantial credible information" means probable, believable facts sufficient to support a reasonable legal theory upon which the department should proceed with the action requested by the person providing the information.

(23) "Waste" means the unreasonable loss of water through the design or negligent operation of an appropriation or water distribution facility or the application of water to anything but a beneficial use.

(24) "Water" means all water of the state, surface and subsurface, regardless of its character or manner of occurrence, including but not limited to geothermal water, diffuse surface water, and sewage effluent.

(25) "Water division" means a drainage basin as defined in 3-7-102.

(26) "Water judge" means a judge as provided for in Title 3, chapter 7.

(27) "Water master" means a master as provided for in Title 3, chapter 7.

(28) "Watercourse" means any naturally occurring stream or river from which water is diverted for beneficial uses. It does not include ditches, culverts, or other constructed waterways.

(29) "Well" means any artificial opening or excavation in the ground, however made, by which ground water is sought or can be obtained or through which it flows under natural pressures or is artificially withdrawn."

**Section 2. Coordination instruction.** If both Senate Bill No. 19 and [this act] are passed and approved and both contain a section amending 85-2-102, then the definition of "developed spring" in Senate Bill No. 19 must read as follows:

"(12) "Developed spring" means any point where ground water emerges naturally, that has subsequently been physically altered, and from which ground water flows under natural pressures or is artificially withdrawn."

Approved May 6, 2013

**CHAPTER NO. 410**

[SB 342]

AN ACT ESTABLISHING THE MONTANA INDIAN LANGUAGE PRESERVATION PILOT PROGRAM; PROVIDING A PROGRAM DESCRIPTION; PROVIDING AN APPROPRIATION; PROVIDING RULEMAKING AUTHORITY; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A TERMINATION DATE.

WHEREAS, Montana is committed in its educational goals to the preservation of American Indian cultural integrity; and

WHEREAS, language in the form of spoken, written, or sign language is foundational to cultural integrity; and

WHEREAS, Montana tribal languages are in a time of crisis through the loss of native speakers, writers, and signers; and

WHEREAS, the tribes and the state have resources, such as the tribal colleges, councils, and historic preservation offices and the state universities, historical society, and library, to preserve and protect Montana tribal languages for this and future generations.

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

**Section 1. Montana Indian language preservation pilot program. (1)**

There is a Montana Indian language pilot preservation program. The program is established to support efforts of Montana tribes to preserve Indian languages in the form of spoken, written, or sign language and to assist in the preservation and curricular goals of Indian education for all pursuant to Article X, section 1(2), of the Montana constitution and Title 20, chapter 1, part 5.

(2) (a) The state-tribal economic development commission established in 90-1-131 shall administer the program and, in collaboration with the Montana historical society, Montana public television organizations, the state director of Indian affairs, and each tribal government located on the seven Montana reservations and the Little Shell Chippewa tribe, shall adopt program rules by July 31, 2013.

(b) The program rules must address performance and output standards, distribution of funds, accounting of funds, and use of funds.

(c) The performance and output standards must include:

(i) development of audio and visual recordings;

(ii) creation of dictionaries and other reference materials, including audio, visual, electronic, or written dictionaries; and

(iii) creation and publication of curricula, which may include electronic curricula.

(d) The performance and output standards may include:

(i) language classes;

(ii) language immersion camps;

(iii) storytelling; and

(iv) publication of literature.

(3) By September 15, 2014, at least two copies of any tangible goods produced under this section, including but not limited to audio or visual recordings, literature, dictionaries, or other publications, must be submitted to the Montana historical society for the benefit of related language preservation efforts and for preservation and archival purposes.

(4) Tribal governments receiving program funds shall form local program advisory boards. Members of a local program advisory board may include but are not limited to representatives from any of the entities listed in subsection (6). Each local program advisory board shall work with college tribal language instructors and individuals who evaluate applicants for licensure as a class 7 American Indian language and culture specialist to develop and adopt measurable and specific outcome requirements for their respective language preservation programs.

(5) (a) Each local program advisory board shall provide reports on expenditures of grant funds, overall program progress, and other criteria determined by the state-tribal economic development commission pursuant to subsection (2)(a) to the state-tribal relations committee at each meeting during the interim.

(b) The state-tribal relations committee shall report any findings, comments, or recommendations regarding each local program and the Montana Indian language preservation pilot program to the 64th legislature.

(6) Tribal governments are encouraged to maximize the impact of grant funds by forming partnerships among state and tribal entities and leveraging existing resources for the preservation of Indian languages and the education of all Montanans in a way that honors the cultural integrity of American Indians. Suggested partner entities include but are not limited to:

- (a) the governor's office of Indian affairs;
- (b) school districts located on reservations;
- (c) tribal colleges;
- (d) tribal historic preservation offices;
- (e) tribal language and cultural programs;
- (f) units of the Montana university system;
- (g) the Montana historical society;
- (h) the office of public instruction;
- (i) Montana public television organizations;
- (j) school districts not located on reservations; and
- (k) the Montana state library.

(7) State entities that operate film and video studios and equipment shall cooperate with each local tribal preservation program in the production of materials for preservation and archival purposes.

(8) Any cultural and intellectual property rights from program efforts belong to the tribe. Use of the cultural and intellectual property may be negotiated between the tribe and other partnering entities.

**Section 2. Appropriation.** There is appropriated from the state general fund to the state-tribal economic development commission \$1 million in each year of the biennium beginning July 1, 2013, for the purposes described in [section 1]. Any remaining funds that are unencumbered as of June 30, 2015, must revert to the general fund.

**Section 3. Notification to tribal governments.** The secretary of state shall send a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell Chippewa tribe.

**Section 4. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 20, chapter 9, and the provisions of Title 20, chapter 9, apply to [section 1].

**Section 5. Coordination instruction.** If both House Bill No. 2 and [this act] are passed and approved and if House Bill No. 2 contains an appropriation for native language preservation, then [section 2 of this act] is void.

**Section 6. Effective date.** [This act] is effective on passage and approval.

**Section 7. Termination.** [This act] terminates June 30, 2015.

Approved May 6, 2013

## CHAPTER NO. 411

[SB 364]

AN ACT AUTHORIZING THE DEPARTMENT OF ENVIRONMENTAL QUALITY TO ADOPT RULES TO REGULATE THE DISPOSAL AND MANAGEMENT OF MATERIALS GENERATED BY THE COMBUSTION OF COAL AT ELECTRIC GENERATING FACILITIES UNDER CERTAIN CIRCUMSTANCES; AMENDING SECTIONS 75-10-204 AND 75-10-214, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

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

**Section 1.** Section 75-10-204, MCA, is amended to read:

**“75-10-204. Powers and duties of department.** The department shall, subject to the provisions of 75-10-107, adopt rules governing solid waste management systems that must include but are not limited to:

(1) requirements for the plan of operation and maintenance that must be submitted with an application under this part;

(2) the classification of disposal sites according to the physical capabilities of the site to contain the type of solid waste to be disposed of;

(3) the procedures to be followed in the disposal, treatment, or transport of solid wastes;

(4) the suitability of the site from a public health standpoint when hydrology, geology, and climatology are considered;

(5) requirements relating to ground water monitoring, including but not limited to:

(a) information that owners and operators of municipal solid waste landfills and other disposal sites specified in 75-10-207 are required to submit to the department to enable the department to prepare the priority compliance list authorized by 75-10-207(3);

(b) the content of plans for the design, construction, operation, and maintenance of monitoring wells and monitoring systems; and

(c) recordkeeping and reporting;

(6) the imposition of a quarterly fee based on the justifiable direct and indirect costs to the state of administering Title 75, chapter 10, parts 1 and 2, for solid waste generated outside Montana and disposed of or incinerated within Montana;

(7) requirements to maintain financial assurance payable to the state of Montana with a surety satisfactory to the department in an amount sufficient to provide for waste tire treatment, removal, transportation, and disposal, fire suppression, or other measures necessary to protect the environment and the health, safety, and welfare of the public;

(8) *requirements for coal combustion residues at electrical generation facilities in order to provide for state implementation of federal legislation or*

*federal environmental protection agency regulations that contain legislative or regulatory requirements pertaining to coal combustion residues and that become effective on or after [the effective date of this act]; and*

(8)(9) any other factors relating to the sanitary disposal or management of solid wastes.”

**Section 2.** Section 75-10-214, MCA, is amended to read:

**“75-10-214. Exclusions — exceptions to exclusions.** (1) (a) This part may not be construed to prohibit a person from disposing of the person’s own solid waste that is generated in reasonable association with the person’s household or agricultural operations upon land owned or leased by that person or covered by easement or permit as long as the disposal does not create a nuisance or public health hazard or violate the laws governing the disposal of hazardous or deleterious substances.

(b) *This Except as provided in 75-10-204(8), this part does not apply to the operation of an electric generating facility, to the drilling, production, or refining of natural gas or petroleum, or to the operation of a mine, mill, smelter, or electrolytic reduction facility.*

(2) The exclusions contained in subsection (1) do not apply to a division of land of 5 acres or less made after July 1, 1977, that falls within the definition of subdivision in Title 76, chapter 4, part 1, or the Montana Subdivision and Platting Act in Title 76, chapter 3.”

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

Approved May 6, 2013

## CHAPTER NO. 412

[SB 386]

AN ACT REVISING LAWS GOVERNING BENEFITS FOR VOLUNTEER FIREFIGHTERS; ALLOWING CERTAIN LOCAL GOVERNMENTAL FIRE AGENCIES TO PROVIDE WORKERS’ COMPENSATION COVERAGE FOR VOLUNTEER FIREFIGHTERS; REVISING PREMIUM AND BENEFIT PROVISIONS FOR VOLUNTEER FIREFIGHTERS AND CERTAIN VOLUNTEER EMERGENCY MEDICAL TECHNICIANS; AMENDING SECTIONS 7-6-621, 39-71-118, 39-71-123, AND 39-71-401, MCA; AND PROVIDING AN EFFECTIVE DATE.

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

**Section 1. Workers’ compensation for volunteer firefighters — definitions.** (1) An employer may provide workers’ compensation coverage as provided in Title 39, chapter 71, to any volunteer firefighter who is listed on a roster of service.

(2) An employer may purchase workers’ compensation coverage from any entity authorized to provide workers’ compensation coverage under plan No. 1, 2, or 3 as provided in Title 39, chapter 71.

(3) If an employer provides workers’ compensation coverage as provided in this section, the employer may, upon payment of the filing fee provided for in 7-4-2631(1)(a), file a roster of service with the clerk and recorder in the county in which the employer is located and update the roster of service monthly if necessary to report changes in the number of volunteers on the roster of service. The clerk and recorder shall file the original and replace it with updates



whenever necessary. The employer shall maintain the roster of service with the effective date of membership for each volunteer firefighter.

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

(a) (i) "Employer" means the governing body of a fire agency organized under Title 7, chapter 33, including a rural fire district, a fire service area, a volunteer fire department, a volunteer fire company, or a volunteer rural fire control crew.

(ii) The term does not mean a governing body of a city of the first class or second class, including a city to which 7-33-4109 applies, that provides workers' compensation coverage to employees as defined in 39-71-118.

(b) "Roster of service" means the list of volunteer firefighters who have filled out a membership card prior to performing services as a volunteer firefighter.

(c) (i) "Volunteer firefighter" means a volunteer who is on the employer's roster of service. A volunteer firefighter includes a volunteer emergency medical technician as defined in 50-6-202 who is on the roster of service. A volunteer firefighter is not required to be an active member as defined in 19-17-102.

(ii) The term does not mean an individual who is not listed on a roster of service or a member of a volunteer fire department provided for in 7-33-4109.

**Section 2.** Section 7-6-621, MCA, is amended to read:

**"7-6-621. Volunteer firefighters' disability income insurance authorized — voted levy — fund.** (1) Disability income insurance, as defined in 33-1-235, ~~may be purchased for volunteer firefighters. must provide that:~~

~~(a) payments or benefits are paid only for an injury received as a volunteer firefighter; and~~

~~(b) the duration of payments or benefits may not exceed the lesser of 1 year or until the treating physician determines that the beneficiary is no longer disabled. Disability income insurance purchased under this section is not the same as workers' compensation coverage provided for under [section 1].~~

(2) If the voters have approved a levy for the purchase of volunteer firefighters' disability income insurance or workers' compensation coverage, the governing body of a local government entity may establish a volunteer firefighters' disability income insurance account. The governing body may hold money in the account for any time period considered appropriate by the governing body. Money held in the account may not be considered as cash balance for the purpose of reducing mill levies.

(3) Money may be expended from the account to purchase disability income insurance coverage ~~meeting the provisions of subsection (1)~~ or for workers' compensation coverage for volunteer firefighters organized or deployed pursuant to any of the provisions of Title 7, chapter 33, parts 21 through 24 or 41.

(4) Money in the account must be invested as provided by law. Interest and income from the investment of money in the account must be credited to the account."

**Section 3.** Section 39-71-118, MCA, is amended to read:

**"39-71-118. Employee, worker, volunteer, volunteer firefighter, and volunteer emergency medical technician defined.** (1) As used in this chapter, the term "employee" or "worker" means:

(a) each person in this state, including a contractor other than an independent contractor, who is in the service of an employer, as defined by 39-71-117, under any appointment or contract of hire, expressed or implied, oral or written. The terms include aliens and minors, whether lawfully or unlawfully

employed, and all of the elected and appointed paid public officers and officers and members of boards of directors of quasi-public or private corporations, except those officers identified in 39-71-401(2), while rendering actual service for the corporations for pay. Casual employees, as defined by 39-71-116, are included as employees if they are not otherwise covered by workers' compensation and if an employer has elected to be bound by the provisions of the compensation law for these casual employments, as provided in 39-71-401(2). Household or domestic employment is excluded.

(b) any juvenile who is performing work under authorization of a district court judge in a delinquency prevention or rehabilitation program;

(c) a person who is receiving on-the-job vocational rehabilitation training or other on-the-job training under a state or federal vocational training program, whether or not under an appointment or contract of hire with an employer, as defined in 39-71-117, and, except as provided in subsection (9), whether or not receiving payment from a third party. However, this subsection (1)(c) does not apply to students enrolled in vocational training programs, as outlined in this subsection, while they are on the premises of a public school or community college.

(d) an aircrew member or other person who is employed as a volunteer under 67-2-105;

(e) a person, other than a juvenile as described in subsection (1)(b), who is performing community service for a nonprofit organization or association or for a federal, state, or local government entity under a court order, or an order from a hearings officer as a result of a probation or parole violation, whether or not under appointment or contract of hire with an employer, as defined in 39-71-117, and whether or not receiving payment from a third party. For a person covered by the definition in this subsection (1)(e):

(i) compensation benefits must be limited to medical expenses pursuant to 39-71-704 and an impairment award pursuant to 39-71-703 that is based upon the minimum wage established under Title 39, chapter 3, part 4, for a full-time employee at the time of the injury; and

(ii) premiums must be paid by the employer, as defined in 39-71-117(3), and must be based upon the minimum wage established under Title 39, chapter 3, part 4, for the number of hours of community service required under the order from the court or hearings officer.

(f) an inmate working in a federally certified prison industries program authorized under 53-30-132;

(g) a volunteer firefighter as described in 7-33-4109 or a person who provides ambulance services under Title 7, chapter 34, part 1;

(h) a person placed at a public or private entity's worksite pursuant to 53-4-704. The person is considered an employee for workers' compensation purposes only. The department of public health and human services shall provide workers' compensation coverage for recipients of financial assistance, as defined in 53-4-201, or for participants in the food stamp program, as defined in 53-2-902, who are placed at public or private worksites through an endorsement to the department of public health and human services' workers' compensation policy naming the public or private worksite entities as named insureds under the policy. The endorsement may cover only the entity's public assistance participants and may be only for the duration of each participant's training while receiving financial assistance or while participating in the food stamp program under a written agreement between the department of public

health and human services and each public or private entity. The department of public health and human services may not provide workers' compensation coverage for individuals who are covered for workers' compensation purposes by another state or federal employment training program. Premiums and benefits must be based upon the wage that a probationary employee is paid for work of a similar nature at the assigned worksite.

(i) a member of a religious corporation, religious organization, or religious trust while performing services for the religious corporation, religious organization, or religious trust, as described in 39-71-117(1)(d).

(2) The terms defined in subsection (1) do not include a person who is:

(a) performing voluntary service at a recreational facility and who receives no compensation for those services other than meals, lodging, or the use of the recreational facilities;

(b) performing services as a volunteer, except for a person who is otherwise entitled to coverage under the laws of this state. As used in this subsection (2)(b), "volunteer" means a person who performs services on behalf of an employer, as defined in 39-71-117, but who does not receive wages as defined in 39-71-123.

(c) serving as a foster parent, licensed as a foster care provider in accordance with 52-2-621, and providing care without wage compensation to no more than six foster children in the provider's own residence. The person may receive reimbursement for providing room and board, obtaining training, respite care, leisure and recreational activities, and providing for other needs and activities arising in the provision of in-home foster care.

(d) performing temporary agricultural work for an employer if the person performing the work is otherwise exempt from the requirement to obtain workers' compensation coverage under 39-71-401(2)(r) with respect to a company that primarily performs agricultural work at a fixed business location or under 39-71-401(2)(d) and is not required to obtain an independent contractor's exemption certificate under 39-71-417 because the person does not regularly perform agricultural work away from the person's own fixed business location. For the purposes of this subsection, the term "agricultural" has the meaning provided in 15-1-101(1)(a).

(3) ~~(a)~~ With the approval of the insurer, an employer may elect to include as an employee under the provisions of this chapter ~~any~~ a volunteer as defined in subsection (2)(b), *a volunteer emergency medical technician as defined in subsection (10), or a volunteer firefighter as defined in [section 1]*.

~~(b) A fire district, fire service area, or volunteer fire department formed under Title 7, chapter 33, an~~ An ambulance service not otherwise covered by subsection (1)(g); or a paid or volunteer nontransporting medical unit, as defined in 50-6-302, in service to a town, city, or county may elect to include as an employee under the provisions of this chapter ~~a volunteer firefighter or a volunteer emergency medical technician.~~

~~(4) (a) The term "volunteer emergency medical technician" means a person who has received a certificate issued by the board of medical examiners as provided in Title 50, chapter 6, part 2, and who serves the public through an ambulance service not otherwise covered by subsection (1)(g) or a paid or volunteer nontransporting medical unit, as defined in 50-6-302, in service to a town, city, or county.~~

~~(b) The term "volunteer firefighter" means a firefighter who is an enrolled and active member of a governmental fire agency organized under Title 7, chapter 33, except 7-33-4109.~~

~~(c) The term “volunteer hours” means all the time spent by a volunteer firefighter or a volunteer emergency medical technician in the service of an employer or as a volunteer for a town, city, or county, including but not limited to training time, response time, and time spent at the employer’s premises.~~

~~(5)(4)~~ (a) If the employer is a partnership, limited liability partnership, sole proprietor, or a member-managed limited liability company, the employer may elect to include as an employee within the provisions of this chapter any member of the partnership or limited liability partnership, the owner of the sole proprietorship, or any member of the limited liability company devoting full time to the partnership, limited liability partnership, proprietorship, or limited liability company business.

(b) In the event of an election, the employer shall serve upon the employer’s insurer written notice naming the partners, sole proprietor, or members to be covered and stating the level of compensation coverage desired by electing the amount of wages to be reported, subject to the limitations in subsection ~~(5)(d)~~ (4)(d). A partner, sole proprietor, or member is not considered an employee within this chapter until notice has been given.

(c) A change in elected wages must be in writing and is effective at the start of the next quarter following notification.

(d) All weekly compensation benefits must be based on the amount of elected wages, subject to the minimum and maximum limitations of this subsection ~~(5)(d)~~ (4)(d). For premium ratemaking and for the determination of the weekly wage for weekly compensation benefits, the electing employer may elect an amount of not less than \$900 a month and not more than 1 1/2 times the state’s average weekly wage.

~~(6)(5)~~ (a) If the employer is a quasi-public or a private corporation or a manager-managed limited liability company, the employer may elect to include as an employee within the provisions of this chapter any corporate officer or manager exempted under 39-71-401(2).

(b) In the event of an election, the employer shall serve upon the employer’s insurer written notice naming the corporate officer or manager to be covered and stating the level of compensation coverage desired by electing the amount of wages to be reported, subject to the limitations in subsection ~~(6)(d)~~ (5)(d). A corporate officer or manager is not considered an employee within this chapter until notice has been given.

(c) A change in elected wages must be in writing and is effective at the start of the next quarter following notification.

(d) For the purposes of an election under this subsection ~~(6)~~ (5), all weekly compensation benefits must be based on the amount of elected wages, subject to the minimum and maximum limitations of this subsection ~~(6)(d)~~ (5)(d). For premium ratemaking and for the determination of the weekly wage for weekly compensation benefits, the electing employer may elect an amount of not less than \$200 a week and not more than 1 1/2 times the state’s average weekly wage.

~~(7) (a) The trustees of a rural fire district, a county governing body providing rural fire protection, or the county commissioners or trustees for a fire service area may elect to include as an employee within the provisions of this chapter any volunteer firefighter. A volunteer firefighter who receives workers’ compensation coverage under this section may not receive disability benefits under Title 19, chapter 17.~~

~~(b) In the event of an election, the employer shall report payroll for all volunteer firefighters for premium and weekly benefit purposes based on the number of volunteer hours of each firefighter, but no more than 60 hours, times the state's average weekly wage divided by 40 hours.~~

~~(c) A self-employed sole proprietor or partner who has elected not to be covered under this chapter, but who is covered as a volunteer firefighter pursuant to subsection (7)(a), and when injured in the course and scope of employment as a volunteer firefighter may in addition to the benefits described in subsection (7)(b) be eligible for benefits at an assumed wage of the minimum wage established under Title 39, chapter 3, part 4, for 2,080 hours a year. The trustees of a rural fire district, a county governing body providing rural fire protection, or the county commissioners or trustees for a fire service area may make an election for benefits. If an election is made, payrolls must be reported and premiums must be assessed on the assumed wage.~~

~~(8)(6) Except as provided in Title 39, chapter 8, an employee or worker in this state whose services are furnished by a person, association, contractor, firm, limited liability company, limited liability partnership, or corporation, other than a temporary service contractor, to an employer, as defined in 39-71-117, is presumed to be under the control and employment of the employer. This presumption may be rebutted as provided in 39-71-117(3).~~

~~(9)(7) A student currently enrolled in an elementary, secondary, or postsecondary educational institution who is participating in work-based learning activities and who is paid wages by the educational institution or business partner is the employee of the entity that pays the student's wages for all purposes under this chapter. A student who is not paid wages by the business partner or the educational institution is a volunteer and is subject to the provisions of this chapter.~~

~~(10)(8) For purposes of this section, an "employee or worker in this state" means:~~

~~(a) a resident of Montana who is employed by an employer and whose employment duties are primarily carried out or controlled within this state;~~

~~(b) a nonresident of Montana whose principal employment duties are conducted within this state on a regular basis for an employer;~~

~~(c) a nonresident employee of an employer from another state engaged in the construction industry, as defined in 39-71-116, within this state; or~~

~~(d) a nonresident of Montana who does not meet the requirements of subsection ~~(10)(b)~~ (8)(b) and whose employer elects coverage with an insurer that allows an election for an employer whose:~~

~~(i) nonresident employees are hired in Montana;~~

~~(ii) nonresident employees' wages are paid in Montana;~~

~~(iii) nonresident employees are supervised in Montana; and~~

~~(iv) business records are maintained in Montana.~~

~~(11)(9) An insurer may require coverage for all nonresident employees of a Montana employer who do not meet the requirements of subsection ~~(10)(b)~~ (8)(b) or ~~(10)(d)~~ (8)(d) as a condition of approving the election under subsection ~~(10)(d)~~ (8)(d).~~

~~(12)(10) (a) ~~An~~ With the approval of the insurer, an ambulance service not otherwise covered by subsection (1)(g) or a paid or volunteer nontransporting medical unit, as defined in 50-6-302, in service to a town, city, or county may elect to include as an employee within the provisions of this chapter a volunteer~~

emergency medical technician who serves public safety through the ambulance service not otherwise covered by subsection (1)(g) or the paid or volunteer nontransporting medical unit.

(b) In the event of an election under subsection ~~(12)(a)~~ (10)(a), the employer shall report payroll for all volunteer emergency medical technicians for premium and weekly benefit purposes based on the number of volunteer hours of each emergency medical technician, but no more than 60 hours, times the state's average weekly wage divided by 40 hours.

(c) ~~A An ambulance service not otherwise covered by subsection (1)(g) or a paid or volunteer nontransporting medical unit, as defined in 50-6-302, may make a separate election to provide benefits as described in this subsection (10) to a member who is either a self-employed sole proprietor or partner who has elected not to be covered under this chapter, but who is covered as a volunteer emergency medical technician pursuant to subsection (12)(a) (10)(a), and when. When injured in the course and scope of employment as a volunteer emergency medical technician, a member may in addition to instead of the benefits described in subsection (12)(b) (10)(b) be eligible for benefits at an assumed wage of the minimum wage established under Title 39, chapter 3, part 4, for 2,080 hours a year. If an the separate election is made as provided in this subsection (12)(a), payrolls (10), payroll information for those self-employed sole proprietors or partners must be reported and premiums must be assessed on the assumed weekly wage.~~

(d) A volunteer emergency medical technician who receives workers' compensation coverage under this section may not receive disability benefits under Title 19, chapter 17, if the individual is also eligible as a volunteer firefighter.

(e) (i) *The term "volunteer emergency medical technician" means a person who has received a certificate issued by the board of medical examiners as provided in Title 50, chapter 6, part 2, and who serves the public through an ambulance service not otherwise covered by subsection (1)(g) or a paid or volunteer nontransporting medical unit, as defined in 50-6-302, in service to a town, city, or county.*

(ii) *The term does not include a volunteer emergency medical technician who serves an employer as defined in [section 1].*

(f) *The term "volunteer hours" means the time spent by a volunteer emergency medical technician in the service of an employer or as a volunteer for a town, city, or county, including but not limited to training time, response time, and time spent at the employer's premises."*

**Section 4.** Section 39-71-123, MCA, is amended to read:

**"39-71-123. Wages defined.** (1) "Wages" means all remuneration paid for services performed by an employee for an employer, or income provided for in subsection (1)(d). Wages include the cash value of all remuneration paid in any medium other than cash. The term includes but is not limited to:

(a) commissions, bonuses, and remuneration at the regular hourly rate for overtime work, holidays, vacations, and periods of sickness;

(b) backpay or any similar pay made for or in regard to previous service by the employee for the employer, other than retirement or pension benefits from a qualified plan;

(c) tips or other gratuities received by the employee, to the extent that tips or gratuities are documented by the employee to the employer for tax purposes;



(d) income or payment in the form of a draw, wage, net profit, or substitute for money received or taken by a sole proprietor or partner, regardless of whether the sole proprietor or partner has performed work or provided services for that remuneration;

(e) board, lodging, rent, or housing if it constitutes a part of the employee's remuneration and is based on its actual value; and

(f) payments made to an employee on any basis other than time worked, including but not limited to piecework, an incentive plan, or profit-sharing arrangement.

(2) The term "wages" does not include any of the following:

(a) employee expense reimbursements or allowances for meals, lodging, travel, subsistence, and other expenses, as set forth in department rules;

(b) the amount of the payment made by the employer for employees, if the payment was made for:

(i) retirement or pension pursuant to a qualified plan as defined under the provisions of the Internal Revenue Code;

(ii) sickness or accident disability under a workers' compensation policy;

(iii) medical or hospitalization expenses in connection with sickness or accident disability, including health insurance for the employee or the employee's immediate family;

(iv) death, including life insurance for the employee or the employee's immediate family;

(c) vacation or sick leave benefits accrued but not paid;

(d) special rewards for individual invention or discovery; or

(e) monetary and other benefits paid to a person as part of public assistance, as defined in 53-4-201.

(3) (a) Except as provided in subsection (3)(b), for compensation benefit purposes, the average actual earnings for the four pay periods immediately preceding the injury are the employee's wages, except that if the term of employment for the same employer is less than four pay periods, the employee's wages are the hourly rate times the number of hours in a week for which the employee was hired to work.

(b) For good cause shown, if the use of the last four pay periods does not accurately reflect the claimant's employment history with the employer, the wage may be calculated by dividing the total earnings for an additional period of time, not to exceed 1 year prior to the date of injury, by the number of weeks in that period, including periods of idleness or seasonal fluctuations.

(4) (a) For the purpose of calculating compensation benefits for an employee working concurrent employments, the average actual wages must be calculated as provided in subsection (3). As used in this subsection, "concurrent employment" means employment in which the employee was actually employed at the time of the injury and would have continued to be employed without a break in the term of employment if not for the injury.

(b) Except as provided in ~~39-71-118(7)(c) and (12)(c)~~ *39-71-118(10)(c)*, the compensation benefits for a covered volunteer must be based on the average actual wages in the volunteer's regular employment, except self-employment as a sole proprietor or partner who elected not to be covered, from which the volunteer is disabled by the injury incurred.

(c) The compensation benefits for an employee working at two or more concurrent remunerated employments must be based on the aggregate of

average actual wages of all employments, except for the wages earned by individuals while engaged in the employments outlined in 39-71-401(3)(a) who elected not to be covered, from which the employee is disabled by the injury incurred.

(5) For the purposes of calculating compensation benefits for an employee working for an employer, as provided in 39-71-117(1)(d), and for calculating premiums to be paid by that employer, the wages must be based upon all hours worked multiplied by the mean hourly wage by area, as published by the department in the edition of Montana Informational Wage Rates by Occupation, adopted annually by the department, that is in effect as of the date of injury or for the period in which the premium is due.”

**Section 5.** Section 39-71-401, MCA, is amended to read:

**“39-71-401. Employments covered and exemptions — elections — notice.** (1) Except as provided in subsection (2), the Workers’ Compensation Act applies to all employers and to all employees. An employer who has any employee in service under any appointment or contract of hire, expressed or implied, oral or written, shall elect to be bound by the provisions of compensation plan No. 1, 2, or 3. Each employee whose employer is bound by the Workers’ Compensation Act is subject to and bound by the compensation plan that has been elected by the employer.

(2) Unless the employer elects coverage for these employments under this chapter and an insurer allows an election, the Workers’ Compensation Act does not apply to any of the following:

- (a) household or domestic employment;
- (b) casual employment;
- (c) employment of a dependent member of an employer’s family for whom an exemption may be claimed by the employer under the federal Internal Revenue Code;
- (d) employment of sole proprietors, working members of a partnership, working members of a limited liability partnership, or working members of a member-managed limited liability company, except as provided in subsection (3);
- (e) employment of a real estate, securities, or insurance salesperson paid solely by commission and without a guarantee of minimum earnings;
- (f) employment as a direct seller as defined by 26 U.S.C. 3508;
- (g) employment for which a rule of liability for injury, occupational disease, or death is provided under the laws of the United States;
- (h) employment of a person performing services in return for aid or sustenance only, except employment of a volunteer under 67-2-105;
- (i) employment with a railroad engaged in interstate commerce, except that railroad construction work is included in and subject to the provisions of this chapter;
- (j) employment as an official, including a timer, referee, umpire, or judge, at an amateur athletic event;
- (k) employment of a person performing services as a newspaper carrier or freelance correspondent if the person performing the services or a parent or guardian of the person performing the services in the case of a minor has acknowledged in writing that the person performing the services and the services are not covered. As used in this subsection (2)(k):

(i) “freelance correspondent” means a person who submits articles or photographs for publication and is paid by the article or by the photograph; and

(ii) “newspaper carrier”:

(A) means a person who provides a newspaper with the service of delivering newspapers singly or in bundles; and

(B) does not include an employee of the paper who, incidentally to the employee’s main duties, carries or delivers papers.

(l) cosmetologist’s services and barber’s services as referred to in 39-51-204(1)(e);

(m) a person who is employed by an enrolled tribal member or an association, business, corporation, or other entity that is at least 51% owned by an enrolled tribal member or members, whose business is conducted solely within the exterior boundaries of an Indian reservation;

(n) employment of a jockey who is performing under a license issued by the board of horseracing from the time that the jockey reports to the scale room prior to a race through the time that the jockey is weighed out after a race if the jockey has acknowledged in writing, as a condition of licensing by the board of horseracing, that the jockey is not covered under the Workers’ Compensation Act while performing services as a jockey;

(o) employment of a trainer, assistant trainer, exercise person, or pony person who is performing services under a license issued by the board of horseracing while on the grounds of a licensed race meet;

(p) employment of an employer’s spouse for whom an exemption based on marital status may be claimed by the employer under 26 U.S.C. 7703;

(q) a person who performs services as a petroleum land professional. As used in this subsection, a “petroleum land professional” is a person who:

(i) is engaged primarily in negotiating for the acquisition or divestiture of mineral rights or in negotiating a business agreement for the exploration or development of minerals;

(ii) is paid for services that are directly related to the completion of a contracted specific task rather than on an hourly wage basis; and

(iii) performs all services as an independent contractor pursuant to a written contract.

(r) an officer of a quasi-public or a private corporation or, except as provided in subsection (3), a manager of a manager-managed limited liability company who qualifies under one or more of the following provisions:

(i) the officer or manager is not engaged in the ordinary duties of a worker for the corporation or the limited liability company and does not receive any pay from the corporation or the limited liability company for performance of the duties;

(ii) the officer or manager is engaged primarily in household employment for the corporation or the limited liability company;

(iii) the officer or manager either:

(A) owns 20% or more of the number of shares of stock in the corporation or owns 20% or more of the limited liability company; or

(B) owns less than 20% of the number of shares of stock in the corporation or limited liability company if the officer’s or manager’s shares when aggregated with the shares owned by a person or persons listed in subsection (2)(r)(iv) total 20% or more of the number of shares in the corporation or limited liability company; or

(iv) the officer or manager is the spouse, child, adopted child, stepchild, mother, father, son-in-law, daughter-in-law, nephew, niece, brother, or sister of a corporate officer who meets the requirements of subsection (2)(r)(iii)(A) or (2)(r)(iii)(B);

(s) a person who is an officer or a manager of a ditch company as defined in 27-1-731;

(t) service performed by an ordained, commissioned, or licensed minister of a church in the exercise of the church's ministry or by a member of a religious order in the exercise of duties required by the order;

(u) service performed to provide companionship services, as defined in 29 CFR 552.6, or respite care for individuals who, because of age or infirmity, are unable to care for themselves when the person providing the service is employed directly by a family member or an individual who is a legal guardian;

(v) employment of a person performing the services of an intrastate or interstate common or contract motor carrier when hired by an individual or entity who meets the definition of a broker or freight forwarder, as provided in 49 U.S.C. 13102;

(w) employment of a person who is not an employee or worker in this state as defined in ~~39-71-118(10)~~ 39-71-118(8);

(x) employment of a person who is working under an independent contractor exemption certificate;

(y) employment of an athlete by or on a team or sports club engaged in a contact sport. As used in this subsection, "contact sport" means a sport that includes significant physical contact between the athletes involved. Contact sports include but are not limited to football, hockey, roller derby, rugby, lacrosse, wrestling, and boxing.

(z) a musician performing under a written contract.

(3) (a) (i) A person who regularly and customarily performs services at locations other than the person's own fixed business location shall elect to be bound personally and individually by the provisions of compensation plan No. 1, 2, or 3 unless the person has waived the rights and benefits of the Workers' Compensation Act by obtaining an independent contractor exemption certificate from the department pursuant to 39-71-417.

(ii) Application fees or renewal fees for independent contractor exemption certificates must be deposited in the state special revenue account established in 39-9-206 and must be used to offset the certification administration costs.

(b) A person who holds an independent contractor exemption certificate may purchase a workers' compensation insurance policy and with the insurer's permission elect coverage for the certificate holder.

(c) For the purposes of this subsection (3), "person" means:

(i) a sole proprietor;

(ii) a working member of a partnership;

(iii) a working member of a limited liability partnership;

(iv) a working member of a member-managed limited liability company; or

(v) a manager of a manager-managed limited liability company that is engaged in the work of the construction industry as defined in 39-71-116.

(4) (a) A corporation or a manager-managed limited liability company shall provide coverage for its employees under the provisions of compensation plan No. 1, 2, or 3. A quasi-public corporation, a private corporation, or a manager-managed limited liability company may elect coverage for its

corporate officers or managers, who are otherwise exempt under subsection (2), by giving a written notice in the following manner:

(i) if the employer has elected to be bound by the provisions of compensation plan No. 1, by delivering the notice to the board of directors of the corporation or to the management organization of the manager-managed limited liability company; or

(ii) if the employer has elected to be bound by the provisions of compensation plan No. 2 or 3, by delivering the notice to the board of directors of the corporation or to the management organization of the manager-managed limited liability company and to the insurer.

(b) If the employer changes plans or insurers, the employer's previous election is not effective and the employer shall again serve notice to its insurer and to its board of directors or the management organization of the manager-managed limited liability company if the employer elects to be bound.

(5) The appointment or election of an employee as an officer of a corporation, a partner in a partnership, a partner in a limited liability partnership, or a member in or a manager of a limited liability company for the purpose of exempting the employee from coverage under this chapter does not entitle the officer, partner, member, or manager to exemption from coverage.

(6) Each employer shall post a sign in the workplace at the locations where notices to employees are normally posted, informing employees about the employer's current provision of workers' compensation insurance. A workplace is any location where an employee performs any work-related act in the course of employment, regardless of whether the location is temporary or permanent, and includes the place of business or property of a third person while the employer has access to or control over the place of business or property for the purpose of carrying on the employer's usual trade, business, or occupation. The sign must be provided by the department, distributed through insurers or directly by the department, and posted by employers in accordance with rules adopted by the department. An employer who purposely or knowingly fails to post a sign as provided in this subsection is subject to a \$50 fine for each citation."

**Section 6. Calculation of volunteer firefighter benefits and premiums — definitions.** (1) (a) A plan No. 1 or plan No. 2 insurer shall designate whether an employer, as defined in [section 1], is to use actual volunteer hours or a flat assumed payroll amount for each volunteer firefighter for calculating premiums. The coverage option must be the same for all fire agencies organized under Title 7, chapter 33, that are covered by that insurer and meet the definition of employer in [section 1]. A plan No. 3 insurer shall use a flat assumed payroll amount for each volunteer firefighter for calculating premiums.

(b) If a plan No. 1 or plan No. 2 insurer uses actual volunteer hours, the payroll calculation is the number of actual volunteer hours of each volunteer firefighter, not to exceed 60 hours a week, times the state's average weekly wage divided by 40 hours.

(c) When a plan No. 1, plan No. 2, or plan No. 3 insurer uses a flat assumed payroll amount, the assumed payroll for each volunteer firefighter must be reported as a full month for any month in which the volunteer firefighter is on the roster of service as defined in [section 1]. The employer shall maintain the roster of service with the effective date of membership for each volunteer firefighter.

(2) For benefit purposes, if concurrent employment under 39-71-123 does not apply, a volunteer firefighter injured in the course and scope of employment as a volunteer firefighter is eligible for medical and compensation benefits provided in Title 39, chapter 71. Any weekly compensation benefit must be based on either the actual volunteer hours if chosen as provided in subsection (1)(b) or the flat assumed payroll amount on which premiums are based, whichever is applicable.

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

(a) "Volunteer firefighter" has the meaning provided in [section 1].

(b) "Volunteer hours" means the time spent by a volunteer firefighter in the service of a fire agency organized under Title 7, chapter 33, that meets the definition of employer in [section 1], including but not limited to training time, response time, and time spent at the premises of the fire agency.

**Section 7. Codification instruction.** (1) [Section 1] is intended to be codified as an integral part of Title 7, chapter 33, part 45, and the provisions of Title 7, chapter 33, part 45, apply to [section 1].

(2) [Section 6] is intended to be codified as an integral part of Title 39, chapter 71, part 7, and the provisions of Title 39, chapter 71, part 7, apply to [section 6].

**Section 8. Effective date.** [This act] is effective July 1, 2013.

Approved May 6, 2013

## CHAPTER NO. 413

[SB 410]

AN ACT AUTHORIZING TRANSFERS TO IMPLEMENT THE GENERAL APPROPRIATIONS ACT; CREATING STATE SPECIAL REVENUE ACCOUNTS AND AUTHORIZING APPROPRIATIONS PURSUANT TO THOSE ACCOUNTS IN ORDER TO IMPLEMENT CERTAIN TRANSFERS; AMENDING SECTION 17-7-502, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A TERMINATION DATE.

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

**Section 1. Transfers.** (1) By July 1, 2013, the state treasurer shall transfer \$500,000 from the central stores account within the internal service fund to the general fund.

(2) By July 1, 2013, the state treasurer shall transfer the following amounts from the general fund:

(a) \$2 million to the corrections operations account established in [section 2];

(b) \$2 million to the public health operations account established in [section 3];

(c) \$7.5 million to the governor's operations account established in [section 4];

(d) \$2 million to the department of labor and industry operations account established in [section 5].

**Section 2. Corrections operations account — statutory appropriation.** (1) There is a corrections operations account in the state special revenue fund. The account consists of money deposited into the account pursuant to [section 1(2)(a)].



(2) Funds in the account are statutorily appropriated, as provided in 17-7-502, to the department of corrections for the biennium beginning July 1, 2013, for the purpose of funding various operations costs of the department.

**Section 3. Public health operations account — statutory appropriation.** (1) There is a public health operations account in the state special revenue fund. The account consists of money deposited into the account pursuant to [section 1(2)(b)].

(2) Funds in the account are statutorily appropriated, as provided in 17-7-502, to the department of public health and human services for the biennium beginning July 1, 2013, for the purpose of funding various operations, benefits, and grant costs of the department.

(3) Notwithstanding the provisions of 17-7-402 and 17-7-403, the department may add authority through the budget amendment process for any federal funds matched by these funds.

**Section 4. Governor's operations account.** (1) There is a governor's operations account in the state special revenue fund. The account consists of money deposited into the account pursuant to [section 1(2)(c)].

(2) Funds in the account are statutorily appropriated, as provided in 17-7-502, to the governor's office of budget and program planning for the biennium beginning July 1, 2013, for the purpose of transferring money to the following departments to fund operations costs:

- (a) the department of public health and human services;
- (b) the department of natural resources and conservation;
- (c) the department of environmental quality;
- (d) the department of administration;
- (e) the department of commerce;
- (f) the department of revenue;
- (g) the department of corrections;
- (h) the department of labor and industry; and
- (i) the governor's office.

**Section 5. Department of labor and industry operations account.** (1) There is a department of labor and industry operations account in the state special revenue fund. The account consists of money deposited into the account pursuant to [section 1(2)(d)].

(2) Funds in the account are statutorily appropriated, as provided in 17-7-502, to the department of labor and industry for the biennium beginning July 1, 2013, for the purpose of funding various operations costs of the department.

**Section 6.** Section 17-7-502, MCA, is amended to read:

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

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

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

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

(3) The following laws are the only laws containing statutory appropriations: [section 4]; 2-17-105; 5-11-120; 5-11-407; 5-13-403; 7-4-2502; 10-1-108; 10-1-1202; 10-1-1303; 10-2-603; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-121; 15-1-218; 15-31-906; 15-35-108; 15-36-332; 15-37-117; 15-39-110; 15-65-121; 15-70-101; 15-70-369; 15-70-601; 16-11-509; 17-3-106; 17-3-112; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 18-11-112; 19-3-319; 19-6-404; 19-6-410; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 19-20-607; 19-21-203; 20-8-107; 20-9-534; 20-9-622; 20-26-1503; 22-3-1004; 23-4-105; 23-5-306; 23-5-409; 23-5-612; 23-7-301; 23-7-402; 30-10-1004; 37-43-204; 37-51-501; [section 5]; 39-71-503; 41-5-2011; 42-2-105; 44-4-1101; 44-12-206; 44-13-102; 50-4-623; [section 3]; [section 2]; 53-1-109; 53-9-113; 53-24-108; 53-24-206; 60-11-115; 61-3-415; 69-3-870; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 76-13-416; 77-1-108; 77-2-362; 80-2-222; 80-4-416; 80-11-518; 81-1-112; 81-7-106; 81-10-103; 82-11-161; 85-20-1504; 85-20-1505; 87-1-230; 87-1-603; 87-1-621; 90-1-115; 90-1-205; 90-1-504; 90-3-1003; 90-6-331; and 90-9-306.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the inclusion of 19-20-604 terminates when the amortization period for the teachers' retirement system's unfunded liability is 10 years or less; pursuant to sec. 10, Ch. 10, Sp. L. May 2000, secs. 3 and 6, Ch. 481, L. 2003, and sec. 2, Ch. 459, L. 2009, the inclusion of 15-35-108 terminates June 30, 2019; pursuant to sec. 17, Ch. 593, L. 2005, and sec. 1, Ch. 186, L. 2009, the inclusion of 15-31-906 terminates January 1, 2015; pursuant to sec. 73, Ch. 44, L. 2007, the inclusion of 19-6-410 terminates upon the death of the last recipient eligible under 19-6-709(2) for the supplemental benefit provided by 19-6-709; pursuant to sec. 8, Ch. 330, L. 2009, the inclusion of 87-1-621 terminates June 30, 2013; pursuant to sec. 14, Ch. 374, L. 2009, the inclusion of 53-9-113 terminates June 30, 2015; pursuant to sec. 8, Ch. 427, L. 2009, the inclusion of 87-1-230 terminates June 30, 2013; pursuant to sec. 5, Ch. 442, L. 2009, the inclusion of 90-6-331 terminates June 30, 2019; pursuant to sec. 47, Ch. 19, L. 2011, the inclusion of 87-1-621 terminates June 30, 2013; pursuant to sec. 16, Ch. 58, L. 2011, the inclusion of 30-10-1004 terminates June 30, 2017; pursuant to sec. 6, Ch. 61, L. 2011, the inclusion of 76-13-416 terminates June 30, 2019; and pursuant to sec. 13, Ch. 339, L. 2011, the inclusion of 81-1-112 and 81-7-106 terminates June 30, 2017.)"

**Section 7. Codification instruction.** (1) [Section 2] is intended to be codified as an integral part of Title 53, and the provisions of Title 53 apply to [section 2].

(2) [Section 3] is intended to be codified as an integral part of Title 50, and the provisions of Title 50 apply to [section 3].

(3) [Section 4] is intended to be codified as an integral part of Title 2, chapter 15, part 2, and the provisions of Title 2, chapter 15, part 2, apply to [section 4].

(4) [Section 5] is intended to be codified as an integral part of Title 39, and the provisions of Title 39 apply to [section 5].

**Section 8. Coordination instruction.** If House Bill No. 2 is passed and approved, the conditional language on page B-8, lines 9 through 11, of the reference copy must read as follows:

(1) Subject to subsection (2), \$60 million is unrestricted for use in programs administered by the department, and Medicaid Services — Developmental Services, Medicaid Services — Health Resources, Medicaid Services — Senior and Long-Term Care, and Medicaid Services — Addictive and Mental Disorders may be used only to pay for medicaid services for existing eligible medicaid enrollees for expenses recorded as benefits and claims in the state accounting system and may not be transferred to other uses in the department.

(2) The funds in subsection (1) may not be used to expand the medicaid program as allowed under Public Law 111-148 and Public Law 111-152 to newly eligible populations as defined in *NFIB v. Sebelius*, 132 S. Ct. 2566 (2012).

**Section 9. Effective date.** [This act] is effective on passage and approval.

**Section 10. Termination date.** [This act] terminates June 30, 2015.

Approved May 6, 2013

## CHAPTER NO. 414

[HB 184]

AN ACT CLARIFYING THAT A SUPERVISING BROKER OR REAL ESTATE FIRM IS NOT RESPONSIBLE OR LIABLE FOR A FOR SALE BY OWNER PERSONAL TRANSACTION ON THE PART OF A SALESPERSON; AMENDING SECTION 37-51-309, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

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

**Section 1.** Section 37-51-309, MCA, is amended to read:

**“37-51-309. Broker — salesperson — for sale by owner personal transactions of salesperson — notice to department of change of association.** (1) A salesperson may not be associated with or under contract to more than one supervising broker or perform services for a broker with a supervising broker endorsement other than the one designated on the license issued to the salesperson except on a temporary basis as provided in 37-51-302.

(2) When a licensed salesperson desires to change association or contractual relationship from one supervising broker to another, the salesperson shall notify the department promptly in writing of these facts, pay the required fee, and return the salesperson’s license, and a new license and pocket card must be issued. A salesperson may not directly or indirectly work for or with a supervising broker until the salesperson has been issued a license to work for or with that supervising broker. On termination of a salesperson’s association or contractual relationship, the salesperson shall surrender the salesperson’s license to the salesperson’s supervising broker, who shall return it to the department for cancellation.

(3) Only one license may be issued to a salesperson to be in effect at one time.

(4) (a) The provisions of this chapter do not prohibit a salesperson from engaging in *for sale by owner* personal transactions, and the provisions of this chapter do not require a supervising broker to exercise any supervision or

provide any training for a salesperson with respect to *for sale by owner* personal transactions of the salesperson.

(b) A supervising broker or real estate firm is not responsible or liable for the *for sale by owner* personal transactions of a salesperson. if:

(i) ~~the personal transaction does not involve the salesperson's supervising broker or real estate firm; and~~

(ii) ~~prior (c) Prior~~ to entering into a *for sale by owner* personal transaction, the salesperson ~~discloses~~ shall disclose in writing to the other party that the transaction is a *for sale by owner* personal transaction with respect to the salesperson and that the transaction does not involve the salesperson's supervising broker or real estate firm.

(d) A supervising broker or real estate firm is not responsible or liable for the failure of a salesperson to provide the disclosure required in subsection (4)(c).

(5) For the purposes of this part section, "for sale by owner personal transaction" includes the following:

(a) the sale, purchase, or exchange of real property owned or acquired by the salesperson; and

(b) the leasing or renting of real property owned by the salesperson."

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

Approved May 6, 2013

## CHAPTER NO. 415

[HB 497]

AN ACT PROHIBITING MUNICIPALITIES FROM INCLUDING CERTAIN PROVISIONS IN MUNICIPAL SOCIAL HOST ORDINANCES; AND AMENDING SECTIONS 7-5-109 AND 7-5-4207, MCA.

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

**Section 1. Social host ordinances fining landlords prohibited — maintaining lists for enforcement prohibited.** (1) A social host ordinance enacted by a municipality may not impose a fine on a person who is a landlord of the property as defined in 70-24-103 unless the landlord is a participant in the party, event, or gathering that results in a violation of a social host ordinance.

(2) As part of enforcement of a social host ordinance, a municipality may not maintain or circulate a list of landlords, property owners, or properties on which a social host ordinance violation has occurred.

(3) For the purposes of this section, a "social host ordinance" is an ordinance enacted to prohibit the encouraging, conducting, allowing, or organizing of parties, events, and gatherings at which a person under 21 years of age is in possession of or is consuming an alcoholic beverage.

**Section 2.** Section 7-5-109, MCA, is amended to read:

**"7-5-109. Penalty for violation of ordinance.** (1) Except as provided in [section 1] and subsection (2) of this section, a local government may fix penalties for the violation of an ordinance that do not exceed a fine of \$500 or 6 months' imprisonment or both the fine and imprisonment.

(2) A local government may fix penalties for the violation of an ordinance relating to local or federal wastewater pretreatment standards implementing the Federal Water Pollution Control Act, 33 U.S.C. 1251 through 1387, if the

penalties do not exceed \$1,000 per day for each violation or 6 months' imprisonment, or both."

**Section 3.** Section 7-5-4207, MCA, is amended to read:

**"7-5-4207. Penalties for violation of municipal ordinances.** (1) Except as provided in [section 1] and subsection (2) of this section, the city or town council may impose fines and penalties for the violation of any city ordinance, but a fine or penalty may not exceed \$500 and imprisonment may not exceed 6 months for any one offense.

(2) A local government may fix penalties for the violation of an ordinance relating to local or federal wastewater pretreatment standards implementing the Federal Water Pollution Control Act, 33 U.S.C. 1251 through 1387, if the penalties do not exceed \$1,000 per day for each violation or 6 months' imprisonment, or both."

**Section 4. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 7, chapter 5, part 42, and the provisions of Title 7, chapter 5, part 42, apply to [section 1].

Approved May 6, 2013

## CHAPTER NO. 416

[SB 23]

AN ACT REVISING COUNTY INTERIM ZONING REQUIREMENTS AND PROCEDURES; REQUIRING A COUNTY TO INITIATE A STUDY OR INVESTIGATION TO VERIFY THE EXISTENCE OF AN EMERGENCY; ELIMINATING THE SPECIFICATION OF EXIGENT CIRCUMSTANCES; REQUIRING CERTAIN PROCEDURES FOR THE EXTENSION OF A RESOLUTION FOR AN INTERIM ZONING DISTRICT OR INTERIM REGULATION; AND AMENDING SECTION 76-2-206, MCA.

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

**Section 1.** Section 76-2-206, MCA, is amended to read:

**"76-2-206. Interim zoning district or regulation.** (1) Subject to subsection (3), the board of county commissioners may establish an interim zoning district or interim regulation *as to address an emergency measure in order to promote that involves the public health, safety, morals, and general or general welfare* if:

(a) the purpose of the interim zoning district or interim regulation is to classify ~~and regulate~~ those uses and related matters that ~~constitute~~ *must be regulated to mitigate* the emergency; and

(b) *within 30 working days, the county: initiates a study or investigation to verify that an emergency exists and to identify the facts and circumstances that constitute the emergency, the potential options for mitigating the emergency, and the course of action that the governing body intends to take, if any, during the term of the interim zoning district or interim regulation to mitigate the emergency.*

~~(i) is conducting or in good faith intends to conduct studies within a reasonable time; or~~

~~(ii) has held or is holding a hearing for the purpose of considering any of the following:~~

~~(A) a growth policy;~~

~~(B) zoning regulations; or~~

~~(C) a revision to a growth policy, to a master plan, as provided for in 76-1-604(6) and 76-2-201(2), or to zoning regulations pursuant to this part.~~

(2) A resolution for an interim zoning district or interim regulation must be limited to ~~1 year~~ 1 year from the date it becomes effective. Subject to ~~subsection (3)~~ subsections (4) and (5), the board of county commissioners may extend the resolution for 1 year, but not more than one extension may be made.

(3) The board of county commissioners shall observe the following procedures in the establishment of an interim zoning district or interim regulation:

(a) Notice of a public hearing on the proposed interim zoning district boundaries or of the interim regulation must be published ~~once a week for 2 weeks in a newspaper of general circulation within the county as provided in 7-1-2121.~~ *In addition to the requirements of 7-1-2121, the notice must state:*

(i) the boundaries of the proposed district;

(ii) the specific emergency ~~or exigent circumstance~~ compelling the establishment of the proposed interim zoning district or interim regulation;

(iii) the general character of the proposed interim zoning district or interim regulation, *including how those uses and related matters that must be regulated to mitigate the emergency will be classified and regulated; and*

~~(iv) the time and place of the public hearing; and~~

~~(v)~~ *(iv) that the proposed interim zoning district or interim regulation is on file for public inspection at the office of the county clerk and recorder.*

(b) At the public hearing, the board of county commissioners shall give the public an opportunity to be heard regarding the proposed establishment of an interim zoning district or interim regulation.

(c) After the hearing, the board of county commissioners may adopt a resolution to establish an interim zoning district or interim regulation.

*(4) The board of county commissioners shall observe the following procedures in the extension of a resolution pursuant to subsection (2):*

*(a) A study or investigation as provided in subsection (1)(b) must be completed prior to the hearing on the proposed extension of the resolution.*

*(b) Notice of a public hearing on the proposed extension of the resolution must be published as provided in 7-1-2121. In addition to the requirements of 7-1-2121, the notice must state:*

*(i) the boundaries of the existing interim zoning district;*

*(ii) the specific emergency that compelled the establishment of the existing interim zoning district or interim regulation and the reason for the proposed extension of the resolution; and*

*(iii) that the proposed extension of the resolution is on file for public inspection at the office of the county clerk and recorder.*

*(c) At the public hearing, which must be held prior to the expiration of the existing interim zoning district or interim zoning regulation, the board of county commissioners shall give the public an opportunity to be heard regarding the proposed extension of the resolution.*

*(5) After the hearing provided for in subsection (4), the board of county commissioners may in its discretion extend the resolution for the interim zoning district or interim regulation.”*

Approved May 6, 2013



**CHAPTER NO. 417**

[SB 44]

AN ACT ELIMINATING THE AIR POLLUTION CONTROL ADVISORY COUNCIL AND ITS FUNCTIONS; ELIMINATING A PROVISION RELATED TO PUBLIC HEARINGS ON RULES; AMENDING SECTIONS 75-2-103 AND 75-2-402, MCA; REPEALING SECTIONS 2-15-2106, 75-2-121, 75-2-122, 75-2-123, AND 75-2-205, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

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

**Section 1.** Section 75-2-103, MCA, is amended to read:

**“75-2-103. Definitions.** Unless the context requires otherwise, in this chapter, the following definitions apply:

~~(1) “Advisory council” means the air pollution control advisory council provided for in 2-15-2106.~~

~~(2)(1) “Air contaminant” means dust, fumes, mist, smoke, other particulate matter, vapor, gas, odorous substances, or any combination thereof of those air contaminants.~~

~~(3)(2) “Air pollutants” means one or more air contaminants that are present in the outdoor atmosphere, including those pollutants regulated pursuant to section 7412 and Subchapter V of the federal Clean Air Act, 42 U.S.C. 7401, et seq.~~

~~(4)(3) “Air pollution” means the presence of air pollutants in a quantity and for a duration that are or tend to be injurious to human health or welfare, animal or plant life, or property or that would unreasonably interfere with the enjoyment of life, property, or the conduct of business.~~

~~(5)(4) “Associated supporting infrastructure” means:~~

~~(a) electric transmission and distribution facilities;~~

~~(b) pipeline facilities;~~

~~(c) aboveground ponds and reservoirs and underground storage reservoirs;~~

~~(d) rail transportation;~~

~~(e) aqueducts and diversion dams;~~

~~(f) devices or equipment associated with the delivery of an energy form or product produced at an energy development project; or~~

~~(g) other supporting infrastructure, as defined by board rule, that is necessary for an energy development project.~~

~~(6)(5) “Board” means the board of environmental review provided for in 2-15-3502.~~

~~(7)(6) (a) “Commercial hazardous waste incinerator” means:~~

~~(i) an incinerator that burns hazardous waste; or~~

~~(ii) a boiler or industrial furnace subject to the provisions of 75-10-406.~~

~~(b) Commercial hazardous waste incinerator does not include a research and development facility that receives federal or state research funds and that burns hazardous waste primarily to test and evaluate waste treatment remediation technologies.~~

~~(8)(7) “Department” means the department of environmental quality provided for in 2-15-3501.~~

~~(9)~~(8) "Emission" means a release into the outdoor atmosphere of air contaminants.

~~(10)~~(9) (a) "Energy development project" means each plant, unit, or other development and associated developments, including any associated supporting infrastructure, designed for or capable of:

- (i) generating electricity;
- (ii) producing gas derived from coal;
- (iii) producing liquid hydrocarbon products;
- (iv) refining crude oil or natural gas;
- (v) producing alcohol to be blended for ethanol-blended gasoline and that are eligible for a tax incentive pursuant to Title 15, chapter 70, part 5;
- (vi) producing biodiesel and that are eligible for a tax incentive for the production of biodiesel pursuant to 15-32-701; or
- (vii) transmitting electricity through an electric transmission line with a design capacity of equal to or greater than 50 kilovolts.

(b) The term does not include a nuclear facility as defined in 75-20-1202.

~~(11)~~(10) "Environmental protection law" means a law contained in or an administrative rule adopted pursuant to Title 75, chapter 2, 5, 10, or 11.

~~(12)~~(11) "Hazardous waste" means:

(a) a substance defined as hazardous under 75-10-403 or defined as hazardous in department administrative rules adopted pursuant to Title 75, chapter 10, part 4; or

(b) a waste containing 2 parts or more per million of polychlorinated biphenyl (PCB).

~~(13)~~(12) (a) "Incinerator" means any single- or multiple-chambered combustion device that burns combustible material, alone or with a supplemental fuel or with catalytic combustion assistance, primarily for the purpose of removal, destruction, disposal, or volume reduction of any portion of the input material.

(b) Incinerator does not include:

(i) safety flares used to combust or dispose of hazardous or toxic gases at industrial facilities, such as refineries, gas sweetening plants, oil and gas wells, sulfur recovery plants, or elemental phosphorus plants;

(ii) space heaters that burn used oil;

(iii) wood-fired boilers; or

(iv) wood waste burners, such as tepee, wigwam, truncated cone, or silo burners.

~~(14)~~(13) "Medical waste" means any waste that is generated in the diagnosis, treatment, or immunization of human beings or animals, in medical research on humans or animals, or in the production or testing of biologicals. The term includes:

(a) cultures and stocks of infectious agents;

(b) human pathological wastes;

(c) waste human blood or products of human blood;

(d) sharps;

(e) contaminated animal carcasses, body parts, and bedding that were known to have been exposed to infectious agents during research;

(f) laboratory wastes and wastes from autopsy or surgery that were in contact with infectious agents; and

(g) biological waste and discarded material contaminated with blood, excretion, exudates, or secretions from humans or animals.

~~(15)~~(14) (a) "Oil or gas well facility" means a well that produces oil or natural gas. The term includes:

(i) equipment associated with the well and used for the purpose of producing, treating, separating, or storing oil, natural gas, or other liquids produced by the well; and

(ii) a group of wells under common ownership or control that produce oil or natural gas and that share common equipment used for the purpose of producing, treating, separating, or storing oil, natural gas, or other liquids produced by the wells.

(b) The equipment referred to in subsection (15)(a) includes but is not limited to wellhead assemblies, amine units, prime mover engines, phase separators, heater treater units, dehydrator units, tanks, and connecting tubing.

(c) The term does not include equipment such as compressor engines used for transmission of oil or natural gas.

~~(16)~~(15) "Person" means an individual, a partnership, a firm, an association, a municipality, a public or private corporation, the state or a subdivision or agency of the state, a trust, an estate, an interstate body, the federal government or an agency of the federal government, or any other legal entity and includes persons resident in Canada.

~~(17)~~(16) "Principal" means a principal of a corporation, including but not limited to a partner, associate, officer, parent corporation, or subsidiary corporation.

~~(18)~~(17) "Small business stationary source" means a stationary source that:

(a) is owned or operated by a person who employs 100 or fewer individuals;

(b) is a small business concern as defined in the Small Business Act, 15 U.S.C. 631, et seq.;

(c) is not a major stationary source as defined in Subchapter V of the federal Clean Air Act, 42 U.S.C. 7661, et seq.;

(d) emits less than 50 tons per year of an air pollutant;

(e) emits less than a total of 75 tons per year of all air pollutants combined; and

(f) is not excluded from this definition under 75-2-108(3).

~~(19)~~(18) (a) "Solid waste" means all putrescible and nonputrescible solid, semisolid, liquid, or gaseous wastes, including but not limited to garbage; rubbish; refuse; ashes; swill; food wastes; commercial or industrial wastes; medical waste; sludge from sewage treatment plants, water supply treatment plants, or air pollution control facilities; construction, demolition, or salvage wastes; dead animals, dead animal parts, offal, animal droppings, or litter; discarded home and industrial appliances; automobile bodies, tires, interiors, or parts thereof; wood products or wood byproducts and inert materials; styrofoam and other plastics; rubber materials; asphalt shingles; tarpaper; electrical equipment, transformers, or insulated wire; oil or petroleum products or oil or petroleum products and inert materials; treated lumber and timbers; and pathogenic or infectious waste.

(b) Solid waste does not include municipal sewage, industrial wastewater effluents, mining wastes regulated under the mining and reclamation laws administered by the department of environmental quality, or slash and forest debris regulated under laws administered by the department of natural resources and conservation.”

**Section 2.** Section 75-2-402, MCA, is amended to read:

**“75-2-402. Emergency procedure.** (1) ~~Any other law to the contrary notwithstanding~~ *Any other law to the contrary notwithstanding*, if the department finds that a generalized condition of air pollution exists and that it creates an emergency requiring immediate action to protect human health or safety, the department shall order persons causing or contributing to the air pollution to immediately reduce or discontinue the emission of air contaminants. Upon issuance of this order, the department shall fix a place and time within 24 hours for a hearing to be held before the board. Within 24 hours after the ~~commencement~~ *start* of the hearing and without adjournment, the board shall ~~affirm~~ *confirm*, modify, or set aside the order of the department.

(2) ~~In the absence of a generalized condition such as that referred to~~ *Except as provided* in subsection (1), if the department finds that emissions from the operation of one or more air contaminant sources are causing imminent danger to human health or safety, it may order the person responsible for the operation in question to reduce or discontinue emissions immediately, without regard for 75-2-401. In this event, the requirements for hearing and ~~affirmance~~ *confirmation*, modification, or setting aside of orders as provided in subsection (1) apply.

(3) This section does not limit any power ~~which~~ *that* the governor or any other officer may have to declare an emergency and act on the basis of this declaration, whether the power is conferred by statute or ~~constitutional provisions~~ *the constitution or inheres in* *is inherent* to the office.

~~(4) Nothing in 75-2-205 may be construed to require a hearing before the issuance of an emergency order pursuant to this section.”~~

**Section 3. Repealer.** The following sections of the Montana Code Annotated are repealed:

2-15-2106. Air pollution control advisory council.

75-2-121. Advisory council.

75-2-122. Presiding officer — secretary.

75-2-123. Meetings.

75-2-205. Public hearings on rules.

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

Approved May 6, 2013

## CHAPTER NO. 418

[SB 226]

AN ACT EXEMPTING CERTAIN AGRICULTURAL FEED TRUCKS FROM CERTAIN REQUIREMENTS AND TAXATION RELATED TO THE USE OF SPECIAL FUELS; AMENDING SECTIONS 15-70-321 AND 15-70-330, MCA.

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

**Section 1.** Section 15-70-321, MCA, is amended to read:

**“15-70-321. Tax on special fuel and volatile liquids.** (1) *Except as provided in subsection (4) or otherwise provided by law, the department shall, under the provisions of rules issued by it, collect or cause to be collected from the owners or operators of motor vehicles a tax, as provided in subsection (2):*

(a) *for each gallon of undyed special fuel or other volatile liquid, except liquid petroleum gas, of less than 46 degrees A.P.I. (American petroleum institute) gravity test when actually sold or used to produce motor power to operate motor vehicles upon the public roads and highways of this state;*

(b) *for each gallon of special fuel or other volatile liquid, except liquid petroleum gas, of less than 46 degrees A.P.I. (American petroleum institute) gravity test when actually sold or used in motor vehicles, motorized equipment, and the internal combustion of any engines, including stationary engines, used in connection with any work performed under any contracts pertaining to the construction, reconstruction, or improvement of any highway or street and their appurtenances awarded by any public agencies, including federal, state, county, municipal, or other political subdivisions; and*

(c) *for each gallon of dyed special fuel delivered into the fuel supply tank of a diesel-powered highway vehicle, regardless of weight, operating upon the public roads and highways of this state.*

(2) *The tax imposed in subsection (1) is 27 3/4 cents per gallon.*

(3) *Material used for construction, reconstruction, or improvement in connection with work performed under a contract as provided in subsection (1)(b) must be produced using special fuel on which state fuel tax has been paid.*

(4) *The tax may not be imposed on dyed special fuel delivered into the fuel supply tank of a vehicle that is equipped with a feed-delivery box if:*

(a) *the feed-delivery box is permanently affixed to the vehicle;*

(b) *the vehicle is used exclusively for the feeding of livestock; and*

(c) *the gross vehicle weight of the vehicle, exclusive of any towed units, is greater than 12,000 pounds.”*

**Section 2.** Section 15-70-330, MCA, is amended to read:

**“15-70-330. Special fuel penalties.** (1) *In the case of a special fuel user who refuses or fails to file a return required by this part within the time prescribed by 15-70-103 and 15-70-325, there is imposed a penalty of \$25 or a sum equal to 10% of the tax due, whichever is greater, together with interest at the rate of 1% on the tax due for each calendar month or fraction of a month during which the refusal or failure continues. However, if any special fuel user establishes to the satisfaction of the department that the failure to file a return within the time prescribed was due to reasonable cause, the department shall waive the penalty provided by this section.*

(2) *Whenever a special fuel user files a return but fails to pay in whole or in part the tax due under this part, interest at the rate of 1% a month or fraction of a month from the date on which the tax was due to the date of payment in full must be added to the amount due and unpaid.*

(3) (a) *A special fuel user may not use dyed special fuel to operate a motor vehicle upon the public roads and highways of this state unless:*

(i) *the motor vehicle has a gross vehicle weight of greater than 12,000 pounds, exclusive of any towed units, is equipped with a feed-delivery box that is permanently affixed to the vehicle, and is used solely for the feeding of livestock;*  
*or*

(ii) the use is permitted pursuant to rules adopted under subsection ~~(3)~~(b)(3)(c).

(b) The purposeful or knowing use of dyed special fuel in a motor vehicle operating upon the public roads and highways of this state in violation of this subsection (3) is subject to the civil penalty imposed under 15-70-372(2). Each use is a separate offense.

~~(b)~~(c) The department shall adopt and enforce reasonable rules for the movement of off-highway vehicles traveling from one location to another on public highways, public roads, or streets when using dyed fuel or nontaxed fuel.

(4) The operator of the vehicle is liable for the tax imposed in 15-70-321. If the operator refuses or fails to pay the tax, in whole or in part, the seller of the special fuel is jointly and severally liable for the tax imposed under 15-70-321 and for the penalties described in this section if the seller knows or has reason to know that the fuel will be used for a taxable purpose.”

Approved May 6, 2013

## CHAPTER NO. 419

[SB 280]

AN ACT AUTHORIZING A PROPERTY TAXPAYER THAT OBJECTS TO THE ASSESSED VALUATION OF PROPERTY TO HAVE THE OBJECTION RESOLVED THROUGH MEDIATION; REQUIRING PAYMENT OF A FEE AND PROVIDING PROCEDURES FOR MEDIATION; CLARIFYING THE INFORMATION THAT MAY BE CONVEYED BETWEEN PARTIES BY A MEDIATOR; AMENDING SECTIONS 15-1-211, 15-1-402, 15-8-601, 15-23-102, 15-23-104, AND 15-24-3112, MCA; AND PROVIDING EFFECTIVE DATES AND A TERMINATION DATE.

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

**Section 1. Mediation of valuation disputes — centrally assessed and industrial properties.** (1) For appeals relating to the assessed value of centrally assessed property or industrial property that is assessed annually by the department, the objecting taxpayer may require that all issues raised in the complaint be the subject of a mediation proceeding conducted as provided in 26-1-813. The request for mediation must be accompanied by a fee of \$100, payable to the department for deposit in the general fund.

(2) If the taxpayer requests mediation, which must be granted, the request is to be included in the complaint filed with the state tax appeal board pursuant to 15-2-302 or, if subsequent to the appeal, upon separate motion to the state tax appeal board. If mediation is requested by the taxpayer, the mediation must be conducted no less than 60 days prior to the contested case hearing on all issues raised in the complaint, to be scheduled by the state tax appeal board.

(3) The mediation proceeding must be conducted pursuant to 26-1-813 as a private, confidential, and informal dispute resolution. The mediation must be conducted by a person who is not a public employee and must be held at a privately owned facility. Because the mediation proceeding cannot result in a judgment or a compelled agreement, the proceeding is not a governmental operation, and until the dispute between the taxpayer and the department is resolved, either by agreement or through the appeal process, the records of the mediation proceeding may not be disclosed to the public.

(4) Within 45 days after the request for mediation, the mediator must have been selected by the parties and the parties must have scheduled a mediation



proceeding unless waived by both parties. A mediation proceeding may not proceed past 120 days without the consent of the objecting taxpayer and the department. Each party is responsible for that party's mediation costs and shall jointly share the costs of the mediator.

(5) A mediator is prohibited from conveying information from one party to another during the mediation unless the source party specifically allows the conveyance of the information.

(6) If the mediation is successful, the department shall value the property that was the subject of the objection as agreed to in the mediation.

(7) If the mediation is unsuccessful, the parties shall proceed to a contested case hearing as scheduled by the state tax appeal board.

**Section 2. Mediation of valuation disputes — other property taxpayers.** (1) After a final decision of the county tax appeal board relating to the assessed value of property other than centrally assessed property or industrial property valued annually by the department, the objecting taxpayer may require that the assessed value be the subject of a mediation proceeding conducted as provided in 26-1-813. The request for mediation must be accompanied by a fee of \$100, payable to the department for deposit in the general fund.

(2) If the taxpayer requests mediation, which must be granted, the request is to be included in the complaint filed with the state tax appeal board pursuant to 15-2-302 or, if subsequent to the appeal, upon separate motion to the state tax appeal board. If mediation is requested by the taxpayer, the mediation must be conducted no less than 60 days prior to the contested case hearing on all issues raised in the complaint, to be scheduled by the state tax appeal board.

(3) The mediation proceeding must be conducted according to [section 1(2) through (6)].

**Section 3.** Section 15-1-211, MCA, is amended to read:

**“15-1-211. Uniform dispute review procedure — notice — appeal.** (1) The department shall provide a uniform review procedure for all persons or other entities, except as provided in subsection (1)(a).

(a) The department's dispute review procedure must be adopted by administrative rule and applies to all matters administered by the department and to all issues arising from the administration of the department, except estate taxes, property taxes, and the issue of whether an employer-employee relationship existed between the person or other entity and individuals subjecting the person or other entity to the requirements of chapter 30, part 25, or whether the employment relationship was that of an independent contractor. ~~The procedure applies to assessments of centrally assessed property taxed pursuant to chapter 23. The procedure applies to assessments of centrally assessed property taxed pursuant to chapter 23.~~

(b) (i) The term “other entity”, as used in this section, includes all businesses, corporations, and similar enterprises.

(ii) The term “person” as used in this section includes all individuals.

(2) (a) Persons or other entities having a dispute with the department have the right to have the dispute resolved by appropriate means, including consideration of alternative dispute resolution procedures such as mediation.

(b) The department shall establish a dispute resolution office to resolve disputes between the department and persons or other entities.

(c) Disputes must be resolved by a final department decision within 180 days of the referral to the dispute resolution office, unless extended by mutual

consent of the parties. If a final department decision is not issued within the required time period, the remedy is an appeal to the appropriate forum as provided by law.

(3) (a) The department shall provide written notice to a person or other entity advising ~~them~~ *the person or entity* of a dispute over matters administered by the department.

(b) The person or other entity shall have the opportunity to resolve the dispute with the department employee who is responsible for the notice, as indicated on the notice.

(c) If the dispute cannot be resolved, either the department or the other party may refer the dispute to the dispute resolution office.

(d) The notice must advise the person or other entity of their opportunity to resolve the dispute with the person responsible for the notice and their right to refer the dispute to the dispute resolution office.

(4) Written notice must be sent to the persons or other entities involved in a dispute with the department indicating that the matter has been referred to the dispute resolution office. The written notice must include:

(a) a summary of the department's position regarding the dispute;

(b) an explanation of the right to the resolution of the dispute with a clear description of all procedures and options available;

(c) the right to obtain a final department decision within 180 days of the date that the dispute was referred to the dispute resolution office;

(d) the right to appeal should the department fail to meet the required deadline for issuing a final department decision; and

(e) the right to have the department consider alternative dispute resolution methods, including mediation.

(5) The department shall:

(a) develop guidelines that must be followed by employees of the department in dispute resolution matters;

(b) develop policies concerning the authority of an employee to resolve disputes; and

(c) establish procedures for reviewing and approving disputes resolved by an employee or the dispute resolution office.

(6) (a) (i) The director of revenue or the director's designee is authorized to enter into an agreement with a person or other entity relating to a matter administered by the department.

(ii) The director or the director's designee has no authority to bind a future legislature through the terms of an agreement.

(b) Subject to subsection (6)(a)(ii), an agreement under the provisions of subsection (6)(a)(i) is final and conclusive, and, except upon a showing of fraud, malfeasance, or misrepresentation of a material fact:

(i) the agreement may not be reopened as to matters agreed upon or be modified by any officer, employee, or agent of this state; and

(ii) in any suit, action, or proceeding under the agreement or any determination, assessment, collection, payment, abatement, refund, or credit made in accordance with the agreement, the agreement may not be annulled, modified, set aside, or disregarded."

**Section 4.** Section 15-1-402, MCA, is amended to read:

**"15-1-402. Payment of property taxes or fees under protest.** (1) (a) The person upon whom a property tax or fee is being imposed under this title

may, before the property tax or fee becomes delinquent, pay under written protest that portion of the property tax or fee protested.

(b) The protested payment must:

(i) be made to the officer designated and authorized to collect it;

(ii) specify the grounds of protest; and

(iii) not exceed the difference between the payment for the immediately preceding tax year and the amount owing in the tax year protested unless a different amount results from the specified grounds of protest, which may include but are not limited to changes in assessment due to reappraisal under 15-7-111.

(c) If the protested property tax or fee is on property that is subject to central assessment pursuant to 15-23-101, the person shall report to the department the grounds of the protest and the amount of the protested payment for each county in which a protested payment was made. ~~By November 1 of each year, the department shall mail a notice stating the requirements of this subsection (1)(c) to owners of property subject to central assessment under 15-23-101(1) and (2) who have filed a timely appeal under 15-1-211.~~

(2) A person appealing a property tax or fee pursuant to Title 15, chapter 2 or 15, including a person appealing a property tax or fee on property that is *annually assessed by the department* or subject to central assessment pursuant to 15-23-101(1) or (2), shall pay the tax or fee under protest when due in order to receive a refund. If the tax or fee is not paid under protest when due, the appeal *or mediation* may continue but a tax or fee may not be refunded as a result of the appeal *or mediation*.

(3) If a protested property tax or fee is payable in installments, a subsequent installment portion considered unlawful by the state tax appeal board need not be paid and an action or suit need not be commenced to recover the subsequent installment. The determination of the action or suit commenced to recover the first installment portion paid under protest determines the right of the party paying the subsequent installment to have it or any part of it refunded to the party or the right of the taxing authority to collect a subsequent installment not paid by the taxpayer plus interest from the date the subsequent installment was due.

(4) (a) Except as provided in subsection (4)(b), all property taxes and fees paid under protest to a county or municipality must be deposited by the treasurer of the county or municipality to the credit of a special fund to be designated as a protest fund and must be retained in the protest fund until the final determination of any action or suit to recover the taxes and fees unless they are released at the request of the county, municipality, or other local taxing jurisdiction pursuant to subsection (5). This section does not prohibit the investment of the money of this fund in the state unified investment program or in any manner provided in Title 7, chapter 6. The provision creating the special protest fund does not apply to any payments made under protest directly to the state.

(b) (i) Property taxes that are levied by the state against property that is centrally assessed pursuant to 15-23-101 and any protested taxes on industrial property that is annually assessed by the department in a school district that has elected to waive its right to protested taxes in a specific year pursuant to 15-1-409 must be remitted by the county treasurer to the department for deposit as provided in subsections (4)(b)(ii) through (4)(b)(iv).

(ii) The department shall deposit 50% of that portion of the funds levied for the university system pursuant to 15-10-108 in the state special revenue fund to the credit of the university system, and the other 50% of the funds levied pursuant to 15-10-108 must be deposited in a centrally assessed property tax state special revenue fund.

(iii) Fifty percent of the funds remaining after the deposit of university system funds must be deposited in the state general fund, and the other 50% must be deposited in a centrally assessed property tax state special revenue fund.

(iv) Fifty percent of the funds from a school district that has waived its right to protested taxes must be deposited in the state general fund, and the other 50% must be deposited in a school district property tax protest state special revenue fund.

(5) (a) Except as provided in subsections (5)(b) and (5)(c), the governing body of a taxing jurisdiction affected by the payment of taxes under protest in the second and subsequent years that a tax protest remains unresolved may demand that the treasurer of the county or municipality pay the requesting taxing jurisdiction all or a portion of the protest payments to which it is entitled, except the amount paid by the taxpayer in the first year of the protest. The decision in a previous year of a taxing jurisdiction to leave protested taxes in the protest fund does not preclude it from demanding in a subsequent year any or all of the payments to which it is entitled, except the first-year protest amount.

(b) The governing body of a taxing jurisdiction affected by the payment of taxes under protest on property that is centrally assessed pursuant to 15-23-101 or on industrial property that is assessed annually by the department in the first and subsequent years that a tax protest remains unresolved may demand that the treasurer of the county or municipality pay the requesting taxing jurisdiction all or a portion of the protest payments to which it is entitled. The decision in a previous year of a taxing jurisdiction to leave protested taxes of centrally assessed property in the protest fund does not preclude it from demanding in a subsequent year any or all of the payments to which it is entitled.

(c) The provisions of subsection (5)(b) do not apply to a school district that has elected to waive its right to its portion of protested taxes on centrally assessed property and on industrial property that is assessed annually by the department for that specific year as provided in 15-1-409.

(6) (a) If action before the county tax appeal board, state tax appeal board, or district court is not commenced within the time specified or if the action is commenced and finally determined in favor of the department of revenue, county, municipality, or treasurer of the county or the municipality, the amount of the protested portions of the property tax or fee must be taken from the protest fund or the centrally assessed property tax state special revenue fund and deposited to the credit of the fund or funds to which the property tax belongs, less a pro rata deduction for the costs of administration of the protest fund and related expenses charged to the local government units.

(b) (i) If the action is finally determined adversely to the governmental entity levying the tax, then the treasurer of the municipality, county, or state entity levying the tax shall, upon receipt of a certified copy of the final judgment in the action and upon expiration of the time set forth for appeal of the final judgment, refund to the person in whose favor the judgment is rendered the amount of the protested portions of the property tax or fee that the person holding the judgment is entitled to recover, together with interest from the date

of payment under protest. The department shall refund from the school district property tax protest state special revenue fund the protested portions of property taxes and interest to a taxpayer in a school district in which the school district has elected to waive its right to its portion of protested taxes for that specific year as provided in 15-1-409. If the amount available for the refund in the school district property tax protest state special revenue fund is insufficient to refund the property tax payments, the department shall pay the remainder of the refund from the state general fund.

(ii) The taxing jurisdiction shall pay interest at the rate of interest earned by the pooled investment fund provided for in 17-6-203 for the applicable period.

(c) If the amount retained in the protest fund is insufficient to pay all sums due the taxpayer, the treasurer shall apply the available amount first to tax repayment, then to interest owed, and lastly to costs.

(d) (i) If the protest action is decided adversely to a taxing jurisdiction and the amount retained in the protest fund is insufficient to refund the tax payments and costs to which the taxpayer is entitled and for which local government units are responsible, the treasurer shall bill and the taxing jurisdiction shall refund to the treasurer that portion of the taxpayer refund, including tax payments and costs, for which the taxing jurisdiction is proratably responsible. The treasurer is not responsible for the amount required to be refunded by the state treasurer as provided in subsection (6)(b).

(ii) For an adverse protest action against the state for centrally assessed property, the department shall refund from the centrally assessed property tax state special revenue fund the amount of protested taxes and from the state general fund the amount of interest as required in subsection (6)(b). The amount refunded for an adverse protested action from the centrally assessed property tax state special revenue fund may not exceed the amount of protested taxes or fees required to be deposited for that action pursuant to subsections (4)(b)(ii) and (4)(b)(iii) or, for taxes or fees protested prior to April 28, 2005, an equivalent amount of the money transferred to the fund pursuant to section 3, Chapter 536, Laws of 2005. If the amount available for the adverse protested action in the centrally assessed property tax state special revenue fund is insufficient to refund the tax payments to which the taxpayer is entitled and for which the state is responsible, the department shall pay the remainder of the refund proportionally from the state general fund and from money deposited in the state special revenue fund levied pursuant to 15-10-108.

(e) In satisfying the requirements of subsection (6)(d), the taxing jurisdiction, including the state, is allowed not more than 1 year from the beginning of the fiscal year following a final resolution of the protest. The taxpayer is entitled to interest on the unpaid balance at the rate referred to in subsection (6)(b) from the date of payment under protest until the date of final resolution of the protest and at the combined rate of the federal reserve discount rate quoted from the federal reserve bank in New York, New York, on the date of final resolution, plus 4 percentage points, from the date of final resolution of the protest until refund is made.

(7) A taxing jurisdiction, except the state, may satisfy the requirements of this section by use of funds from one or more of the following sources:

(a) imposition of a property tax to be collected by a special tax protest refund levy;

(b) the general fund or any other funds legally available to the governing body; and

(c) proceeds from the sale of bonds issued by a county, city, or school district for the purpose of deriving revenue for the repayment of tax protests lost by the taxing jurisdiction. The governing body of a county, city, or school district is authorized to issue the bonds pursuant to procedures established by law. The bonds may be issued without being submitted to an election. Property taxes may be levied to amortize the bonds.

(8) If the department revises an assessment that results in a refund of taxes of \$5 or less, a refund is not owed.”

**Section 5.** Section 15-8-601, MCA, is amended to read:

**“15-8-601. Assessment revision — conference for review.** (1) (a) Except as provided in subsection (1)(b), whenever the department discovers that any taxable property of any person has in any year escaped assessment, been erroneously assessed, or been omitted from taxation, the department may assess the property provided that the property is under the ownership or control of the same person who owned or controlled it at the time it escaped assessment, was erroneously assessed, or was omitted from taxation. All revised assessments must be made within 10 years after the end of the calendar year in which the original assessment was or should have been made.

(b) Within the time limits set by 15-23-116, whenever the department discovers property subject to assessment under Title 15, chapter 23, that has escaped assessment, been erroneously assessed, or been omitted from taxation, the department may issue a revised assessment to the person, firm, or corporation who owned the property at the time it escaped assessment, was erroneously assessed, or was omitted from taxation, regardless of the ownership of the property at the time of the department’s revised assessment.

(c) If an erroneous assessment is due to a calculation error by the department, the department shall revise the assessment of like properties that were also erroneously assessed using the same calculation.

(2) When the department proposes to revise the statement reported by the taxpayer under 15-8-301, the action of the department is subject to the notice and conference provisions of this section. Revised assessments of centrally assessed property *and industrial property that is assessed annually by the department* are subject to ~~review mediation~~ pursuant to ~~15-1-211 [section 1]~~.

(3) (a) Notice of revised assessment pursuant to this section must be made by the department by postpaid letter addressed to the person interested within 10 days after the revised assessment has been made. If the property is locally assessed, the notice must include the opportunity for a conference on the matter, at the request of the person interested, within 30 days after notice is given.

(b) An assessment revision review conference is not a contested case as defined in the Montana Administrative Procedure Act. The department shall keep minutes in writing of each assessment revision review conference, and the minutes are public records.

(c) Following an assessment revision review conference or expiration of the opportunity for a conference, the department shall order an assessment that it considers proper. Any party to the conference aggrieved by the action of the department or a taxpayer who does not request a conference may appeal to the county tax appeal board within 30 days of receipt of the revised assessment or the department’s assessment made pursuant to the conference.

(4) The department shall enter in the property tax record all changes and corrections made by it.”



**Section 6.** Section 15-23-102, MCA, is amended to read:

**“15-23-102. Independent appraisal option.** (1) The department of revenue may have property subject to the provisions of this chapter assessed by a qualified independent appraiser when both the department and the owner of the property subject to the assessment agree in writing:

- (a) on a particular independent appraiser to do an appraisal;
- (b) to share the costs of the independent appraisal; and
- (c) to accept the results of the appraisal.

(2) Appeals from the decision of the department ~~pursuant to 15-1-211~~ *are subject to mediation under [section 1] and may be taken to the state tax appeal board.”*

**Section 7.** Section 15-23-104, MCA, is amended to read:

**“15-23-104. Failure to file — estimate by department — penalty.** (1) If any person fails to file a report or return within the time established in 15-23-103 or by a later date approved by the department, the department shall estimate the value of the property that should have been reported on the basis of the best available information. In estimating the value of the net proceeds of mines, the department shall proceed under 15-23-506, and in estimating the value of the gross proceeds of coal mines, the department shall proceed under 15-35-107. In estimating the value of all other property subject to assessment under parts 2 through 4 of this chapter, the department shall proceed under 15-1-303. In estimating value under this section, the department may subpoena a person or the person’s agent as specified in 15-1-302. An assessment pursuant to parts 5, 7, and 8 of this chapter based on estimated value or imputed value is subject to ~~review~~ *review under 15-1-211 and mediation under 15-1-211 [section 1]*. For each month or part of a month that a report is delinquent, the department shall impose and collect a \$25 penalty, with the total not to exceed \$200, and shall deposit the penalty to the credit of the general fund. The department shall assess a penalty of 1% of the tax due for each month or part of a month that the report is delinquent. The department shall notify the county treasurer of each affected county of the amount of the penalty, and the treasurer shall collect the penalty in the same manner as the taxes to which the penalty applies.

(2) For a delinquency in reporting under 15-23-212, the department shall assess a penalty of 1% of the tax due for each month or part of a month that the report is delinquent.”

**Section 8.** Section 15-24-3112, MCA, is amended to read:

**“15-24-3112. Certification.** (1) (a) Upon application by a taxpayer, the department of environmental quality shall determine whether a facility or equipment qualifies for a tax abatement under 15-24-3111 or rules adopted under 15-24-3116. If the department determines that a facility or equipment qualifies for abatement or a classification, it shall issue a certification of eligibility.

(b) An application for certification must be made on forms available from the department.

(c) Certification remains in effect only as long as substantial compliance with this part continues.

(2) The department of environmental quality shall identify and track compliance with this part in the use of certified property. The department may revoke a certification for failure to maintain substantial compliance with eligibility requirements in 15-24-3111 or with rules adopted pursuant to

15-24-3116. Revocation of a certificate must be reported to the department of revenue within 30 days of revocation.

(3) If a taxpayer's certification is revoked, the taxpayer forfeits the abatement or classification under 15-6-157 or 15-6-158. Upon revocation, the property must be assessed at 100% of its taxable value beginning on January 1 of the year or years for which the certification is revoked. Any remaining abatement must be forfeited. The taxpayer is immediately liable for any additional taxes, penalty, and interest resulting from the revocation.

(4) A taxpayer that has forfeited any portion of its abatement because of revocation may not reapply for an abatement under this part.

(5) A taxpayer aggrieved by a determination made by the department of environmental quality or the department of revenue has the right to the review procedures in 15-1-211, *to mediation under [section 1], or and* to a hearing under Title 2, chapter 4, part 6."

**Section 9. Codification instruction.** [Sections 1 and 2] are intended to be codified as an integral part of Title 15, chapter 1, part 2, and the provisions of Title 15, chapter 1, part 2, apply to [sections 1 and 2].

**Section 10. Effective dates.** (1) Except as provided in subsection (2), [this act] is effective on passage and approval.

(2) [Section 2] is effective January 1, 2015.

Approved May 6, 2013

## CHAPTER NO. 420

[SB 297]

AN ACT ESTABLISHING LIMITATIONS ON THE PAYMENTS NEGOTIATED FOR PROVIDER AGREEMENTS; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

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

**Section 1. Limitations of provider agreements.** (1) Notwithstanding any other provision of law, a provider who has entered into a provider agreement with a person as defined in 33-1-202 is not required to provide a discount or accept payment at the rate agreed to in the provider agreement for health care services that are provided to an insured individual if the payment for the services is made directly or indirectly or is otherwise required to be made:

- (a) under casualty insurance as described in 33-1-206; or
- (b) under property insurance as described in 33-1-210.

(2) Insurance payments made to a provider of health care services under subsection (1) must be paid according to the terms of the applicable policy or in accordance with any written agreement or contract existing between the provider and the insurer or a person contractually engaged by the insurer to perform services or an insurance function for the insurer. This section does not prohibit negotiations regarding the amount of the billed charges or a reasonable request for additional information or documents in order to evaluate the claim.

(3) An insurer making payment on a claim under a disability insurance policy, member contract, health benefit plan, group health plan, blanket disability insurance policy as defined in 33-22-601, or other medical coverage shall credit toward satisfaction of the insured's deductible, copayment, or coinsurance, if any, any payment made by a casualty or property insurer but

only if the payment to be credited is applied to a covered medical expense under the terms of the applicable health policy.

(4) The provisions of this section apply regardless of whether the insured may be considered a third-party beneficiary of the provider agreement.

**Section 2. Codification instruction.** (1) [Section 1] is intended to be codified as an integral part of Title 33, chapter 1, and the provisions of Title 33, chapter 1, apply to [section 1].

(2) [Section 1] is intended to be codified as an integral part of Title 50, chapter 4, and the provisions of Title 50, chapter 4, apply to [section 1].

**Section 3. 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 4. Effective date.** [This act] is effective on passage and approval.

Approved May 6, 2013

## CHAPTER NO. 421

[SB 346]

AN ACT GENERALLY REVISING WATER LAWS RELATED TO GROUND WATER APPROPRIATIONS EXEMPT FROM PERMITTING; DEFINING "STREAM DEPLETION ZONE"; REDUCING THE EXEMPTION FOR GROUND WATER APPROPRIATIONS WITHIN STREAM DEPLETION ZONES; LIMITING AREAS WHERE STREAM DEPLETION ZONES MAY BE ESTABLISHED; CLARIFYING ENFORCEMENT BY SENIOR WATER RIGHT HOLDERS AGAINST GROUND WATER APPROPRIATIONS EXEMPT FROM PERMITTING; PROVIDING RULEMAKING AUTHORITY; AND AMENDING SECTIONS 85-2-102 AND 85-2-306, MCA.

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

**Section 1.** Section 85-2-102, MCA, is amended to read:

**"85-2-102. Definitions.** Unless the context requires otherwise, in this chapter, the following definitions apply:

(1) "Appropriate" means:

(a) to divert, impound, or withdraw, including by stock for stock water, a quantity of water for a beneficial use;

(b) in the case of a public agency, to reserve water in accordance with 85-2-316;

(c) in the case of the department of fish, wildlife, and parks, to change an appropriation right to instream flow to protect, maintain, or enhance streamflows to benefit the fishery resource in accordance with 85-2-436;

(d) in the case of the United States department of agriculture, forest service:

(i) instream flows and in situ use of water created in 85-20-1401, Article V; or

(ii) to change an appropriation right to divert or withdraw water under subsection (1)(a) to instream flow to protect, maintain, or enhance streamflows in accordance with 85-2-320;

(e) temporary changes or leases for instream flow to maintain or enhance instream flow to benefit the fishery resource in accordance with 85-2-408;

(f) a use of water for aquifer recharge or mitigation; or

(g) a use of water for an aquifer storage and recovery project as provided in 85-2-368.

(2) "Aquifer recharge" means either the controlled subsurface addition of water directly to the aquifer or controlled application of water to the ground surface for the purpose of replenishing the aquifer to offset adverse effects resulting from net depletion of surface water.

(3) "Aquifer storage and recovery project" means a project involving the use of an aquifer to temporarily store water through various means, including but not limited to injection, surface spreading and infiltration, drain fields, or another department-approved method. The stored water may be either pumped from the injection well or other wells for beneficial use or allowed to naturally drain away for a beneficial use.

(4) "Beneficial use", unless otherwise provided, means:

(a) a use of water for the benefit of the appropriator, other persons, or the public, including but not limited to agricultural, stock water, domestic, fish and wildlife, industrial, irrigation, mining, municipal, power, and recreational uses;

(b) a use of water appropriated by the department for the state water leasing program under 85-2-141 and of water leased under a valid lease issued by the department under 85-2-141;

(c) a use of water by the department of fish, wildlife, and parks through a change in an appropriation right for instream flow to protect, maintain, or enhance streamflows to benefit the fishery resource authorized under 85-2-436;

(d) a use of water through a temporary change in appropriation right or lease to enhance instream flow to benefit the fishery resource in accordance with 85-2-408;

(e) a use of water for aquifer recharge or mitigation; or

(f) a use of water for an aquifer storage and recovery project as provided in 85-2-368.

(5) "Certificate" means a certificate of water right issued by the department.

(6) "Change in appropriation right" means a change in the place of diversion, the place of use, the purpose of use, or the place of storage.

(7) "Commission" means the fish, wildlife, and parks commission provided for in 2-15-3402.

(8) "Correct and complete" means that the information required to be submitted conforms to the standard of substantial credible information and that all of the necessary parts of the form requiring the information have been filled in with the required information for the department to begin evaluating the information.

(9) "Declaration" means the declaration of an existing right filed with the department under section 8, Chapter 452, Laws of 1973.

(10) "Department" means the department of natural resources and conservation provided for in Title 2, chapter 15, part 33.

(11) "Developed spring" means any artificial opening or excavation in the ground, however made, including any physical alteration at the point of discharge regardless of whether it results in any increase in the yield of ground water, from which ground water is sought or can be obtained or through which it flows under natural pressures or is artificially withdrawn.

(12) "Existing right" or "existing water right" means a right to the use of water that would be protected under the law as it existed prior to July 1, 1973.

The term includes federal non-Indian and Indian reserved water rights created under federal law and water rights created under state law.

(13) “Ground water” means any water that is beneath the ground surface.

(14) “Late claim” means a claim to an existing right forfeited pursuant to the conclusive presumption of abandonment under 85-2-226.

(15) “Mitigation” means the reallocation of surface water or ground water through a change in appropriation right or other means that does not result in surface water being introduced into an aquifer through aquifer recharge to offset adverse effects resulting from net depletion of surface water.

(16) “Municipality” means an incorporated city or town organized and incorporated under Title 7, chapter 2.

(17) “Permit” means the permit to appropriate issued by the department under 85-2-301 through 85-2-303 and 85-2-306 through 85-2-314.

(18) “Person” means an individual, association, partnership, corporation, state agency, political subdivision, the United States or any agency of the United States, or any other entity.

(19) (a) “Political subdivision” means any county, incorporated city or town, public corporation, or district created pursuant to state law or other public body of the state empowered to appropriate water.

(b) The term does not mean a private corporation, association, or group.

(20) “Salvage” means to make water available for beneficial use from an existing valid appropriation through application of water-saving methods.

(21) “State water reservation” means a water right created under state law after July 1, 1973, that reserves water for existing or future beneficial uses or that maintains a minimum flow, level, or quality of water throughout the year or at periods or for defined lengths of time.

(22) “Stream depletion zone” means an area where hydrogeologic modeling concludes that as a result of a ground water withdrawal, the surface water would be depleted by a rate equal to at least 30% of the ground water withdrawn within 30 days after the first day a well or developed spring is pumped at a rate of 35 gallons a minute.

(22)(23) “Substantial credible information” means probable, believable facts sufficient to support a reasonable legal theory upon which the department should proceed with the action requested by the person providing the information.

(23)(24) “Waste” means the unreasonable loss of water through the design or negligent operation of an appropriation or water distribution facility or the application of water to anything but a beneficial use.

(24)(25) “Water” means all water of the state, surface and subsurface, regardless of its character or manner of occurrence, including but not limited to geothermal water, diffuse surface water, and sewage effluent.

(25)(26) “Water division” means a drainage basin as defined in 3-7-102.

(26)(27) “Water judge” means a judge as provided for in Title 3, chapter 7.

(27)(28) “Water master” means a master as provided for in Title 3, chapter 7.

(28)(29) “Watercourse” means any naturally occurring stream or river from which water is diverted for beneficial uses. It does not include ditches, culverts, or other constructed waterways.

(29)(30) “Well” means any artificial opening or excavation in the ground, however made, by which ground water is sought or can be obtained or through which it flows under natural pressures or is artificially withdrawn.”

**Section 2.** Section 85-2-306, MCA, is amended to read:

**“85-2-306. Exceptions to permit requirements.** (1) (a) Except as provided in subsection (1)(b), ground water may be appropriated only by a person who has a possessory interest in the property where the water is to be put to beneficial use and exclusive property rights in the ground water development works.

(b) If another person has rights in the ground water development works, water may be appropriated with the written consent of the person with those property rights or, if the ground water development works are on national forest system lands, with any prior written special use authorization required by federal law to occupy, use, or traverse national forest system lands for the purpose of diversion, impoundment, storage, transportation, withdrawal, use, or distribution of water under the certificate.

(c) If the person does not have a possessory interest in the real property from which the ground water may be appropriated, the person shall provide to the owner of the real property written notification of the works and the person's intent to appropriate ground water from the works. The written notification must be provided to the landowner at least 30 days prior to constructing any associated works or, if no new or expanded works are proposed, 30 days prior to appropriating the water. The written notification under this subsection is a notice requirement only and does not create an easement in or over the real property where the ground water development works are located.

(2) Inside the boundaries of a controlled ground water area, ground water may be appropriated only:

(a) according to a permit received pursuant to 85-2-508; or

(b) according to the requirements of a rule promulgated pursuant to 85-2-506.

(3) (a) ~~(i) Except as provided in subsection (3)(a)(ii), outside~~ *Outside* the boundaries of a controlled ground water area, a permit is not required before appropriating ground water by means of a well or developed spring:

~~(A) with a maximum appropriation of 35 gallons a minute or less, not to exceed 10 acre-feet a year, except that a combined appropriation from the same source from two or more wells or developed springs exceeding this limitation requires a permit; or~~

~~(B)(i) when the appropriation is made by a local governmental fire agency organized under Title 7, chapter 33, and the appropriation is used only for emergency fire protection, which may include enclosed storage;;~~

*(ii) when a maximum appropriation of 350 gallons a minute or less is used in nonconsumptive geothermal heating or cooling exchange applications, all of the water extracted is returned without delay to the same source aquifer, and the distance between the extraction well and both the nearest existing well and the hydraulically connected surface waters is more than twice the distance between the extraction well and the injection well;*

*(iii) when the appropriation is outside a stream depletion zone, is 35 gallons a minute or less, and does not exceed 10 acre-feet a year, except that a combined appropriation from the same source by two or more wells or developed springs exceeding 10 acre-feet, regardless of the flow rate, requires a permit; or*

*(iv) when the appropriation is within a stream depletion zone, is 20 gallons a minute or less, and does not exceed 2 acre-feet a year, except that a combined appropriation from the same source by two or more wells or developed springs exceeding this limitation requires a permit.*



~~(ii) Outside the boundaries of a controlled ground water area, a permit is not required before appropriating ground water by means of a well or developed spring with a maximum appropriation of 350 gallons a minute or less for use in nonconsumptive geothermal heating or cooling exchange applications if all of the water extracted is returned without delay to the same source aquifer and if the distance between the extraction well and both the nearest existing well and the hydraulically connected surface waters is more than twice the distance between the extraction well and the injection well.~~

(b) (i) Within 60 days of completion of the well or developed spring and appropriation of the ground water for beneficial use, the appropriator shall file a notice of completion with the department on a form provided by the department through its offices.

(ii) Upon receipt of the notice, the department shall review the notice and may, before issuing a certificate of water right, return a defective notice for correction or completion, together with the reasons for returning it. A notice does not lose priority of filing because of defects if the notice is corrected, completed, and refiled with the department within 30 days of notification of defects or within a further time as the department may allow, not to exceed 6 months.

(iii) If a notice is not corrected and completed within the time allowed, the priority date of appropriation is the date of refiled a correct and complete notice with the department.

(c) A certificate of water right may not be issued until a correct and complete notice has been filed with the department, including proof of landowner notification or a written federal special use authorization as necessary under subsection (1). The original of the certificate must be sent to the appropriator. The department shall keep a copy of the certificate in its office in Helena. The date of filing of the notice of completion is the date of priority of the right.

(4) An appropriator of ground water by means of a well or developed spring first put to beneficial use between January 1, 1962, and July 1, 1973, who did not file a notice of completion, as required by laws in force prior to April 14, 1981, with the county clerk and recorder shall file a notice of completion, as provided in subsection (3), with the department to perfect the water right. The filing of a claim pursuant to 85-2-221 is sufficient notice of completion under this subsection. The priority date of the appropriation is the date of the filing of a notice, as provided in subsection (3), or the date of the filing of the claim of existing water right.

(5) An appropriation under subsection (4) is an existing right, and a permit is not required. However, the department shall acknowledge the receipt of a correct and complete filing of a notice of completion, except that for an appropriation of 35 gallons a minute or less, not to exceed 10 acre-feet a year, the department shall issue a certificate of water right. If a certificate is issued under this section, a certificate need not be issued under the adjudication proceedings provided for in 85-2-236.

(6) A permit is not required before constructing an impoundment or pit and appropriating water for use by livestock if:

(a) the maximum capacity of the impoundment or pit is less than 15 acre-feet;

(b) the appropriation is less than 30 acre-feet a year;

(c) the appropriation is from a source other than a perennial flowing stream;  
and

(d) the impoundment or pit is to be constructed on and will be accessible to a parcel of land that is owned or under the control of the applicant and that is 40 acres or larger.

(7) (a) Within 60 days after constructing an impoundment or pit, the appropriator shall apply for a permit as prescribed by this part. Subject to subsection (7)(b), upon receipt of a correct and complete application for a stock water provisional permit, the department shall automatically issue a provisional permit. If the department determines after a hearing that the rights of other appropriators have been or will be adversely affected, it may revoke the permit or require the permittee to modify the impoundment or pit and may then make the permit subject to terms, conditions, restrictions, or limitations that it considers necessary to protect the rights of other appropriators.

(b) If the impoundment or pit is on national forest system lands, an application is not correct and complete under this section until the applicant has submitted proof of any written special use authorization required by federal law to occupy, use, or traverse national forest system lands for the purpose of diversion, impoundment, storage, transportation, withdrawal, use, or distribution of water under the permit.

(8) A person may also appropriate water without applying for or prior to receiving a permit under rules adopted by the department under 85-2-113.”

**Section 3. Stream depletion zones — establishment — rulemaking.**

(1) Notwithstanding the provisions of subsection (2), the department may establish a stream depletion zone by rule if:

(a) the stream depletion zone lies within a basin closed pursuant to 85-2-319, 85-2-321, 85-2-330, 85-2-336, 85-2-341, 85-2-343, or 85-2-344; and

(b) there exists a hydrogeologic assessment for the area where the stream depletion zone is proposed that was conducted by either the ground water investigation program established by 85-2-525 or by a hydrogeologist or a qualified licensed professional engineer.

(2) If the provisions of subsection (1) are met, the department shall initiate rulemaking to establish a stream depletion zone upon receipt of a petition signed by:

(a) a municipality, county, conservation district, or local water quality district formed under Title 7, chapter 13, part 45; or

(b) the owners of at least 15% of the flow rate of the surface water rights in the area estimated to be affected, the boundary of which cannot exceed the boundaries of the drainage subdivisions established by the office of water data coordination, United States geological survey, and used by the water court.

(3) The department shall provide notice of the rulemaking by first-class mail to an appropriator of water who, according to the records of the department, may be affected by the proposed stream depletion zone.

(4) In establishing rules related to stream depletion zones, the department shall consult with the ground water investigation program and the ground water assessment steering committee established by 2-15-1523.

**Section 4. Water right enforcement of ground water uses exempt from permitting — findings and purpose.** (1) The legislature finds that:

(a) the state of Montana has managed the allocation of water under the prior appropriation doctrine for more than 100 years;

(b) Article IX, section 3, of the Montana constitution recognizes and confirms all existing water rights;

(c) the right to the use of water through a water right is a recognized property right;

(d) the development of ground water wells that are exempt from permitting may have an adverse effect on other water rights;

(e) the Water Use Act requires the department to coordinate the development and use of the water resources of the state so as to effect full utilization, conservation, and protection of its water resources; and

(f) the ability to develop ground water wells that are exempt from permitting contributes to the full utilization of the water resources of the state.

(2) The establishment of a stream depletion zone pursuant to [section 3] provides a conclusive, scientific basis for determining where ground water rights that are exempt from permitting are affecting senior surface water rights.

(3) The purpose of this section is to continue allocating water under the exemptions provided for in 85-2-306 while providing a process by which senior water right holders may protect their rights under the prior appropriation doctrine. Nothing in this section is intended to limit the ability of a senior water right holder to enforce a water right or limit that enforcement to a specific area. Creation of a stream depletion zone is not a prerequisite to an enforcement action.

(4) Any use of water granted by a certificate of water right pursuant to 85-2-306(3)(a) is subject to enforcement according to priority by:

(a) any remedy legally available;

(b) the department, upon receiving a complaint, through the provisions of 85-2-114 and 85-2-122; or

(c) a water commissioner appointed pursuant to 85-5-101.

(5) For each certificate issued pursuant to 85-2-306(3)(a) after [the effective date of this act], the department shall include written notice of the provisions of this section.

**Section 5. Codification instruction.** [Sections 3 and 4] are intended to be codified as an integral part of Title 85, chapter 2, part 3, and the provisions of Title 85, chapter 2, part 3, apply to [sections 3 and 4].

Approved May 6, 2013

## CHAPTER NO. 422

[SB 369]

AN ACT GENERALLY REVISING LAWS RELATED TO STATE LAND CABIN AND HOME SITES; REQUIRING THE BOARD OF LAND COMMISSIONERS, CONSISTENT WITH THE BOARD'S CONSTITUTIONAL FIDUCIARY DUTY OF ATTAINING FULL MARKET VALUE, TO MAKE AVAILABLE FOR SALE AT THE REQUEST OF THE LESSEE OR IMPROVEMENT OWNER ALL LEASED OR VACANT STATE LAND, CABIN OR HOME SITES, AND CABIN SITE IMPROVEMENTS; PROVIDING A PROCESS FOR SELLING ALL LEASED OR VACANT STATE LAND AND CABIN SITE IMPROVEMENTS FOR CABIN AND HOME SITES; PROVIDING FOR A VALUATION PROCESS PRIOR TO SALE; EXEMPTING THE SALE OF CABIN OR HOME SITE LOTS FROM THE PROVISIONS OF TITLE 75, CHAPTER 1, PARTS 1 THROUGH 3; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 77-2-303, 77-2-311, 77-2-318,

77-2-363, AND 77-2-366, MCA; REPEALING SECTION 77-2-320, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

WHEREAS, implementation of the state cabin site leasing laws has become dysfunctional and those laws have become subject to continuous and unproductive litigation; and

WHEREAS, a significant number of state land cabin site properties are vacant and are producing no revenue for the state trust land beneficiaries; and

WHEREAS, the implementation of the state cabin site leasing laws has caused a loss in value of lessee private property improvements; and

WHEREAS, the sale of all state land cabin site properties is the only long-term and viable solution to resolve the state cabin site leasing law issues and maximize revenue to the state trust land beneficiaries; and

WHEREAS, it is recognized that in order to maximize the revenue from the sale of these state cabin site properties to the state trust land beneficiaries, the properties must be sold over a reasonable period of time.

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

**Section 1.** Section 77-2-303, MCA, is amended to read:

**“77-2-303. Restrictions on land available for sale.** (1) Subject to purchase by the department pursuant to 17-6-340, land that in the judgment of the department is likely to contain valuable deposits of coal, oil, oil shale, phosphate, metals, sodium, or other valuable mineral deposits is not subject to sale of either the surface land or any of the mineral deposits. However, this subsection does not prohibit the sale of lands containing sand, gravel, building stone, brick clay, or similar materials.

(2) (a) ~~There~~ *Except any lands previously leased as cabin sites, there is reserved from sale from all state land bordering on navigable lakes, nonnavigable meandered lakes, and navigable streams, that the board considers in the best interests of the state, a strip of land that includes all the land lying between low-water mark and high-water mark and that extends in width landward from the line of high-water mark of the lake or stream the full width of the 40-acre tract or government lot abutting the line of high-water mark. If the width of the abutting government lot at its narrowest point is less than 100 feet, then the strip reserved must extend to and include the next adjoining 40-acre tract or government lot. The land reserved from sale by this subsection is subject to the granting of easements the same as other state lands.*

(b) Strips of land bordering on meandering lakes or on navigable streams, except the strip lying between low-water and high-water mark, whether surveyed and platted into blocks and lots or not, may be leased as provided in this title for the leasing of other state lands.”

**Section 2.** Section 77-2-311, MCA, is amended to read:

**“77-2-311. Survey and plat of shore lands.** The board may cause any part of the lands bordering on lakes described in 77-2-303(2) and on navigable streams that are reserved from sale to be surveyed and platted into blocks and lots. The lots may not be less than 125 feet in width, measured in the general direction of the abutting water front, *except that any former cabin or home sites proposed for sale or sold by the board may possess a width less than 125 feet.* In all surveys and plats the strip of 100 feet in width along the water front, referred to in 77-2-303(2)(a), must be reserved for the use and enjoyment of the public. *Cabin sites or home sites bordering on meandered lakes or navigable streams may be surveyed and sold consistent with the procedures provided in 77-2-361 through 77-2-367.”*

**Section 3.** Section 77-2-318, MCA, is amended to read:

**“77-2-318. Sale of leased cabin or home sites or city or town lots.** (1)

~~At the request of the lessee and if consistent with the orderly development and management of state lands, the board may make available for sale, in the manner provided in this part, any leased cabin or home site or city or town lot that is under lease during the 15th year of any 15-year lease that was established through the open competitive bidding process or through the transition process provided for in 77-1-236 or subsection (4) of this section.~~

(1) (a) *The board shall, consistent with the board’s constitutional fiduciary duty of attaining full market value, make available for sale within a reasonable period of time as provided in this part those lands that were state land cabin or home sites on [the effective date of this act], at the request of a lessee or an improvement owner and with the consent of any mortgagee or other owner of an interest in the cabin or home site improvements, only if the requested sale is consistent with the board’s constitutional fiduciary duty of attaining full market value and with the provisions of this part and if the sale is approved by the board.*

(b) (i) *The disposition of proceeds of any sale of state land property pursuant to this section must comply with the provisions of 77-2-337.*

(ii) *The proceeds of any sale of cabin site improvements pursuant to this part must go to the owner of record of the improvements.*

(2) ~~The lessee requesting the sale~~ *department shall have prepared a current certificate of survey for the property. The cost of preparation of the certificate of survey must be included in the settlement for improvements, as provided for in 77-2-325, if a person other than the lessee is the purchaser.*

(3) *The sale of a lease is exempt from the subdivision laws, except that the development of any new, replacement, or additional water supply or sewage disposal system on the property must be approved pursuant to the review procedure, fee, and other requirements of Title 76, chapter 4, part 1.*

(4) ~~By January 1, 2012~~ *2014, the board shall adopt rules to ensure that the sales process authorized pursuant to this section is orderly and consistent with its constitutional fiduciary duties and that the number of leased cabin or home sites or city or town lots made available for sale at any given time is consistent with the board’s constitutional duty of attaining full market value.*

(5) *Upon a sale of leased land, the department shall, upon compliance with 77-2-101 through 77-2-106, grant a permanent easement across state lands to secure access using current routes.*

(6) *For purposes of this section, “cabin site improvements” has the meaning provided in [section 6].”*

**Section 4.** Section 77-2-363, MCA, is amended to read:

**“77-2-363. Land banking land sales and limitations — sale preparation costs.** (1) (a) *The board may not cumulatively sell or dispose of more than 250,000 acres of state land. Seventy-five percent of the acreage cumulatively sold must be isolated parcels that do not have a legal right of access by the public. At any one time during the life of the land banking process, the board may not sell more than 20,000 acres of state land unless the board has acted to use the revenue from that land to make purchases pursuant to 77-2-364.*

(b) *The estimated fair market value must be determined by a Montana-licensed and Montana-certified appraiser.*

(2) (a) *A person bidding to purchase state land offered for sale shall 20 days prior to the day of auction deposit with the department a bid bond in the form of a certified check or cashier’s check drawn on any Montana bank equal to at least*

20% of the minimum sale price specified by the department pursuant to 77-2-323(1) to guarantee the bidder's payment of the purchase price. *Bid bonds submitted to secure a bid upon a parcel formerly leased as a cabin or home site need only be equal to 5% of the minimum sale price as specified by the department.*

(b) If the current lessee of the land to be sold has initiated the sale as authorized by 77-2-364, the lessee may cancel the sale by giving notice to the department at least 10 days prior to the day of the auction. When the sale is canceled by the lessee, the lessee shall pay the costs incurred by the department for the preparation of the sale, including any costs incurred for preparation of documents required by 75-1-201.

(c) The department shall retain the bid bond of the successful bidder and shall return the bid bonds of the unsuccessful bidders. If the successful bidder fails to comply with the terms of the sale for any reason, the successful bidder's bid bond must be forfeited and credited to the interest and income account of the proper trust.

(3) Except for a sale that is initiated by the lessee of the parcel of land proposed for sale, prior to the proposed sale of any parcel of state land under the land banking process, the board shall give 60 days' notice of the proposed sale to the lessee of the parcel to allow the lessee sufficient time to determine whether the lessee wishes to propose an exchange of the land to the board.

(4) For a sale initiated by the board or, the department, or the cabin or home site lessee, the lessee of the land must be afforded all the rights and privileges to match the high bid, as provided in 77-2-324.

(5) (a) ~~When~~ *Except as provided in subsection (6), when* the lessee has initiated a sale of land under this section, the lessee shall remit to the department the estimated costs of preparing the parcel for sale, including but not limited to appraisals, cultural surveys, environmental review pursuant to Title 75, chapter 1, parts 1 through 3, and land surveys, *if necessary*. Payment must be made within 10 days after the board has provided preliminary approval for the sale of the parcel.

(b) If the parcel is sold to the lessee, the funds remitted for the costs of the sale must be applied to the actual costs at closing. If the parcel is sold to a party other than the lessee, the funds remitted by the lessee must be refunded to the lessee and actual costs of preparing the parcel for sale must be assessed to the purchaser at closing.

(6) *For the sale of a parcel formerly leased as a cabin or home site:*

(a) *the department shall assume the cost of the land survey; and*

(b) *the sale is exempt from the provisions of Title 75, chapter 1, parts 1 through 3."*

**Section 5.** Section 77-2-366, MCA, is amended to read:

**"77-2-366. Land banking and state land cabin and home sites — report reports to environmental quality council.** (1) (a) The department shall provide a report to the environmental quality council by the July 1 prior to each regular legislative session that describes the results of the land banking program in detail.

(b) At a minimum, the report must summarize the sale and purchase transactions made through the program by type, location, acreage, value, and trust beneficiary. The environmental quality council shall make any recommendations that it determines necessary regarding the implementation of the state land banking process, including recommendations for legislation.



*(2) Because it is the legislature's intent that the board implement the provisions of 77-2-318(1) in a timely manner, on or before July 1 of each year, the department, in consultation with the appropriate stakeholders, shall report to the environmental quality council by providing a summary of land sales of those lands that were state land cabin or home sites pursuant to 77-2-318 and efforts by the department to comply with the requirements of 77-2-318(1)."*

**Section 6. Valuation of cabin or home site and improvements — rulemaking.** (1) (a) Prior to the board's approval of any sale of state land leased as a cabin or home site or state land with a vacant cabin or home site as provided in 77-2-318, the board shall separately determine the full market value of the land and the value of the cabin site improvements existing on the land and the value of any necessary access easement across existing state lands from the nearest public road. The appraisal to determine these values must be based upon comparable sales of nearby existing properties with the hypothetical condition that the state parcel to be sold is accessible for all lawful purposes. The appraisal must determine the raw undeveloped value of the parcel and the value of the cabin site improvements.

(b) (i) In determining the value of state land leased as a cabin or home site pursuant to subsection (1)(a), the department shall establish a list that is acceptable to the board of no fewer than two third-party independent appraisers that are available to conduct the appraisal of the land and the cabin site improvements. The department shall provide a copy of the list to the cabin site or home site lessee. The lessee shall provide the department with a list of at least 50% of the appraisers from the department's list. The department shall select the appraiser to conduct the appraisal from the list provided by the lessee.

(ii) The department shall assume the proportionate cost of the appraisal of the state land valuation. The lessee shall assume the proportionate cost of the appraisal of the valuation of the cabin site improvements.

(c) The board shall disclose the results of the appraisal to the cabin site or home site lessee of the land for sale and shall give that lessee notice and opportunity for an administrative hearing before the department to contest those valuations. The department shall review the arguments and evidence received at the hearing to make a recommendation of the values of the land and the cabin site improvements to the board. The board shall make a final determination on the values of the land and cabin site improvements.

(2) (a) If the lessee consents to the terms and conditions of the proposed sale and the valuation of cabin site improvements, the sale must proceed utilizing the board's final determination of the values, and the lessee is obligated to transfer its interest in the cabin site improvements existing on the cabin or home site lease according to the board's final determination of their value.

(b) Nothing in this section prohibits the lessee from accepting a price for the cabin site improvements existing on the cabin or home site that is less than the board's final determination of value.

(3) For purposes of this section and 77-2-318, "cabin site improvements" includes but is not limited to:

- (a) a home or residence;
- (b) outbuildings and structures;
- (c) sleeping cabins;
- (d) utilities;
- (e) water systems;
- (f) septic systems;

- (g) docks; and
- (h) landscaping.

(4) The board may adopt rules to implement the provisions of this section.

**Section 7. Repealer.** The following section of the Montana Code Annotated is repealed:

77-2-320. Appraisal review board.

**Section 8. Codification instruction.** [Section 6] is intended to be codified as an integral part of Title 77, chapter 2, part 3, and the provisions of Title 77, chapter 2, part 3, apply to [section 6].

**Section 9. Effective date.** [This act] is effective on passage and approval.

Approved May 6, 2013

## CHAPTER NO. 423

[SB 392]

AN ACT INCREASING THE AUTHORITY OF THE COMMISSIONER OF POLITICAL PRACTICES TO ENFORCE LAWS PERTAINING TO ANONYMOUS ELECTION MATERIAL; AMENDING SECTION 13-35-225, MCA; AND PROVIDING AN APPLICABILITY DATE.

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

**Section 1.** Section 13-35-225, MCA, is amended to read:

**“13-35-225. Election materials not to be anonymous — statement of accuracy — notice — penalty.** (1) All communications advocating the success or defeat of a candidate, political party, or ballot issue through any broadcasting station, newspaper, magazine, outdoor advertising facility, direct mailing, poster, handbill, bumper sticker, internet website, or other form of general political advertising must clearly and conspicuously include the attribution “paid for by” followed by the name and address of the person who made or financed the expenditure for the communication. ~~When~~ *The attribution must contain:*

(a) *for election material financed by a candidate or a candidate’s campaign finances, the expenditure, the attribution must be the name and the address of the candidate or the candidate’s campaign; and*

(b) ~~In the case of~~ *for election material financed by a political committee, the attribution must be the name of the committee, the name of the committee treasurer, and the address of the committee or the committee treasurer.*

(2) Communications in a partisan election financed by a candidate or a political committee organized on the candidate’s behalf must state the candidate’s party affiliation or include the party symbol.

(3) (a) Printed election material described in subsection (1) that includes information about another candidate’s voting record must include:

(i) a reference to the particular vote or votes upon which the information is based;

(ii) a disclosure of contrasting votes known to have been made by the candidate on the same issue if closely related in time; and

(iii) a statement, signed as provided in subsection (3)(b), that to the best of the signer’s knowledge, the statements made about the other candidate’s voting record are accurate and true.

(b) The statement required under subsection (3)(a) must be signed:

(i) by the candidate if the election material was prepared for the candidate or the candidate's political committee and includes information about another candidate's voting record; or

(ii) by the person financing the communication or the person's legal agent if the election material was not prepared for a candidate or a candidate's political committee.

(4) If a document or other article of advertising is too small for the requirements of subsections (1) through (3) to be conveniently included, the candidate responsible for the material or the person financing the communication shall file a copy of the article with the commissioner of political practices, together with the required information or statement, at the time of its public distribution.

(5) If information required in subsections (1) through (3) is omitted or not printed, upon discovery of or notification about the omission, the candidate responsible for the material or the person financing the communication shall:

(a) file notification of the omission with the commissioner of political practices within 5 days of the discovery or notification;

(b) bring the material into compliance with subsections (1) through (3); and

(c) withdraw any noncompliant communication from circulation as soon as reasonably possible.

(6) *Whenever the commissioner receives a complaint alleging a violation of subsection (1) or (2), the commissioner shall as soon as practicable assess the merits of the complaint.*

(7) (a) *If the commissioner determines that the complaint has merit, the commissioner shall notify the complainant and the candidate or political committee of the commissioner's determination. The notice must state that the candidate or political committee shall bring the material into compliance as required under this section:*

(i) *within 5 days after receiving the notification if the notification occurs more than 7 days prior to an election; or*

(ii) *within 24 hours after receiving the notification if the notification occurs 7 days or less prior to an election.*

(b) *When notifying the candidate or campaign committee under subsection (7)(a), the commissioner shall include a statement that if the candidate or political committee fails to bring the material into compliance as required under this section, the candidate or political committee is subject to a civil penalty pursuant to 13-37-128."*

**Section 2. Coordination instruction.** If both Senate Bill No. 387 and [this act] are passed and approved, then 13-35-225(7)(b) of [this act] must read as follows:

"(b) When notifying the candidate or campaign committee under subsection (7)(a), the commissioner shall include a statement that if the candidate or political committee fails to bring the material into compliance as required under this section, the candidate or political committee is subject to an administrative penalty as provided in [section 3 of Senate Bill No. 387]."

**Section 3. Applicability.** [This act] applies to proceedings begun on or after October 1, 2013.

Approved May 6, 2013

**RESOLUTIONS**  
**Adopted by the**  
**SIXTY-THIRD LEGISLATURE**  
**IN REGULAR SESSION**

**Held at Helena, the Seat of Government**  
**January 7, 2013, through April 24, 2013**

---

**COMPILED BY MONTANA**  
**LEGISLATIVE SERVICES DIVISION**

---



## House Joint Resolutions

### HOUSE JOINT RESOLUTION NO. 1

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN INTERIM LEGISLATIVE STUDY REGARDING CERTAIN ASPECTS OF THE OFFICE OF COMMISSIONER OF POLITICAL PRACTICES; SPECIFYING OBJECTIVES OF THE STUDY; AND REQUESTING THAT FINDINGS AND RECOMMENDATIONS BE PRESENTED TO THE NEXT LEGISLATURE.

WHEREAS, the mission of the Office of Commissioner of Political Practices is to monitor and enforce, in a fair and impartial manner, campaign practices and campaign finance disclosure, lobbying disclosure, business interest disclosure of statewide and state district candidates, elected state officials, and state department directors, and ethical standards of conduct for legislators, public officers, and state employees and to investigate legitimate complaints that arise concerning any of the foregoing; and

WHEREAS, there is a range of options that could be considered for revising the selection and duties of the Commissioner and for changing the structure and operations of the office in Montana, including options for ensuring more immediate consequences for violating campaign laws; and

WHEREAS, a thorough interim study is needed to provide for further thoughtful, systematic, and bipartisan consideration of potential changes to the Office of Commissioner of Political Practices.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to designate an appropriate interim committee, pursuant to section 5-5-217, MCA, or direct sufficient staff resources to examine:

- (1) the process for selecting a Commissioner of Political Practices;
- (2) the structure, composition, and duties of the Office of Commissioner of Political Practices; and
- (3) the enforcement authority of the Office of Commissioner of Political Practices, including options for ensuring more immediate consequences for violating campaign laws.

BE IT FURTHER RESOLVED, that the examination include a review of practices in other states, analysis of options, consideration of stakeholder concerns, and the development of recommendations to improve confidence in the integrity, objectivity, and capabilities of the Office of Commissioner of Political Practices.

BE IT FURTHER RESOLVED, that if the study is assigned to staff, any findings or conclusions be presented to and reviewed by an appropriate committee designated by the Legislative Council.

BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review requirements, be concluded prior to September 15, 2014.



BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions, comments, or recommendations of the appropriate committee, be reported to the 64th Legislature.

Adopted March 26, 2013

## HOUSE JOINT RESOLUTION NO. 2

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN INTERIM STUDY TO INVESTIGATE ELECTRONIC RECORDS MANAGEMENT BY STATE AND LOCAL GOVERNMENT; AND REQUIRING THAT THE FINAL RESULTS OF THE STUDY BE REPORTED TO THE 64TH LEGISLATURE.

WHEREAS, Montana state government lacks enterprisewide policy, planning, and resources to properly archive, maintain, and access state and local government electronic records; and

WHEREAS, this lack of a framework for managing state and local government electronic records puts entities at risk of being unable to provide evidence to support the rule of law, support the accountability of government administration, detail interactions between the people of Montana and their government, and document the history and culture of Montana.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to designate an appropriate interim committee, pursuant to section 5-5-217, MCA, or direct sufficient staff resources to:

- (1) identify and examine strategies for identifying, classifying, managing, and preserving electronic records that have value;
- (2) examine the costs and benefits associated with the strategies;
- (3) identify funding sources or mechanisms to evaluate long-term governance structures for governing electronic records management;
- (4) identify and evaluate the methods and means for improving access to state government electronic records, including alternative formats specifically addressing retention of state e-mail records;
- (5) examine public-private partnerships that increase awareness of public records management and access; and
- (6) develop educational strategies to provide awareness of electronic records management processes inside and outside of government.

BE IT FURTHER RESOLVED, that if the study is assigned to staff, any findings or conclusions be presented to and reviewed by an appropriate committee designated by the Legislative Council.

BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review requirements, be concluded prior to September 15, 2014.

BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions, comments, or recommendations of the appropriate committee, be reported to the 64th Legislature.

Adopted March 18, 2013

### HOUSE JOINT RESOLUTION NO. 3

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA URGING THE AMENDMENT OF THE CONSTITUTION OF THE UNITED STATES TO LIMIT THE POWER OF CONGRESS TO REGULATE COMMERCE.

WHEREAS, Article I, section 8, clause 3, of The Constitution of the United States has been interpreted by the United States Supreme Court to grant Congress the overreaching power to regulate intrastate commerce.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

(1) That the Montana Legislature finds that the current allotment of power to the United States Congress that allows the Congress to regulate intrastate commerce to be overly broad and overreaching.

(2) That Congress, in accordance with Article V of The Constitution of the United States, immediately transmit to the several states for ratification an amendment to Article I, section 8, clause 3, of The Constitution of the United States stating:

“To regulate Commerce with foreign Nations, and interstate commerce between the several States, and with the Indian Tribes”.

(3) That the Secretary of State send a copy of this resolution to the President of the United States, the Speaker of the United States House of Representatives, the Majority Leader of the United States Senate, and to each member of the Montana Congressional Delegation.

Adopted March 26, 2013

### HOUSE JOINT RESOLUTION NO. 9

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA SUPPORTING THE RESPONSIBLE DEVELOPMENT OF COAL RESOURCES AND COAL-BASED ELECTRICITY.

WHEREAS, coal represents the most abundant source of energy in the United States; and

WHEREAS, coal is one of the most reliable and affordable sources of fuel for electric generation; and

WHEREAS, consumers, businesses, communities, and service providers need affordable energy more than ever in this time of economic uncertainty and stand to benefit from affordable and reliable coal-based electricity; and

WHEREAS, the United States holds more coal reserves than any other nation, and Montana is home to the largest coal reserves in the United States with nearly one-third of the estimated recoverable reserves; and

WHEREAS, Montana’s annual coal production is currently only 1/20 of 1% of estimated recoverable reserves, and at our current rate of production, it would take more than 1,600 years to exhaust Montana’s coal reserves; and

WHEREAS, responsible development of Montana’s coal resources will create thousands of new jobs and provide millions of dollars in tax revenue for state and local governments and schools; and

WHEREAS, the coal reserves in Montana can meet the demands of the domestic market and earn revenue for the state of Montana by being exported to foreign markets via West Coast ports; and

WHEREAS, coal-generated electricity has increased by 183% since 1970, while emissions from coal-based power plants have been reduced by 75% per generation unit; and

WHEREAS, Montana, the Treasure State, has abundant natural resources and produces valuable commodities from agriculture, mining, timber, energy, and manufacturing industries; and

WHEREAS, expanded, responsible development of Montana's natural resources would benefit every Montanan by creating thousands of new jobs, new economic opportunities, and billions of dollars in tax revenue for state and local governments and schools; and

WHEREAS, producers of Montana commodities need access to all markets, foreign and domestic, in order to grow, prosper, and achieve maximum profitability.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the 63rd Legislature supports the continued use and responsible development of coal-based power in the United States and supports the expansion of additional shipping capacity through new and existing ports in order to allow for the sale of Montana resources to emerging markets.

BE IT FURTHER RESOLVED, that the Secretary of State send copies of this resolution to the President of the United States, the Montana Congressional Delegation, the Majority Leader of the United States Senate, the Speaker of the United States House of Representatives, the Secretary of the United States Department of Energy, the Administrator of the United States Environmental Protection Agency, and the Governor of the State of Montana.

Adopted April 9, 2013

## HOUSE JOINT RESOLUTION NO. 11

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA RAISING CONCERNS ABOUT POTENTIAL CHANGES TO THE OPERATION AND ADMINISTRATION OF FEDERAL POWER MARKETING ADMINISTRATIONS.

WHEREAS, the Montana Legislature is concerned about outcomes resulting from Department of Energy Secretary Steven Chu's March 16, 2012, memorandum that may affect the Western Area Power Administration and the Bonneville Power Administration and their Montana electricity customers; and

WHEREAS, the memorandum states there will be directives issued to the federal Power Marketing Administration administrators related to the broadly stated initiatives contained in the memorandum; and

WHEREAS, these directives could harm the nearly 50% of Montanans whose electric bills are based on the underlying preference power from federal Power Marketing Administrations, and the Montana Legislature has a stake in the outcome of this initiative; and

WHEREAS, the federal Department of Energy asserts it has conducted a "robust" process of public involvement in the development of recommendations

to implement the initiatives by holding five public 1-day workshops and six listening sessions in cities across the western United States; and

WHEREAS, a committee composed of Western Area Power Administration and Department of Energy employees, known as the Joint Outreach Team, met in nonpublic work sessions to develop its draft recommendations; and

WHEREAS, the Montana Legislature does not consider these nonpublic Joint Outreach Team meetings either robust or public; and

WHEREAS, the Western Area Power Administration has an outstanding history of being an electric utility industry leader; and

WHEREAS, the Montana Legislature is appreciative that the Western Area Power Administration and Department of Energy Joint Outreach Team leaders attended a joint session of the Montana House and Senate Energy Committees on January 9, 2013, to share the outcomes of their report; and

WHEREAS, the Joint Outreach Team is planning to make final recommendations to the Secretary of Energy in early 2013.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That if the final recommendations are consistent with what the Joint Outreach Team leaders shared during their January 9, 2013, visit to Montana, these recommendations would:

- (1) be much narrower in scope than the present draft report;
- (2) contain greater recognition of the superb job the Western Area Power Administration has done and is doing in the areas covered in the report;
- (3) ensure change is incremental, not wholesale; and
- (4) most importantly, provide economic protections to Montana preference customers.

BE IT FURTHER RESOLVED, that although the Montana Legislature supports actions to increase efficiency, actions that create cost shifts to Montana preference customers who have paid their way are unacceptable.

BE IT FURTHER RESOLVED, that the Montana Legislature requests that, in the future, the Department of Energy make a greater effort to notify the Legislature of actions impacting Montana citizens in advance of public hearings rather than leaving the Legislature to first hear about these Department of Energy actions from its constituents.

BE IT FURTHER RESOLVED, that the Secretary of State send copies of this resolution to the members of Montana's Congressional Delegation and to the U.S. Secretary of Energy.

Adopted March 19, 2013

## **HOUSE JOINT RESOLUTION NO. 12**

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REAFFIRMING MONTANA'S COMMITMENT TO ITS RELATIONSHIP WITH TAIWAN; SUPPORTING TAIWAN'S PARTICIPATION IN APPROPRIATE INTERNATIONAL ORGANIZATIONS; AND WELCOMING THE RESUMPTION OF FREE TRADE TALKS AND THE SIGNING OF FREE TRADE AGREEMENTS.

WHEREAS, Taiwan, the United States, and in particular the State of Montana share a historical and close relationship marked by strong bilateral trade, educational and cultural exchange, and tourism; and

WHEREAS, Taiwan shares with the United States and the State of Montana the common values of freedom, democracy, human rights, and rule of law; and

WHEREAS, the United States ranks as Taiwan's third largest trading partner, Taiwan is the tenth largest trading partner of the United States, and bilateral trade reached \$67.2 billion in 2011; and

WHEREAS, Taiwan and the State of Montana have enjoyed a long and mutually beneficial relationship with the prospect of further growth, and Taiwan was Montana's fifth largest export destination in 2011, with \$66.3 million worth of Montana goods shipped to Taiwan, including industrial machinery, chemical products, ores, specialty grains, and food products; and

WHEREAS, Taiwan has traditionally ranked as one of the top five importers of Montana wheat; and

WHEREAS, the United States on November 1, 2012, officially included Taiwan in its Visa Waiver Program, allowing Taiwan's citizens to travel to the United States for tourism or business for stays of 90 days or less without being required to obtain a visa, and the program will increase tourism and business between Taiwan and the United States, particularly Montana, with the prospect of 30% to 40% growth of Taiwanese travelers to the United States in 2013, rising from 400,000 Taiwanese travelers in 2011; and

WHEREAS, the issue of U.S. beef exports to Taiwan has been settled, and the resumption of trade talks on the Trade and Investment Framework Agreement and the signing of the Free Trade Agreement between Taiwan and the United States will not only help to forge a closer relationship but will also create greater benefits and well-being for the State of Montana and boost Taiwan's chances to enter the Trans-Pacific Partnership; and

WHEREAS, President Ma Ying-jeou has worked tirelessly to uphold democratic principles in Taiwan, ensure the prosperity of Taiwan's 23 million citizens, promote Taiwan's international standing as a responsible member of the international community, increase participation in international organizations, dispatch humanitarian missions abroad, and further improve relations between the United States and Taiwan; and

WHEREAS, Taiwan, as a willing and contributing member of the world community, has made countless contributions of technical and financial assistance in the wake of Hurricane Sandy and other natural disasters worldwide.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

(1) That Montana reaffirms its commitment to the strong and deepening relationship between Taiwan and the State of Montana.

(2) That Montana supports Taiwan's appropriate participation in international organizations that impact the health, safety, and well-being of Taiwan.

(3) That Montana welcomes the resumption of trade talks on the Trade and Investment Framework Agreement, welcomes the signing of the Free Trade Agreement between Taiwan and the United States in the process of closer

economic integration, and supports Taiwan's participation in the Trans-Pacific Partnership.

Adopted March 22, 2013

## HOUSE JOINT RESOLUTION NO. 14

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA URGING THE BOARD OF PUBLIC EDUCATION TO INCLUDE THE SUCCESSFUL COMPLETION OF A FINANCIAL LITERACY COURSE AS A REQUIREMENT FOR GRADUATION.

WHEREAS, without knowledge and understanding of financial matters, people are incapable of managing their personal finances effectively and making sound decisions regarding matters like purchasing, saving, investing, and borrowing; and

WHEREAS, becoming financially literate and learning these necessary skills at an early age encourages greater economic self-sufficiency, higher levels of successful home ownership, and enhanced retirement security; and

WHEREAS, the informed use of credit and other financial products and services benefits individual consumers and promotes economic growth; and

WHEREAS, the past decade has seen declining personal savings rates, increased bankruptcy rates, increased home foreclosures, and rising percentages of household income devoted to servicing household debt; and

WHEREAS, a lack of financial literacy can be especially damaging to students and families during hard economic times; and

WHEREAS, many students in Montana's public schools do not receive sufficient financial education in their homes; and

WHEREAS, personal financial education and money management skills are crucial to ensure that our young people and adults are prepared to manage credit and debt, build savings, and become responsible workers, heads of households, investors, entrepreneurs, business leaders, and productive citizens.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

(1) That the Board of Public Education be strongly urged to require students to demonstrate proficiency in financial literacy by successfully completing a financial literacy course as a requirement for graduation.

(2) That the required financial literacy course include instruction on:

(a) financial responsibility and decisionmaking;

(b) basic financial functions, including skills such as opening a bank account and writing a check;

(c) income and careers;

(d) planning and money management;

(e) credit and debt management, including the fundamentals of purchasing, saving, investing, and borrowing;

(f) risk management and insurance;

(g) how to avoid becoming a victim of predatory lending, financial scams, and other forms of financial exploitation;

(h) financial planning for higher education; and



(i) financial planning for retirement.

(3) That the Secretary of State send copies of this resolution to each member of the Board of Public Education and the Superintendent of Public Instruction.

Adopted April 9, 2013

## HOUSE JOINT RESOLUTION NO. 16

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN INTERIM STUDY OF STATE-OPERATED PUBLIC INSTITUTIONS SERVING INDIVIDUALS WITH MENTAL ILLNESS, INTELLECTUAL DISABILITIES, AND CHEMICAL DEPENDENCY; AND REQUIRING THAT THE FINAL RESULTS OF THE STUDY BE REPORTED TO THE 64TH LEGISLATURE.

WHEREAS, the Department of Public Health and Human Services operates public institutions that care for individuals in need, including individuals in need of treatment and services because of mental illness, intellectual disabilities, or chemical dependency; and

WHEREAS, facilities operated by the Department of Corrections serve a number of offenders whose treatment needs involve mental illness, intellectual disabilities, or chemical dependency; and

WHEREAS, the understanding of treatment options and the recovery process for these individuals continues to evolve; and

WHEREAS, the state may be able to more effectively serve individuals who have similar treatment needs if it reviews and reconfigures its system of public institutions.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to designate an appropriate interim committee, pursuant to section 5-5-217, MCA, to:

(1) study state-operated facilities that serve individuals with mental illness, intellectual disabilities, and chemical dependency to determine if changes to the current system of facilities could:

(a) provide more effective treatment; and

(b) serve individuals in a more cost-effective manner; and

(2) review operations at the Montana State Hospital at Warm Springs, the Montana Developmental Center at Boulder, the Montana Chemical Dependency Center at Butte, the Montana Mental Health Nursing Care Center at Lewistown, the Montana State Prison at Deer Lodge, and the Montana Women's Prison at Billings.

BE IT FURTHER RESOLVED, that the study review:

(1) the populations served by each facility;

(2) the services provided at each facility for treatment of mental illness, intellectual disabilities, and chemical dependency;

(3) the degree to which treatment needs are unmet or underserved at each facility;

(4) the cost of operating each facility, including the costs of providing treatment for mental illness, intellectual disabilities, and chemical dependency;

(5) barriers to providing necessary treatment at the facilities;

(6) the ways in which the facilities collaborate to meet treatment needs of the target populations;

(7) the projected long-term needs for the populations served by the facilities;

(8) alternative approaches to providing the services that may improve the quality of care and increase access to additional funding streams; and

(9) other items as identified by the interim committee.

BE IT FURTHER RESOLVED, that the study involve the participation of the Department of Public Health and Human Services, the Department of Corrections, community mental health providers, providers of services to individuals with intellectual disabilities and with substance abuse disorders, individuals who have received services in state-operated facilities identified in this resolution and their family members, and representatives of law enforcement, health care providers, health advocacy organizations, and other interested parties.

BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review requirements, be concluded prior to September 15, 2014.

BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions, comments, or recommendations of the appropriate committee, be reported to the 64th Legislature.

Adopted April 10, 2013

## HOUSE JOINT RESOLUTION NO. 17

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA TO STUDY THE STATE PAY PLANS.

WHEREAS, the State of Montana currently has seven compensation plans, or "pay plans", used to provide compensation to state employees; and

WHEREAS, the costs related to the employment of state personnel are a large part of the state's budget and for many state agencies are a significant part of the agency's overall budget; and

WHEREAS, the public policy role of the Legislature regarding the cost of state government includes establishing and understanding the compensation system the state uses to attract and retain employees and providing for the costs of employment of personnel within an agency's budget.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Finance Committee, in consultation with the Legislative Council, be requested to study or to direct sufficient staff resources to study the state pay plans, including:

(1) what they are and how they are established;

(2) how agencies are using them to recruit, retain, and compensate employees;

(3) the process of negotiating with unions and how that process affects the state pay plans;

(4) if and how employee performance affects the salary of employees under the pay plans; and

(5) what data is used to develop the pay plans and how that data is generated.

BE IT FURTHER RESOLVED, that the study identify areas for future legislative action, if needed.

BE IT FURTHER RESOLVED, that if the study is assigned to staff, any findings or conclusions be presented to and reviewed by the Legislative Finance Committee.

BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review requirements, be concluded prior to September 15, 2014.

BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions, comments, or recommendations of the appropriate committee, be reported to the 64th Legislature.

Adopted April 10, 2013

## HOUSE JOINT RESOLUTION NO. 25

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN INTERIM STUDY OF MONTANA'S WORKERS' COMPENSATION SYSTEM REGARDING SUBROGATION, THE WORKERS' COMPENSATION COURT STRUCTURE, THE STRUCTURE OF THE STATE COMPENSATION INSURANCE FUND, AND VARIOUS MEDICAL AND SAFETY COMPONENTS OF THE WORKERS' COMPENSATION SYSTEM.

WHEREAS, the term subrogation, frequently accompanied by the terms "made whole" and "third-party tortfeasors", is not well understood among those not in the insurance or legal worlds, yet the real-world impacts related to subrogation affect workers' compensation premiums paid by employers and affect injured workers who receive medical and wage-loss benefits under workers' compensation but do not receive compensation for pain and suffering or full wage-loss benefits, which may be available through subrogation if the worker's injuries were caused by a third-party tortfeasor; and

WHEREAS, under section 39-71-414, MCA, workers' compensation insurers are allowed to pursue subrogation and in certain cases to receive from third-party tortfeasors an offset of their workers' compensation payouts, yet various Montana court cases, including State Compensation Insurance Fund v. McMillan, 2001 MT 168, 306 Mont. 155, 31 P.3d 347, have held that section 39-71-414, MCA, does not apply until a claimant is given a chance to be made whole in a civil action against a third party or, as provided in Article II, section 16, of the Montana Constitution, given "full legal redress for injury incurred in employment"; and

WHEREAS, workers' compensation insurers in other states may be able to successfully subrogate and receive offsets against their costs thus potentially lowering workers' compensation premiums while in Montana few insurers are willing to pay the court costs necessary to pursue subrogation because of concerns that under the constitutional interpretations an injured worker first must be made whole; and

WHEREAS, this lack of a feasible, clear process to hold a third party responsible by workers' compensation insurers who seek to recover costs through subrogation may contribute to workers' compensation premiums in Montana being among the top 10 highest rates nationwide as determined by a

biennial Oregon workers' compensation analysis of national workers' compensation premiums; and

WHEREAS, previous studies of Montana's workers' compensation system have paid little attention to the workers' compensation court's structure, including whether the political nature of the judicial appointment process causes inconsistencies in the application of laws because of potential philosophical variations among judges; and

WHEREAS, several other states have dismantled their state-based workers' compensation funds and a 2003-2004 study of similarly changing Montana's workers' compensation system to allow the State Compensation Insurance Fund to become independent of the state was conducted by the State Compensation Insurance Fund itself, and a new review of the State Compensation Insurance Fund's independence is again timely;

WHEREAS, although the changes in workers' compensation laws in 2011 were broad and are expected to take time to show their ultimate impacts, some changes may be evident as to efficiencies regarding medical utilization and treatment guidelines, efforts to improve return-to-work or stay-at-work policies, and on-the-job safety and reports on these topics may help to determine if other statutory changes or other actions are needed to help reduce the number of Montanans injured or killed on the job.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to designate an appropriate interim committee, pursuant to section 5-5-217, MCA, or direct sufficient staff resources to review:

(1) subrogation in light of Montana's Constitution and court cases regarding making an injured worker "whole", including an examination of the meaning of "made whole" and the impacts of the lack of effective subrogation on workers' compensation insurers;

(2) the use of subrogation in civil actions and in settlements and what lessons are to be learned regarding application of the law for each approach;

(3) how other states handle subrogation for workers' compensation purposes;

(4) the structure of the workers' compensation court and whether nonpolitical appointments are feasible or needed;

(5) the structure of the State Compensation Insurance Fund as a state agency, the implications of independence on the Montana workers' compensation insurance system, and the requirements for separating the State Compensation Insurance Fund from state government;

(6) the use of medical utilization and treatment guidelines, including the guidelines related to narcotic prescriptions, and whether any cost savings are associated with the use of the guidelines and whether medical providers are using the guidelines;

(7) the use of stay-at-work and return-to-work forms and the interaction between medical providers and employers to determine if employers are getting more information on workers' return-to-work status;

(8) the impact on employees of changes to benefits, the definition of permanent partial disability, and other provisions enacted by the 2011 Legislature in House Bill No. 334; and

(9) the actions already taken to increase safety in the workplace and what other actions may be possible or necessary to enhance safety in the workplace.

BE IT FURTHER RESOLVED, that a study provide an opportunity for panel discussions and interaction by stakeholders, including attorneys, insurers, and any injured workers willing to participate.

BE IT FURTHER RESOLVED, that if the study is assigned to staff, any findings or conclusions be presented to and reviewed by an appropriate committee designated by the Legislative Council.

BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review requirements, be concluded prior to September 15, 2014.

BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions, comments, or recommendations of the appropriate committee, be reported to the 64th Legislature.

Adopted April 24, 2013

## **HOUSE JOINT RESOLUTION NO. 26**

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN INTERIM STUDY ON THE INTERSECTING INTERESTS OF ESTATE OWNERS AND DITCH OWNERS AND PROVIDING A MEANS TO ACCOMMODATE BOTH ESTATES.

WHEREAS, Montana has a rich history of irrigated agriculture that must be protected, but residential development in irrigated river valleys and elsewhere is increasingly pitting the rights of homeowners against the rights of ditch easement owners;

WHEREAS, inflexible notions of dominant and servient estates hamper the common-sense approach that competing uses of property between two interested owners should be accommodated where possible; and

WHEREAS, the Colorado Supreme Court has recognized that ditch easements are a property right that the burdened estate owner may not alter without consent of the ditch owner, but there may be some circumstances in which an alteration would not harm the ditch owner but would greatly benefit the burdened estate owner; and

WHEREAS, in a ruling on secondary easements to maintain ditches, the Montana Supreme Court concluded that some permanent encroachments may not justify a finding of unreasonable interference; and

WHEREAS, House Bill No. 149 and proposed amendments attempted to provide a process to accommodate the needs of both the estate owner and the ditch owner, but testimony made clear that the issue needs further study.

**NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:**

That the Legislative Council be requested to designate the water policy interim committee, established by section 5-5-231, MCA, or direct sufficient staff resources to examine the intersecting interests of estate owners and ditch owners and contemplate options to accommodate both estates.

BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review requirements, be concluded prior to September 15, 2014.

BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions, comments, or recommendations of the appropriate committee, be reported to the 64th Legislature.

Adopted April 24, 2013

### HOUSE JOINT RESOLUTION NO. 30

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA TO COMPILE INFORMATION ON STATE AND FEDERAL BENEFITS OFFERED TO ACTIVE-DUTY OR RESERVE MILITARY PERSONNEL, MEMBERS OF THE MONTANA NATIONAL GUARD, AND VETERANS OF EACH.

WHEREAS, the House Taxation Committee considered a number of bills to provide tax benefits for active-duty or reserve military personnel, members of the Montana National Guard, and veterans of each; and

WHEREAS, other standing committees and the Committee of the Whole of the 63rd Legislature also considered bills to provide various benefits for active-duty or reserve military personnel, members of the Montana National Guard, and veterans of each; and

WHEREAS, the information on the benefits offered to active-duty or reserve military personnel, members of the Montana National Guard, and veterans of each will likely be useful for the 64th Legislature.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to designate an appropriate interim committee, pursuant to section 5-5-217, MCA, or direct sufficient staff resources to compile information on the benefits available to active-duty or reserve military personnel, members of the Montana National Guard, and veterans of each.

BE IT FURTHER RESOLVED, that the information compiled include all types of benefits offered by state and local government, including but not limited to:

- (1) tax benefits, including treatment of pension income;
- (2) reduced or waived fees for government services;
- (3) hunting and fishing license benefits;
- (4) education benefits, including allowing military education and training to apply for certification or licensure;
- (5) employment preferences; and
- (6) health benefits.

BE IT FURTHER RESOLVED, that the information clearly distinguish which benefits are available and the commensurate value of the benefits to active-duty or reserve military personnel, members of the Montana Army National Guard, and veterans of each.

BE IT FURTHER RESOLVED, that information also be compiled, to the extent possible, on federal benefits received by active-duty or reserve military personnel, members of the Montana National Guard, and veterans of each.

BE IT FURTHER RESOLVED, that if the study is assigned to staff, any findings or conclusions be presented to and reviewed by an appropriate committee designated by the Legislative Council.



BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review requirements, be concluded prior to September 15, 2014.

BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions, comments, or recommendations of the appropriate committee, be reported to the 64th Legislature.

Adopted April 24, 2013

## House Resolutions

### HOUSE RESOLUTION NO. 1

A RESOLUTION OF THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA ADOPTING THE HOUSE RULES.

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the following 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 (section 5-2-221, MCA).

(2) A majority of representatives voting elects the Speaker and Speaker pro tempore from the House membership. A majority of each caucus voting nominates House members to the remaining offices, and those nominees are considered to have been elected by a majority vote of the House.

(3) (a) "Majority leader" means the leader of the majority party, elected by the caucus as provided in 5-2-221.

(b) "Majority party" means the party with the most members, subject to subsection (4).

(c) "Minority leader" means the leader of the minority party, elected by the caucus as provided in 5-2-221.

(d) "Minority party" means the party with the second most members, subject to subsection (4).

(4) If there are an equal number of members of the two parties with the most members, then the majority party is the party of the Speaker and the minority party is the other party with an equal number of members.

**H10-20. Speaker's duties.** (1) The Speaker is the presiding officer of the House, with authority for administration, order, decorum, and the interpretation and enforcement of rules in all House deliberations.

(2) The Speaker shall see that all members conduct themselves in a civil manner in accordance with accepted standards of parliamentary conduct. The Speaker may, when necessary, order the Sergeant-at-Arms to clear the aisles and seat the members of the House so that business may be conducted in an orderly manner.

(3) Signs, placards, or other objects of a similar nature are not permitted in the rooms, lobby, gallery, or on the floor of the House. The Speaker may order the galleries, lobbies, or hallway cleared in case of disturbance or disorderly conduct.

(4) The Speaker shall sign all necessary certifications by the House, including enrolled bills and resolutions, journals (section 5-11-201, MCA), subpoenas, and payrolls.

(5) The Speaker shall arrange the agendas for second and third readings each legislative day. Representatives may amend the agendas as provided in H40-130.

(6) The Speaker is the chief officer of the House, with authority for all House employees.

(7) The Speaker may name any member to perform the duties of the chair. If the House is not in session and the Speaker pro tempore is not available, the Speaker shall name a member who shall call the House to order and preside during the Speaker's absence.

(8) Upon request of the Minority Leader, the Speaker will submit a request for a fiscal note on any bill.

**H10-30. Speaker-elect.** During the transition period between the party organization caucuses and the election of House officers, the Speaker-elect has the responsibilities and authority appropriate to organize the House (section 5-2-202, MCA). Authority includes approving pre-session expenditures.

**H10-40. Speaker pro tempore duties.** The Speaker pro tempore shall, in the absence or inability of the Speaker, call the House to order and perform all other duties of the chair in presiding over the deliberations of the House and shall perform other duties and exercise other responsibilities as may be assigned by the Speaker.

**H10-50. Majority Leader.** The primary functions of the majority leader usually relate to floor duties. The duties of the majority leader may include but are not limited to:

- (1) being the lead speaker for the majority party during floor debates;
- (2) helping the Speaker develop the calendar;
- (3) assisting the Speaker with program development, policy formation, and policy decisions; and
- (4) presiding over the majority caucus meetings; and
- (5) other duties as assigned by the caucus.

**H10-60. Majority Whip.** The duties of the majority whip may include but are not limited to:

- (1) assisting the majority leader;
- (2) ensuring member attendance;
- (3) counting votes;
- (4) generally communicating the majority position; and
- (5) other duties as assigned by the caucus.

**H10-70. Minority Leader.** The minority leader is the principal leader of the minority caucus. The duties of the minority leader may include but are not limited to:

- (1) developing the minority position;
- (2) negotiating with the majority party;
- (3) directing minority caucus activities on the chamber floor;

- (4) leading debate for the minority; and
- (5) other duties as assigned by the caucus.

**H10-80. Minority Whip.** The major responsibilities for the minority whip may include but are not limited to:

- (1) assisting the minority leader on the floor;
- (2) counting votes;
- (3) ensuring attendance of minority party members; and
- (4) other duties as assigned by the caucus.

**H10-90. Employees.** (1) The Speaker shall appoint a Chief Clerk and Sergeant-at-Arms and may appoint a Chaplain, subject to confirmation of the House (section 5-2-221, MCA).

(2) The Speaker shall employ necessary staff or delegate that function to the employees designated in subsection (1).

(3) The secretary for a standing or select committee is generally responsible to the committee chair but shall work under the direction of the Chief Clerk.

(4) The Speaker and majority and minority leaders may each appoint a private secretary.

**H10-100. Chief Clerk's duties.** The Chief Clerk, under the supervision of the Speaker, is the chief administrative officer of the House and is responsible to:

- (1) supervise all House employees;
- (2) have custody of all records and documents of the House;
- (3) supervise the handling of legislation in the House, the House journal, and other House publications; deliver to the Secretary of State at the close of each session the House journal, bill and resolution records, and all original House bills and joint resolutions; collect minutes and exhibits from all House committees and subcommittees and arrange to have them printed on archival paper and copied in an electronic format within a reasonable time after each meeting. An electronic copy will be provided to the Legislative Services Division and the State Law Library of Montana. The archival paper copy will be delivered to the Montana Historical Society.

**H10-110. Duties of Sergeant-at-Arms.** The Sergeant-at-Arms shall:

(1) under the direction of the Speaker and the Chief Clerk, have charge of and maintain order in the House, its lobbies, galleries, and hallways and all other rooms in the Capitol assigned for the use of the House;

(2) be present whenever the House is in session and at any other time as directed by the presiding officer;

(3) execute the commands of the House and serve the writs and processes issued by the authority of the House and directed by the Speaker;

(4) supervise assistants to the Sergeant-at-Arms, who shall aid in the performance of prescribed duties and who have the same authority, subject to the control of the Speaker;

(5) clear the floor and anteroom of the House of all persons not entitled to the privileges of the floor prior to the convening of each session of the House;

(6) bring in absent members when so directed under a call of the House;

(7) enforce the distribution of any printed matter in the House chambers and anteroom in accordance with H20-70;

(8) enforce parking regulations applicable to areas of the Capitol complex under the control of the House;

(9) supervise the doorkeeper; and

(10) supervise the pages.

**H10-120. Legislative aides.** (1) A legislative aide is a person specifically designated by a representative to assist that representative in performing legislative duties. A representative may sponsor one legislative aide a session by written notification to the Sergeant-at-Arms.

(2) No representative may designate a second legislative aide in the same session without the approval of the House Rules Committee.

(3) A legislative aide must be of legal age unless otherwise approved by the House Rules Committee.

(4) The Sergeant-at-Arms shall issue distinctive identification tags to legislative aides. The cost must be paid by the sponsoring representative.

**H10-130. Legislative interns.** A legislative intern is a person designated under Title 5, chapter 6, MCA.

**H10-140. House journal.** (1) The House shall keep a journal, which is the official record of House actions (Montana Constitution, Art. V, Sec. 10). The journal must be prepared under the direction of the Speaker.

(2) Records of the following proceedings must be entered on the journal:

(a) the taking and subscription of the constitutional oath by representatives (Montana Constitution, Art. III, Sec. 3; 5-2-214);

(b) committee reports;

(c) messages from the Governor;

(d) messages from the Senate;

(e) every motion, the name of the representative presenting it, and its disposition;

(f) the introduction of legislation in the House;

(g) consideration of legislation subsequent to introduction;

(h) on final passage of legislation, the names of the representatives and their vote on the question (Montana Constitution, Art. V, Sec. 11);

(i) roll call votes; and

(j) upon a request by two representatives before a vote is taken, the names of the representatives and their votes on the question.

(3) The Chief Clerk shall provide to the Legislative Services Division such information as may be required for the publication of the daily journal.

(4) Any representative may examine the daily journal and propose corrections. The Speaker may direct a correction to be made when suggested subject to objection by the House.

(5) The Speaker shall authenticate the House journal after the close of the session (section 5-11-201, MCA).

(6) The Legislative Services Division shall publish and distribute the House journal (sections 5-11-202 and 5-11-203, MCA). The title of each bill must be listed in the index of the published session journal.

**H10-150. Votes recorded and public.** Every vote of each representative on each substantive question in the House, in any committee, or in Committee of the Whole must be recorded and made public (Montana Constitution, Art. V, Sec. 11).

**H10-160. Duration of legislative day.** A legislative day ends either 24 hours after the House convenes for that day or at the time the House convenes for the following legislative day, whichever is earlier. (See Joint Rule 10-20.)

## CHAPTER 2

### Decorum

**H20-10. Addressing the House — recognition.** (1) When a member desires to speak to or address any matter to the House, the member should rise and respectfully address the Speaker or the presiding officer.

(2) The Speaker or presiding officer may ask, “For what purpose does the member rise?” or “For what purpose does the member seek recognition?” and may then decide if recognition is to be granted. There is no appeal from the Speaker’s or presiding officer’s decision.

**H20-20. Questions of order and privilege — 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.

**H20-40. Admittance to the House floor.** (1) The following persons may be admitted to the House floor during a daily session: present and former legislators; legislative employees necessary for the conduct of the session; 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, intern, or aide of either house is prohibited from lobbying, although a legislative committee may request testimony from a person so restricted.

(2) The Speaker may discipline or discharge any House employee violating this prohibition. The Speaker may withdraw the privileges of any House aide or intern violating this prohibition.

**H20-70. Papers distributed on desks — 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) 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.

(2) The standing committees of the House are as follows:

(a) class one committees:

- (i) Appropriations;
- (ii) Business and Labor;
- (iii) Judiciary;
- (iv) State Administration; and

(v) Taxation;

(b) class two committees:

- (i) Education;
- (ii) federal Relations, Energy, and Telecommunications;
- (iii) Human Services;
- (iv) Natural Resources; and

(v) Transportation;

(c) class three committees:

- (i) Agriculture;
- (ii) Fish, Wildlife, and Parks; and
- (iii) Local Government; and

(d) on call committees:

- (i) Ethics;
- (ii) Rules; and
- (iii) Legislative Administration.



(3) A class 1 committee is scheduled to meet Monday through Friday. A class 2 committee is scheduled to meet Monday, Wednesday, and Friday. A class 3 committee is scheduled to meet Tuesday and Thursday. Unless a class is prescribed for a committee, it meets upon the call of the chair.

(4) The Legislative Council shall review the workload of the standing committees to determine if any change is indicated in the class of a standing committee for the next legislative session. The Legislative Council's recommendations must be submitted to the leadership nominated or elected at the pre-session caucus provided for in 5-2-201.

(5) 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.

**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) At the written request of the sponsor, a committee shall finally dispose of a bill without a hearing. A bill may not be reported from a committee without 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;
- (c) an identification of all substantive changes; and
- (d) a fiscal note, if required.

(7) If a measure is withdrawn from a committee and brought to the House floor for debate on second reading on that day without a committee recommendation, the bill does not include amendments formally adopted by the committee because committee amendments are merely recommendations to the House that are formally adopted when the committee report is accepted by the House.

(8) A second to any motion offered in a committee is not required in order for the motion to be considered by the committee.

(9) The vote of each member on all committee actions must be recorded. All motions may be adopted only on the affirmative vote of a majority of the members voting. 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 by having them sign the legislation.

(2) After legislation is submitted for introduction but before the legislation returns from the first House committee, the chief sponsor may add or remove cosponsors by filing a cosponsor form with the Chief Clerk. This filing must be noted by the Chief Clerk for the record on Order of Business No. 11.

**H40-40. Introduction — receipt — 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.** Except on the final legislative day, legislation may receive no more than one reading per legislative day. On the final legislative day, legislation may receive more than one reading.

**H40-70. Referral.** (1) The Speaker shall refer to a House committee, joint select committee, or joint special committee all properly introduced House legislation and transmitted Senate legislation in conformity to the committee jurisdiction.

(2) Legislation may not receive final passage and approval unless it has been referred to a House committee, joint select committee, or joint special committee.

**H40-80. Rereferral — 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, on the following legislative day, may be debated and adopted or rejected on Order of Business No. 2. A motion to reject an adverse committee report must be approved by not less than three-fifths of the members voting. Failure to adopt a motion to reject an adverse committee report constitutes adoption of the report.

(3) If the House rejects an adverse committee report, the bill progresses to second reading, as scheduled by the Speaker, with any amendments recommended by the committee.

**H40-110. Consent calendar procedure.** (1) Noncontroversial bills and simple and joint resolutions may be recommended for the consent calendar by a standing committee and processed according to the following provisions:

(a) To be eligible for the consent calendar, the legislation must receive a unanimous vote by the members of the standing committee in attendance (do pass, do pass as amended). In addition, a motion must be made and passed unanimously to place the legislation on the consent calendar and this action reflected in the committee report. Appropriation or revenue bills may not be recommended for the consent calendar.

(b) The legislation must then be sent to be processed and reproduced as a third reading version and specifically marked as a “consent calendar” item.

(2) Other legislation may be placed on the consent calendar by agreement between the Speaker and the minority leader following a positive recommendation by a standing committee. The legislation must be sent to be processed as a second reading version but must be specifically announced and posted as a “consent calendar” item.

(3) Legislation must be posted immediately (as soon as it is received appropriately printed) on the consent calendar and must remain there for 1 legislative day before consideration under Order of Business No. 11, special orders of the day. At that time, the presiding officer shall announce consideration of the consent calendar and allow “reasonable time” for questions and answers upon request. No debate is allowed.



(4) If any one representative submits a written objection to the placement of legislation on the consent calendar, the legislation must be removed from the consent calendar and added to the regular second reading board.

(5) Consent calendar legislation will be considered on Order of Business No. 8, third reading of bills, following the regular third reading agenda, as separately noted on the agenda.

(6) Legislation on the consent calendar must be considered individually with the roll call vote spread on the journal as the final vote in the House.

(7) Legislation passed on the consent calendar must then be transmitted to the Senate. Legislation must be appropriately printed prior to transmittal.

**H40-120. Legislation requiring other than a majority vote.** Legislation that requires other than a majority vote for final passage needs only a majority vote for any action that is taken prior to third reading and that normally requires a majority vote.

**H40-130. Amending House second and third reading agendas — 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) Except on the final legislative day, at least 1 legislative day must elapse between the time legislation is reported from committee and the time it is considered on second reading.

(4) If a motion to recommend that a bill “do pass” or “be concurred in” fails in the Committee of the Whole, the obverse, i.e., a recommendation that the bill “do not pass” or “be not concurred in”, is considered to have passed. If a motion to recommend that a bill “do not pass” or “be not concurred in” fails in the Committee of the Whole, the obverse, i.e., a recommendation that the bill “do pass” or “be concurred in”, is considered to have passed.

(5) An amendment attached to legislation by the Committee of the Whole remains unless removed by further legislative action.

(6) When the Committee of the Whole reports to the House, the House shall adopt or reject the Committee of the Whole report. If the House rejects the Committee of the Whole report, the legislation remains on second reading, as amended by the Committee of the Whole, unless the House orders otherwise.

(7) A representative may move to segregate legislation from the Committee of the Whole report before the report is adopted. Segregated legislation, as amended by the Committee of the Whole, must be placed on second reading unless the House orders otherwise. Amendments adopted by the Committee of the Whole on segregated legislation remain adopted unless reconsidered 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;

(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) After at least two proponents and two opponents have spoken on a question and 30 minutes have elapsed, a motion to call for cloture is in order. Approval by not less than two-thirds of the members present and voting is required to sustain a motion for cloture. Notwithstanding the passage of a motion to end debate, the sponsor of the motion on which debate was ended may close.

(3) By previous agreement of the majority leader and the minority leader:

(a) a lead proponent and a lead opponent may be granted additional time to speak on a bill;

(b) a bill or resolution may be allocated a predetermined amount of time for debate and number of speakers.

**H40-180. Special provisions for debate on the general appropriations bill — 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.

**H40-190. Engrossing.** (1) After legislation is passed on second reading, it must be engrossed within 48 hours under the direction of the Speaker. The Speaker may grant additional time for engrossing.

(2) When the legislation that has passed second reading, as amended, has been correctly engrossed, it must be placed on third reading on the following legislative day. If the bill is not amended, the bill must be sent to printing and must be placed on third reading on the legislative day after receipt. On the final legislative day, the correctly engrossed legislation may be placed on third reading on the same legislative day. For the purposes of this rule, "engrossing" means placing amendments in a bill. (See Joint Rule 40-150.)

**H40-200. Third reading.** (1) All bills, joint resolutions, and Senate amendments to House bills and joint resolutions passing second reading must be placed on third reading the day following the receipt of the engrossing or other appropriate printing report.

(2) Legislation on third reading may not be amended or debated.

(3) The Speaker shall state the question on legislation on third reading. If a majority of the representatives voting does not approve the legislation, it fails to pass third reading.

**H40-210. Senate legislation in the House.** Senate legislation properly transmitted to the House must be treated as House legislation.

**H40-220. Senate amendments to House legislation.** (1) When the Senate has properly returned House legislation with Senate amendments, the House shall announce the amendments on Order of Business No. 4, and the Speaker shall place them on second reading for debate. The Speaker may rerefer House legislation with Senate amendments to a committee for a hearing

if the Senate amendments constitute a significant change in the House legislation. The second reading vote is limited to consideration of the Senate amendments.

(2) If the House accepts Senate amendments, the House shall place the final form of the legislation on third reading to determine if the legislation, as amended, is passed or if the required vote is obtained.

(3) If the House rejects the Senate amendments, the House may request the Senate to recede from its amendments or may direct appointment of a conference committee and request the Senate to appoint a like committee.

**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 within 48 hours under the direction of the Speaker. The Speaker may grant additional time for enrolling.

(2) The chief sponsor of the legislation shall examine the enrolled legislation and, if it has no enrolling errors, shall, within 1 legislative day, certify the legislation as correctly enrolled.

(3) The correctly enrolled legislation must be delivered to the Speaker, who shall sign the legislation.

(4) After the legislation has been reported correctly enrolled but before it is signed, any representative may examine the legislation. (See Joint Rule 40-160.)

**H40-250. Governor's amendments.** (1) When the Governor returns a bill with recommended amendments, the House shall announce the amendments under Order of Business No. 5.

(2) The House may debate and adopt or reject the Governor's recommended amendments on second reading on any legislative day.

(3) If both the House and the Senate accept the Governor's recommended amendments on a bill that requires more than a majority vote for final passage, the House shall place the final form of the legislation on third reading to determine if the required vote is obtained.

**H40-260. Governor's veto.** (1) When the Governor returns a bill with a veto, the House shall announce the veto under Order of Business No. 5.

(2) On any legislative day, a representative may move to override the Governor's veto by a two-thirds vote under Order of Business No. 9.

## CHAPTER 5

### Floor Actions

**H50-10. Attendance — 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.

**H50-40. Call of the House with a quorum.** (1) If a quorum is present but at least one representative is excused or absent, one-third of the representatives present and voting may order a call of the House with a quorum.

(2) The motion for a call is nondebatable, may not be amended, and is in order at any time a vote is not being taken, except that a call of the House with a quorum is not allowed in the Committee of the Whole.

(3) During a call of the House, all business is suspended. No motion is in order except a motion to adjourn or to remove the call.

(4) When all representatives are present, except those on leave with cause, the call is automatically lifted. The call may also be lifted by adjournment or by two-thirds of the representatives present and voting.

**H50-50. Leave with cause 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(15) or (17) 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 call of the House with a quorum pursuant to H50-40(1) (one-third);

(3) a motion to lift a call of the House pursuant to H50-30(3) or H50-40(4) (two-thirds);

(4) a motion to rerefer a bill from one committee to another pursuant to H40-80(1) (three-fifths);

(5) a motion to withdraw a bill from a committee pursuant to H40-90 (three-fifths);

(6) a motion to add legislation to the second or third reading agenda on that day pursuant to H40-130(2) (three-fifths);

(7) a motion to remove legislation from its normal progress through the House as provided under H40-80(3) and reassign it unless otherwise specifically provided by these rules, such as H40-80(2) (three-fifths);

(8) a motion to change a vote pursuant to H50-210 (unanimous);

(9) a motion to call for cloture pursuant to H40-170(2) (two-thirds);

(10) a motion to approve a bill conferring immunity from suit as described in Article II, section 18, of the Montana Constitution (two-thirds);

(11) a motion to amend rules pursuant to H70-10(2) or suspend rules pursuant to H70-30 (two-thirds);

(12) a motion to overturn an adverse committee report pursuant to H40-100(2) (three-fifths);

(13) a motion to record a vote pursuant to H50-200(2) (one representative);

(14) a motion to record a vote in the journal (two representatives);

(15) an appeal of the ruling of the presiding officer pursuant to H20-20(1) or H20-80(2) (three representatives);

(16) a motion to speak more than once on a debatable motion pursuant to H50-80(1) (unanimous vote);

(17) 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.

(7) There may be only one reconsideration vote on a specific issue on a legislative day.

**H50-180. Renewing procedural motions.** The House may renew a procedural motion if further House business has intervened.

**H50-190. Tabling.** (1) Under Order of Business No. 9, a representative may move to table any question, motion, or legislation before the House except the question of a quorum or a call of the House. The motion is nondebatable and may not be amended.

(2) When a matter has been tabled, a representative may move to take it from the table under Order of Business No. 9 on any legislative day.

**H50-200. Voting — 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) After adoption of the House rules, two-thirds of the representatives voting must vote in favor of the question to amend the rules.

(3) The Speaker shall refer to the House Rules Committee all resolutions for House rules.

(4) The House Rules Committee shall report all resolutions for House rules within 1 legislative day of referral.

**H70-20. Tenure of rules.** Rules adopted by the House remain in effect until removed by House resolution or until a new House is elected and takes office.

**H70-30. Suspension of rules.** The House may suspend a House rule on a motion approved by not less than two-thirds of the members voting.

**H70-40. Supplementary rules.** Mason’s Manual of Legislative Procedure (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.

**Federal Relations, Energy, and Telecommunications:** Energy generation and transmission; Indian reservations; international relations; interstate cooperation and compacts, except those relating to law enforcement and water compacts; relations with the federal government; relations with sovereign Indian tribes; telecommunications; and utilities other than municipal utilities.

**Fish, Wildlife, and Parks:** Fish; fishing; hunting; outdoor recreation; parks other than those owned by local governments; relations with federal and state governments concerning fish and wildlife; Virginia City and Nevada City; water sports; and wildlife.

**Human Services:** Developmentally disabled persons; disabled persons; health; health and disability insurance; housing; human services; mental illness or incapacity; retirement other than pensions and pension plans; senior citizens; tobacco regulation other than taxation; and welfare.

**Judiciary:** Abortion; arbitration and mediation; civil procedure; constitutional amendments; consumer protection; contracts; corrections; courts; criminal law; criminal procedure; discrimination; evidence; family law; fees imposed by or relating to the court system; guaranty; human rights; impeachment; indemnity; judicial system; landlord and tenant; law enforcement; liability and immunity from liability; minors; practice of law; privacy; property law; religion other than in schools; state law library; surety; torts; and trusts and estates.

**Legislative Administration:** Interim committees and matters related to legislative administration, staffing patterns, budgets, equipment, operations, and expenditures.

**Local Government:** Cities; consolidated governments; counties; libraries and parks owned or operated by local governments; local development; local

government finance and revenue; local government officers and employees, local planning; special districts and other political subdivisions, except school districts; towns; and zoning.

**Natural Resources:** Board of Land Commissioners; dams, except for electrical generation; emission standards; environmental protection; extractive activities; fires and fire protection, except for a local government fire department; forests and forestry; hazardous waste; mines and mining; natural gas; natural resources; oil; pollution; solid waste; state land, except state parks; water and water rights; water bodies and water courses; and water compacts.

**Rules:** House rules; joint rules; legislative procedure; jurisdictions of committees; and rules of decorum.

**State Administration:** Administrative rules; arts and antiquities; ballots; elections; initiative and referendum procedures; military affairs; public contracts and procurement; public employee retirement systems; state buildings; state employees; state employee benefits; state equipment and property, except state lands and state parks; state government generally; state-owned libraries other than the state law library; veterans; and voting.

**Taxation:** Taxes other than fuel taxes.

**Transportation:** Fuel taxes; highways; railroads; roads; traffic regulation; transportation generally; vehicles; and vehicle safety.

(2) If a select committee is created to address a specific subject, then bills relating to that subject must be assigned to the select committee.

(3) (a) If legislation deals with more than one subject and the subjects are assigned to more than one committee, the bill must be assigned to a class one committee before a class two committee and to a class two committee before a class three committee. If there is a conflict of subjects between the same class of committees, then the bill must be assigned by the Speaker.

(b) If a bill contains substantive provisions dealing with policy and an appropriation, the bill must be referred to the committee with jurisdiction over the subject addressed in the policy provisions. If the bill is reported from the committee to which it was assigned, the Speaker may rerefer the bill to the Appropriations Committee. The referral must be announced to the House. The rereferral does not require action or approval by the House, but may be overturned by a majority vote.

(4) If a committee chair upon consultation with the vice chair determines that the committee cannot effectively process all bills assigned to the committee because of time limitations, the chair shall, in writing, request the Speaker to reassign specific bills. The Speaker shall reassign the bills to an appropriate committee. The reassignments must be announced to the House. The reassignments do not require action or approval by the House, but may be overturned by a three-fifths vote.

Adopted January 9, 2013

## HOUSE RESOLUTION NO. 2

A RESOLUTION OF THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA PROVIDING RECOMMENDATIONS ON THE LEGISLATIVE REDISTRICTING PLAN TO THE MONTANA DISTRICTING AND APPORTIONMENT COMMISSION.

WHEREAS, the Montana Districting and Apportionment Commission submitted its legislative redistricting plan to the Legislature on January 8, 2013, as required by Article V, section 14, of the Montana Constitution; and

WHEREAS, the Commission adopted criteria to guide the drawing of district lines that preserve the principle of “one person, one vote”; and

WHEREAS, the House of Representatives commends the Commission for establishing a maximum 3% population deviation, which surpasses the standard of a 5% population deviation; and

WHEREAS, the Commission formed districts that successfully comply with all requirements of the federal Voting Rights Act and that protect the voting rights of minority populations; and

WHEREAS, the House of Representatives contends that criteria directing the creation of compact and contiguous districts that preserve communities of interest and, when possible, follow the lines of political and geographic boundaries have not been satisfactorily adhered to; and

WHEREAS, the House of Representatives contends that the proposed plan does not pass a general appearance test regarding compactness in numerous instances, particularly House Districts 23 and 24 in Cascade County, House Districts 47, 48, 49, and 50 in Yellowstone County, House District 66 in Gallatin County, House District 81 in Lewis and Clark County, and House District 96 in Missoula County; and

WHEREAS, the House of Representatives contends that the proposed plan fractures communities of interest in House Districts 21, 23, 77, 78, 82, and 84; and

WHEREAS, the House of Representatives contends that pairings of House Districts made to form Senate Districts fracture communities of interest, particularly the assignments of House Districts 73, 74, 75, 76, 77, and 79 in Deer Lodge, Jefferson, and Silver Bow Counties; and

WHEREAS, the House of Representatives contends that holdover Senator Webb is assigned to a Senate District predominantly composed of citizens who have never had the opportunity to vote for him, when it is possible to assign him to a district that includes significant populations from his original Senate District; and

WHEREAS, the Legislature is required to return the plan to the Commission with its recommendations on or before February 7, 2013.

**NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:**

That the House of Representatives urges the passage of amendments necessary for the Legislative Redistricting Plan to conform to the Commission’s established criteria. To this end, the House of Representatives recommends that the Commission consider the following amendments:

(1) redraw House Districts 21 and 23 in Cascade County, House Districts 47, 48, 49, and 50 in Yellowstone County, House District 66 in Gallatin County, House Districts 82 and 84 in Lewis and Clark County, and House District 96 in Missoula County to better meet the standard of a general appearance test regarding compactness. A compact district would be more square-like, as opposed to a long rectangle.

(2) preserve both compactness and communities of interest by reassigning the following House Districts into Senate District pairings: House Districts 73 and 76, House Districts 74 and 77, and House Districts 75 and 78. The House

District lines for Districts 74 and 77 should be moved together in order to meet the contiguous standard in the Commission's criteria.

(3) redraw House Districts 77 and 78 to keep the town of Anaconda whole; and

(4) reassign Senator Webb from Senate District 23 to Senate District 22.

BE IT FURTHER RESOLVED, that a copy of this resolution be kept on file by the Secretary of State and that copies be sent by the Secretary of State to the presiding officer and each member of the Montana Districting and Apportionment Commission.

Adopted February 4, 2013

### HOUSE RESOLUTION NO. 5

A RESOLUTION OF THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA INVITING FIREARMS MANUFACTURERS AND FIREARMS ACCESSORY MANUFACTURERS THREATENED BY HOSTILE LAWS IN OTHER STATES TO MOVE TO MONTANA.

WHEREAS, some states have enacted laws or are considering enacting laws that would prohibit the possession of certain firearms or of certain firearms accessories; and

WHEREAS, these laws may make it impossible for existing manufacturers to remain in or legally do business in those states; and

WHEREAS, many firearms and firearms accessory manufacturers are examining options for relocating their manufacturing to a more firearms-friendly location; and

WHEREAS, Montana is a firearms-friendly state with a good legal infrastructure for firearms possession, use, and manufacture; and

WHEREAS, Montana has a well-educated workforce of people with a strong work ethic and with a culture of firearms knowledge and tolerance; and

WHEREAS, Montana offers space, beauty, and a great place to live and work.

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That Montana says to threatened firearms manufacturers and firearms accessory manufacturers: "Come to Montana. We want you here!".

BE IT FURTHER RESOLVED, that Montana says: "Montana is open for business for manufacturers of firearms and firearms accessories".

BE IT FURTHER RESOLVED, that the Secretary of State is encouraged to coordinate with firearms-related groups and businesses existing in Montana to develop contacts with manufacturers of firearms and firearms accessories in other states and deliver this resolution to them.

BE IT FURTHER RESOLVED, that Governor Steve Bullock is urged to actively seek out any manufacturers of firearms and firearms accessories to encourage them to move to Montana and to aid these manufacturers in relocation in whatever way may be possible.

Adopted April 8, 2013

## Senate Joint Resolutions

### SENATE JOINT RESOLUTION NO. 1

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA ADOPTING THE JOINT LEGISLATIVE RULES.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the following Joint Rules be adopted:

#### JOINT RULES OF THE MONTANA SENATE AND HOUSE OF REPRESENTATIVES

##### CHAPTER 10

##### Administration

**10-10. Time of meeting.** Each house may order its time of meeting.

**10-20. Legislative day — duration.** (1) If either house is in session on a given day, that day constitutes a legislative day.

(2) A legislative day for a house ends either 24 hours after that house convenes for the day or at the time the house convenes for the following legislative day, whichever is earlier.

**10-30. Schedules.** The presiding officer of each house shall coordinate its schedule to accommodate the workload of the other house.

**10-40. Adjournment — recess — meeting place.** A house may not, without the consent of the other, adjourn or recess for more than 3 days or to any place other than that in which the two houses are sitting (Montana Constitution, Art. V, Sec. 10(5)). 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. (section 2-2-112, MCA)

**10-70. Telephone calls and internet access.** (1) Long-distance telephone calls made by a member while the Legislature is in session or while the member is in travel status are considered official legislative business. These include but are not limited to calls made to constituencies, places of business, and family members. A member's access to the internet through a permissible server is a proper use of the state communication system if the use is for legislative business or is within the scope of permissible use of long-distance telephone calls.

(2) Session staff, including aides and interns, may use telephones for long-distance calls only if specifically authorized to do so by their legislative sponsor or supervisor. Sponsoring members and supervisors are accountable for use of state telephones and internet access by their staff, including aides and interns, and may not authorize others to use state phones or state servers to access the internet.

(3) Permanent staff of the Legislature shall comply with executive branch rules applying to the use of state telephones.

**10-80. Joint employees.** The presiding officers of each house, acting together, shall:

(1) hire joint employees; and

(2) review a dispute or complaint involving the competency or decorum of a joint employee, and dismiss, suspend, or retain the employee.

**10-85. Harassment prohibited — 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.



**10-90. Legislative interns.** Qualifications for legislative interns are specified in Title 5, chapter 6, MCA.

**10-100. Legislative Services Division.** (1) The staff of the Legislative Services Division shall serve both houses as required.

(2) Staff members shall:

(a) maintain personnel files for legislative employees; and

(b) prepare payrolls for certification and signature by the presiding officer and prepare a monthly financial report.

(3) The Legislative Services Division shall train journal clerks for both houses.

**10-120. Engrossing and enrolling staff — duties.** (1) The Legislative Services Division shall provide all engrossing and enrolling staff.

(2) The duties of the engrossing and enrolling staff are:

(a) to engross or enroll any bill or resolution delivered to them within 48 hours after it has been received, unless further time is granted in writing by the presiding officer of the house in which the bill originated; and

(b) to correct clerical errors, absent the objection of the sponsor of a bill, resolution, or amendment and the Secretary of the Senate or the Chief Clerk of the House of Representatives in any bill or amendment originating in the house by which the Clerk or Secretary is employed. The following kinds of clerical errors may be corrected:

(i) errors in spelling;

(ii) errors in numbering sections;

(iii) additions or deletions of underlining or lines through matter to be stricken;

(iv) material copied incorrectly from the Montana Code Annotated;

(v) errors in outlining or in internal references;

(vi) an error in a title caused by an amendment;

(vii) an error in a catchline caused by an amendment;

(viii) errors in references to the Montana Code Annotated; and

(ix) other nonconformities of an amendment with Bill Drafting Manual form.

(3) The engrossing and enrolling staff shall give notice in writing of the clerical correction to the Secretary of the Senate or the Chief Clerk of the House, who shall give notice to the sponsor of the bill or amendment. The form must be filed in the office of the amendments coordinator. A party receiving notice may register an objection to the correction by filing the objection in writing with the Secretary of the Senate or the Chief Clerk of the House by the end of the next legislative day following receipt of the notice. The Senate or House shall vote on whether or not to uphold the objection. If the objection is upheld, the Secretary of the Senate or the Chief Clerk of the House shall notify the Executive Director of the Legislative Services Division, and the engrossing staff shall change the bill to remove the correction or corrections to which the objection was made.

(4) For the purposes of this rule, “engrossing” means placing amendments in a bill.

**10-130. Bills — sponsorship — style — format — withdrawal prohibited.** (1) A bill must be sponsored by a member of the Legislature.

(2) A bill must be:

(a) printed on paper with numbered lines;

- (b) numbered at the foot of each page (except page 1);
- (c) backed with a page of substantial material that includes spaces for notations for tracking the progress of the bill; and
- (d) introduced. Introduction constitutes the first reading of the bill.
- (3) In a section amending an existing statute, matter to be stricken out must be indicated with a line through the words or part to be deleted, and new matter must be underlined.
- (4) Sections of the Montana Code Annotated repealed or amended in a bill must be stated in the title.
- (5) Introduced bills must be reproduced on white paper and distributed to members.
- (6) An introduced bill may not be withdrawn.

**10-140. Voting 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 conforming to section 2-3-212(2), MCA, must also be kept.

**10-160. Journal.** Each house shall:

- (1) supply the Legislative Services Division with the contents of the daily journal to be stored on an automated system;
- (2) examine its journal and order correction of any errors; and
- (3) make a daily journal available to all members.

**10-170. Journals — authentication — availability.** (1) The journal of the Senate must be authenticated by the signature of the President and the journal of the House of Representatives must be authenticated by the signature of the Speaker.

(2) The Legislative Services Division shall make the completed journals available to the public (sections 5-11-201 through 5-11-203, MCA).

#### CHAPTER 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. (5-5-227, MCA)

(2) For the 2013 legislative session only, in the event that the Revenue and Transportation Interim Committee has not caused a revenue estimating resolution to be introduced in accordance with 5-5-227, MCA, a Senate joint resolution must be introduced by the chair of the Senate Taxation Committee for the purpose of estimating revenue that may be available for appropriation by the Legislature.

(3) The Senate shall transmit the Senate joint resolution on the revenue estimate to the House no later than the 15th legislative day. The Senate joint resolution does not constitute the Legislature's revenue estimate until adopted and passed by the House with any House amendments concurred in by the Senate.

**30-70. Appointment of interim committees.** As provided for in section 5-5-211(6), MCA, 50% of interim committees must be selected from the following legislative standing committees:

(1) Economic Affairs Interim Committee:

(a) Senate Agriculture, Livestock, and Irrigation Committee;

(b) Senate Business, Labor, and Economic Affairs Committee;

(c) Senate Finance and Claims Committee;

(d) House Agriculture Committee;

(e) House Business and Labor Committee;

(f) House Federal Relations, Energy, and Telecommunications Committee;  
and

- (g) House Appropriations Committee;
- (2) Education and Local Government Interim Committee:
  - (a) Senate Education and Cultural Resources Committee;
  - (b) Senate Local Government Committee;
  - (c) Senate Finance and Claims Committee;
  - (d) House Education Committee;
  - (e) House Local Government Committee; and
  - (f) House Appropriations Committee;
- (3) Children, Families, Health, and Human Services Interim Committee:
  - (a) Senate Public Health, Welfare, and Safety Committee;
  - (b) Senate Finance and Claims Committee;
  - (c) House Human Services Committee; and
  - (d) House Appropriations Committee;
- (4) Law and Justice Interim Committee:
  - (a) Senate Judiciary Committee;
  - (b) Senate Finance and Claims Committee;
  - (c) House Judiciary Committee; and
  - (d) House Appropriations Committee;
- (5) Revenue and Transportation Interim Committee:
  - (a) Senate Taxation Committee;
  - (b) Senate Highways and Transportation Committee;
  - (c) Senate Finance and Claims Committee;
  - (d) House Taxation Committee;
  - (e) House Transportation Committee; and
  - (f) House Appropriations Committee;
- (6) State Administration and Veterans' Affairs Interim Committee:
  - (a) Senate State Administration Committee;
  - (b) Senate Finance and Claims Committee;
  - (c) House State Administration Committee; and
  - (d) House Appropriations Committee;
- (7) Energy and Telecommunications Interim Committee:
  - (a) Senate Energy Committee;
  - (b) House Federal Relations, Energy, and Telecommunications Committee;
  - (c) House Appropriations Committee; and
  - (d) Senate Finance and Claims Committee.

#### CHAPTER 40

##### Legislation

**40-10. Amendment to state constitution.** A bill must be used to propose an amendment to The Constitution of the State of Montana. The bill is not subject to the veto of the Governor (Montana Constitution, Art. VI, Sec. 10(1)).

**40-20. Appropriation bills — 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 (sections 1-2-201 and 1-2-202, MCA).

**40-40. Bill requests and introduction — limits and procedures — drafting priority — agency and committee bills.** (1) Prior to a regular session, a person entitled to serve in that session, referred to as a “member”, or a legislative committee is entitled to request bill drafting services from the Legislative Services Division. Deadlines for requesting certain types of bills during a legislative session are contained in Joint Rule 40-50.

(a) Prior to 5 p.m. on December 5 preceding a regular session of the Legislature, a member may request an unlimited number of bills and resolutions to be prepared by the Legislative Services Division for introduction in the regular session.

(b) After 5 p.m. on December 5, a member may request no more than seven bills or resolutions to be prepared by the Legislative Services Division. At least five of the seven bills or resolutions must be requested before the regular session convenes.

(c) After December 5, a member, in the member’s discretion, may grant to any other member any of the remaining bill or resolution requests the granting member has not used. A bill requested by an individual may not be transferred to another legislator but may be introduced by another legislator. The requestor must pick up the bill and sign a receipt indicating delivery of the bill and may either introduce the bill or give the bill to another legislator for introduction.

(d) These limitations on bill and resolution requests do not apply to:

(i) Code Commissioner bills;

(ii) a bill or resolution requested by a standing committee; and

(iii) a bill or resolution requested by a member at the request of a newly elected state official if so designated.

(2) (a) Except as provided in subsection (2)(b) or this subsection, the staff of the Legislative Services Division shall work on bill draft requests in the order received. After a member has requested the drafting of five bills, the sixth bill request and all subsequent bill requests of that member must receive a lower drafting priority than all other bills of members not in excess of five per member. The Speaker of the House, the minority leader of the House, the President of the Senate, and the minority leader of the Senate may each direct the staff of the Legislative Services Division to assign a higher priority to 20 draft requests. The staff of the Legislative Services Division shall assign a higher priority to any bill draft request when jointly directed by the President of the Senate, the minority leader of the Senate, the Speaker of the House, and the minority leader of the House.

(b) Except for bill draft requests described in subsection (1)(d)(iii), if a draft bill has not been received by the Legislative Services Division by November 15



for a bill by request of an agency or entity, the draft loses its priority under this rule.

(3) Bills and resolutions must be reviewed by the staff of the Legislative Services Division prior to introduction for proper format, style, and legal form. The staff of the Legislative Services Division shall store bills on the automated bill drafting equipment and shall print and deliver them to the requesting members. The original bill back must be signed to indicate review by the Legislative Services Division. A bill may not be introduced unless it is so signed.

(4) (a) During a session, a bill may be introduced by endorsing it with the name of a member and presenting it to the Chief Clerk of the House of Representatives or the Secretary of the Senate. Bills or joint resolutions may be sponsored jointly by Senate and House members. A jointly sponsored bill must be introduced in the house in which the member whose name appears first on the bill is a member. The chief joint sponsor's name must appear immediately to the right of the first sponsor's name, and the chief sponsor may not be changed. Except as provided in subsection (4)(b), in each session of the Legislature, bills, joint resolutions, and simple resolutions must be numbered consecutively in separate series in the order of their receipt.

(b) The first 15 House bills may be reserved for preintroduced bills.

(5) (a) Any bill 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. Except as provided in subsection (5)(b), an agency or committee bill request must be preintroduced or the request is canceled. Preintroduction of an agency, committee, or individual legislator's bill must occur no later than 5 p.m. on December 15th prior to the convening of a regular legislative session. Preintroduction is accomplished when the Legislative Services Division receives a signed preintroduction form.

(b) The preintroduction requirement does not apply to an office held by an elected official during the official's first year in that office or to bills requested by a joint select or joint special committee appointed prior to the convening of the legislative session to address a specific issue. Bills requested under this subsection (5)(b) may include the phrase "By Request of.....(Name of official or 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.** (1) The following schedule must be followed for submission of drafting requests.

Request Deadline

5:00 P.M.  
Legislative Day

• General Bills and Resolutions	12
• Revenue Bills	17
• Committee Bills and Resolutions	36
• Committee Revenue Bills and Bills Proposing Referenda	62
• Committee Bills implementing provisions of a general appropriation act	67
• Interim study resolutions	60
• Appropriation Bills	45
• Resolutions to express confirmation of appointments	No Deadline
• Bills repealing or directing the amendment or adoption of administrative rules and joint resolutions advising or requesting the repeal, amendment, or adoption of administrative rules	No Deadline

(2) Bills and resolutions must be introduced within 2 legislative days after delivery. Failure to comply with the introduction deadline results in the bill draft being canceled.

**40-60. Joint resolutions.** (1) A joint resolution must be adopted by both houses and is not approved by the Governor. It may be used to:

- (a) express desire, opinion, sympathy, or request of the Legislature;
- (b) recognize relations with other governments, sister states, political subdivisions, or similar governmental entities;
- (c) request, but not require, a legislative entity to conduct an interim study;
- (d) adopt, amend, or repeal the joint rules;
- (e) approve construction of a state building under section 18-2-102 or 20-25-302, MCA;
- (f) deal with disasters and emergencies under Title 10, specifically as provided in sections 10-3-302(3), 10-3-303(3), 10-3-303(4), and 10-3-505(5), MCA;
- (g) submit a negotiated settlement under section 39-31-305(3), MCA;
- (h) declare or terminate an energy emergency under section 90-4-310, MCA;
- (i) ratify or propose amendments to the United States Constitution;
- (j) advise or request the repeal, amendment, or adoption of a rule in the Administrative Rules of Montana; or
- (k) approve the organization of a new community college district under section 20-15-209, MCA.

(2) A joint resolution may not be used for purposes of congratulating or recognizing an individual or group achievement. Recognition of individual or group achievements is handled on special orders of the day.

(3) Except as otherwise provided in these rules or The Constitution of the State of Montana, a joint resolution is treated in all respects as a bill.

(4) A copy of every joint resolution must be transmitted after adoption to the Secretary of State by the Secretary of the Senate or the Chief Clerk of the House.

**40-65. Appropriation required for bills requesting interim studies.** A bill including a request for an interim study may not be transmitted to the Governor unless the bill contains an appropriation sufficient to conduct the study. A fiscal note may be requested for a bill requesting an interim study if the appropriation does not appear to be sufficient.

**40-70. Bills with same purpose — vetoes.** (1) A bill may not be introduced or received in a house after that house, during that session, has finally rejected a bill designed to accomplish the same purpose, except with the approval of the Rules Committee of the house in which the bill is offered for introduction or reception.

(2) Failure to override a veto does not constitute final rejection.

**40-80. Reproduction of full statute required.** A statute may not be amended or its provisions extended by reference to its title only, but the statute section that is amended or extended must be reproduced or published at length.

**40-90. Bills — original purpose.** A law may not be passed except by bill. A bill may not be so altered or amended on its passage through either house as to change its original purpose (Montana Constitution, Art. V, Sec. 11(1)).

**40-100. Fiscal notes.** (1) As provided in Title 5, chapter 4, part 2, MCA, all bills reported out of a committee of the Legislature, including interim committees, having a potential effect on the revenues, expenditures, or fiscal liability of the state, local governments, or public schools, except appropriation measures carrying specific dollar amounts, must include a fiscal note incorporating an estimate of the fiscal effect. The Legislative Services Division staff shall indicate at the top of each bill prepared for introduction that a fiscal note may be necessary under this rule. Fiscal notes must be requested by the presiding officer of either house, who, at the time of introduction or after adoption of substantive amendments to an introduced bill, shall determine the need for the note, based on the Legislative Services Division staff recommendation.

(2) The Legislative Services Division shall make available an electronic copy of any bill for which it has been determined a fiscal note may be necessary to the Budget Director immediately after the bill has been prepared for introduction and delivered to the requesting member. The Budget Director may proceed with the preparation of a fiscal note in anticipation of a subsequent formal request. A bill with financial implications for a local government or school district must comply with subsection (4).

(3) The Budget Director, in cooperation with the governmental entity or entities affected by the bill, is responsible for the preparation of the fiscal note. Except as provided in subsection (4), the Budget Director shall return the fiscal note within 6 days unless further time is granted by the presiding officer or committee making the request, based upon a written statement from the Budget Director that additional time is necessary to properly prepare the note.

(4) (a) A bill that may require a local government or school district to perform an activity or provide a service or facility that requires the direct expenditure of additional funds without a specific means to finance the activity, service, or facility in violation of section 1-2-112 or 1-2-113, MCA, must be accompanied, at the time that the bill is presented for introduction, by an estimate of all direct and indirect fiscal impacts on the local government or school district. The

estimate of the fiscal impacts must be prepared by the Budget Director in cooperation with a local government or school district affected by the bill.

(b) The Budget Director has 10 days to prepare the estimate. Upon completion of the estimate, the Budget Director shall submit it to the presiding officer and the chief sponsor of the bill.

(5) A completed fiscal note must be submitted by the Budget Director to the presiding officer who requested it. The presiding officer shall notify the bill's chief sponsor of the completed fiscal note and request the chief sponsor's signature. The chief sponsor has 1 legislative day after delivery to review the fiscal note and to discuss the findings with the Budget Director, if necessary. After the legislative day has elapsed, all fiscal notes must be reproduced and placed on the members' desks, either with or without the chief sponsor's signature.

(6) A fiscal note must, if possible, show in dollar amounts:

(a) the estimated increase or decrease in revenues or expenditures;

(b) costs that may be absorbed without additional funds; and

(c) long-range financial implications.

(7) The fiscal note may not include any comment or opinion relative to merits of the bill. However, technical or mechanical defects in the bill may be noted.

(8) A fiscal note also may be requested, with the approval of the presiding officer, on a bill and on an amended bill by:

(a) a committee considering the bill;

(b) a majority of the members of the house in which the bill is to be considered, at the time of second reading; or

(c) the chief sponsor.

(9) The Budget Director shall prepare and deliver an amended fiscal note on an amended bill within 3 days of the request by the presiding officer; otherwise the bill may proceed without the updated fiscal note.

(10) The Budget Director shall make available on request to any member of the Legislature all background information used in developing a fiscal note.

(11) If a bill requires a fiscal note, the bill may not be reported from a committee for second reading unless the bill is accompanied by the fiscal note.

**40-110. Sponsor's fiscal note rebuttal.** (1) If a sponsor elects to prepare a sponsor's fiscal note rebuttal pursuant to section 5-4-204, MCA, the sponsor shall make the election as provided and return the completed sponsor's fiscal note rebuttal form to the presiding officer within 4 days of the election. The form must identify the bill number, the sponsor of the bill, the date prepared, the version of the fiscal note being rebutted, the reasons the sponsor disagrees with the fiscal note, the items or assumptions in the fiscal note that the sponsor believes are incorrect, and the sponsor's estimate of the fiscal impact, if an estimate is available.

(2) The presiding officer may grant additional time to the sponsor for preparation of the sponsor's fiscal note rebuttal.

(3) Upon receipt of the completed sponsor's fiscal note rebuttal form, the presiding officer shall refer it to the committee hearing the bill. If the bill is printed, the form must be identified as a sponsor's fiscal note rebuttal, reproduced, and placed on the members' desks.

(4) The Legislative Services Division shall provide forms for preparation of sponsors' fiscal note rebuttals and shall print the completed sponsors' fiscal note

rebuttal forms on a different color paper than the fiscal notes prepared by the Budget Director.

**40-120. Substitute bills.** (1) A committee may recommend that every clause in a bill be changed and that entirely new material be substituted so long as the new material is relevant to the title and subject of the original bill. The substitute bill is considered an amendment and not a new bill.

(2) The proper form of reporting a substitute bill by a committee is to propose amendments to strike out all of the material following the enacting clause, to substitute the new material, and to recommend any necessary changes in the title of the bill.

(3) If a committee report is adopted that recommends a substitute for a bill originating in the other house, the substitute bill must be printed and reproduced.

**40-130. Reading of bills.** Prior to passage, a bill, other than a bill requested by a joint select or joint special committee as provided in 40-40(5)(b), must be read three times in the house in which it is under consideration. It may be read either by title or by summary of title. Introduction constitutes the first reading of the bill.

**40-140. Second reading — bill reproduction.** (1) If the majority of a house adopts a recommendation for the passage of a bill originating in that house after the bill has been returned from a committee with amendments, the bill must be reproduced on yellow paper with all amendments incorporated into the copies.

(2) If a bill has been returned from a committee without amendments, only the first sheet must be reproduced on yellow paper, and the remainder of the text may be incorporated by reference to the preceding version of the entire bill.

(3) A bill requested by and heard by a joint select or joint special committee, as provided in 40-40(5)(b), may be referred directly to second reading. If the bill is passed by the house of origin, the bill must be transmitted to the other house, and if the bill was not amended, it may be placed on second reading without the need for referral to a committee.

**40-150. Engrossing.** (1) When a bill has been reported favorably by Committee of the Whole of the house in which it originated and the report has been adopted, the bill must be engrossed if the bill is amended. Committee of the Whole amendments must be included in the engrossed bill. If the bill is not amended, the bill must be sent to printing. The bill must be placed on the calendar for third reading on the legislative day after receipt.

(2) Copies of the engrossed bill to be distributed to members are reproduced on blue paper. If a bill is unamended by the Committee of the Whole and contains no clerical errors, it is not required to be reprinted. Only the first sheet must be reproduced on blue paper, with the remainder of the text incorporated by reference to the preceding version of the entire bill.

(3) If a bill is amended by a standing committee in the second house, the amendments must be included in a tan-colored bill and distributed in the second house for second reading consideration. If the bill is amended in Committee of the Whole, the amendments must be included in a salmon-colored reference bill and distributed in the second house for third reading. If the bill passes on third reading, copies of the reference bill must be distributed in the original house. The original house may request from the second house a specified number of copies of the amendments to be printed.

**40-160. Enrolling.** (1) When a bill has passed both houses, it must be enrolled. An original and two duplicate printed copies of the bill must be enrolled, free from all errors, with a margin of two inches at the top and one inch on each side. In sections amending existing statutes, new matter must be underlined and deleted matter must be shown as stricken.

(2) When the enrolling is completed, the bill must be examined by the sponsor.

(3) The correctly enrolled bill must be delivered to the presiding officer of the house in which the bill originated. The presiding officer shall sign the original and two copies of each bill not later than the next legislative day after it has been reported correctly enrolled, unless the bill is delivered on the last legislative day, in which case the presiding officer shall sign it that day. The fact of signing must be announced by the presiding officer and entered upon the journal no later than the next legislative day. At any time after the report of a bill correctly enrolled and before the signing, if a member signifies a desire to examine the bill, the member must be permitted to do so. The bill then must be transmitted to the other house where the same procedure must be followed.

(4) A bill that has passed both houses of the Legislature by the 90th day may be:

- (a) enrolled;
- (b) clerically corrected by the presiding officers, if necessary;
- (c) signed by the presiding officers; and

(d) delivered to the Governor or, in the case of a bill proposing a referendum, to the Secretary of State, not later than 5 working days after the 90th legislative day.

(5) All journal entries authorized under this rule must be entered on the journal for the 90th day.

(6) The original and two copies signed by the presiding officer of each house must be presented to the Governor or the Secretary of State, as applicable, in return for a receipt. A report then must be made to the house of the day of the presentation, which must be entered on the journal.

(7) The original must be filed with the Secretary of State. Signed copies with chapter numbers assigned pursuant to section 5-11-204, MCA, must be filed with the Clerk of the Supreme Court and the Legislative Services Division.

**40-170. Amendment by second house.** (1) Amendments to a bill by the second house may not be further amended by the house in which the bill originated, but must be either accepted or rejected. A bill amended by the second house when the effect of the combined amendments is to return the bill to the form that the bill passed the house in which the bill originated is not considered to have been amended and need not be returned to the house of origin for acceptance or rejection of the amendments. If the amendments are rejected, a conference committee may be requested by the house in which the bill originated. If the amendments are accepted and the bill is of a type requiring more than a majority vote for passage, the bill again must be placed on third reading in the house of origin.

(2) The vote on third reading after concurrence in amendments is the vote of the house of origin that must be used to determine if the required number of votes has been cast.

**40-180. Final action on a bill.** (1) When a bill being heard by the second house has received its third reading or has been rejected, the second house shall



transmit it as soon as possible to the original house with notice of the second house's action.

(2) A bill that reduces revenue and that contains a contingent voidness provision may not be transmitted to the Governor unless there is an identified corresponding reduction in an appropriation contained in the general appropriations act.

**40-190. Transmittal of bills between houses — 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 must be referred to committee and scheduled for hearing.

**40-200. Transmittal deadlines — two-thirds vote requirement.** (1) (a) A bill or amendment transmitted after the deadline established in this subsection (1) may be considered by the receiving house only upon approval of two-thirds of its members present and voting. If the receiving house does not so vote, the bill or amendment must be held pending in the house to which it was transmitted.

(b) (i) A bill, except for an appropriation bill, a revenue bill, a bill proposing a referendum, an interim study resolution, or amendments considered by joint committee, must be transmitted from one house to the other on or before the 45th legislative day.

(ii) Amendments, except to appropriation bills, committee bills implementing the general appropriations bill, the revenue estimating resolution, interim study resolutions, bills proposing referenda, and revenue bills, must be transmitted from one house to the other on or before the 73rd legislative day.

(c) (i) Revenue bills and bills proposing referenda must be transmitted to the other house on or before the 71st legislative day.

(ii) Amendments to revenue bills and bills proposing referenda, received from the other house, must be transmitted to the house of origin on or before the 82nd legislative day.

(iii) A revenue bill is one that either increases or decreases revenue by enacting, eliminating, increasing, or decreasing taxes, fees, or fines or by suspending or otherwise changing the allocation of revenues.

(d) (i) Appropriation bills and any bill implementing provisions of a general appropriation bill must be transmitted to the Senate on or before the 67th legislative day. A fund transfer within the state treasury is not an appropriation for purposes of this section.

(ii) Senate amendments to appropriation bills must be transmitted by the Senate to the House on or before the 80th legislative day.

(2) (a) A joint resolution introduced pursuant to 5-5-227, MCA, for the purpose of estimating revenue available for appropriation by the Legislature must be transmitted to the Senate no later than the 60th legislative day.

(b) Amendments to the revenue estimating resolution must be transmitted to the body in which the resolution was introduced no later than the 82nd legislative day.

(3) Bills repealing or directing the amendment or adoption of administrative rules and joint resolutions advising or requesting the repeal, amendment, or adoption of administrative rules may be transmitted at any time during a session.

(4) Interim study resolutions must be transmitted from one house to the other on or before the 85th legislative day.

**40-210. Governor's veto.** (1) Except as provided in 40-65 and 40-180, each bill passed by the Legislature must be submitted to the Governor for the Governor's signature. This does not apply to:

- (a) bills proposing amendments to The Constitution of the State of Montana;
- (b) bills ratifying proposed amendments to the United States Constitution;
- (c) resolutions; and
- (d) referendum measures of the Legislature.

(2) If the Governor does not sign or veto the bill within 10 days after its delivery, the bill becomes law.

(3) The Governor shall return a vetoed bill to the Legislature with a statement of reasons for the veto.

(4) If after receipt of a veto message, two-thirds of the members of each house present approve the bill, it becomes law.

(5) If the Legislature is not in session when the Governor vetoes a bill, the Governor shall return the bill with reasons for the veto to the Legislature as provided by law. The Legislature may be polled on a bill that it approved by two-thirds of the members present or it may be reconvened to reconsider any bill so vetoed (Montana Constitution, Art. VI, Sec. 10).

(6) The Governor may veto items in appropriation bills, and in these instances the procedure must be the same as upon veto of an entire bill (Montana Constitution, Art. VI, Sec. 10).

**40-220. Response to Governor's veto.** (1) When the presiding officer receives a veto message, the presiding officer shall read it to the members over the rostrum. After the reading, a member may move that the Governor's veto be overridden.

(2) A vote on the motion is determined by roll call. If two-thirds of the members present vote "aye", the veto is overridden. If two-thirds of the members present do not vote "aye", the veto is sustained.

**40-230. Governor's recommendations for amendment — 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

**60-10. Suspension of joint rule — change in rules.** (1) A joint rule may be repealed or amended only with the concurrence of both houses, under the procedures adopted by each house for the repeal or amendment of its own rules.

(2) A joint rule governing the procedure for handling bills may be temporarily suspended by the consent of two-thirds of the members of either house, insofar as it applies to the house suspending it.

(3) Any Rules Committee report recommending a change in the joint rules must be referred to the other house. Any new rule or any change in the rules of either house must be transmitted to the other house for informational purposes.

(4) Upon adoption of any change, the Secretary of the Senate and the Chief Clerk of the House of Representatives shall provide the office of the Legislative Services Division:

(a) one copy of all motions or resolutions amending Senate, House, or joint rules; and

(b) copies of all minutes and reports of the Rules Committees.

**60-20. Reference to Mason's Manual.** Mason's Manual of Legislative Procedure (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.** The joint rules remain in effect until removed by a joint resolution or until a new Legislature is elected and takes office.

Adopted January 18, 2013

**SENATE JOINT RESOLUTION NO. 2**

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA ESTABLISHING AN OFFICIAL ESTIMATE OF THE STATE'S GENERAL FUND REVENUE FOR FISCAL YEAR 2013 AND EACH FISCAL YEAR OF THE 2014-2015 BIENNIUM FOR THE PURPOSE OF ACHIEVING A BALANCED BUDGET AS REQUIRED BY ARTICLE VIII, SECTION 9, OF THE MONTANA CONSTITUTION; ACCEPTING AN UNASSIGNED GENERAL FUND BALANCE THAT WAS ESTABLISHED BASED ON GENERALLY ACCEPTED ACCOUNTING PRINCIPLES; ESTABLISHING OFFICIAL ESTIMATES OF CERTAIN NONGENERAL FUND REVENUE; AND REQUESTING THAT THE GOVERNOR'S OFFICE OF BUDGET AND PROGRAM PLANNING USE THE REVENUE ESTIMATES CONTAINED IN THIS RESOLUTION AS OFFICIAL REVENUE ESTIMATES FOR FISCAL YEARS 2013, 2014, AND 2015.

WHEREAS, Article VI, section 9, of the Montana Constitution requires the Governor to submit to the Legislature a budget for the ensuing fiscal period, containing in detail for all operating funds the proposed expenditures and estimated revenue of the state; and

WHEREAS, Article VIII, section 9, of the Montana Constitution prohibits the Legislature from appropriating funds in excess of the anticipated revenue of the state; and

WHEREAS, the Revenue and Transportation Interim Committee, which is required by section 5-5-227(2), MCA, to estimate the amount of revenue projected to be available for legislative appropriation and to introduce a resolution setting forth the Committee's current revenue estimate, did not introduce an estimate of the amount of revenue; and

WHEREAS, the proposed Joint Rules of the 63rd Legislature require the chair of the Senate Taxation Committee to prepare a revenue estimate for the purpose of estimating revenue that may be available for appropriation by the Legislature; and

WHEREAS, the Legislative Fiscal Analyst and the Executive Branch agencies assisted in the development of the revenue estimates; and

WHEREAS, the proposed Joint Rules of the 63rd Legislature provide that the Senate shall transmit the revenue estimate to the House no later than the 15th legislative day and that the Senate Joint Resolution does not constitute the Legislature's revenue estimate until passed by the House and any House amendments are concurred in by the Senate; and

WHEREAS, the amount of estimated revenue and the general fund balance affects policy decisions of the Executive Branch and the Legislative Branch; and

WHEREAS, the revenue estimates and the underlying assumptions contained in this resolution provide the basis for a comprehensive analysis of the state's revenue condition.

**NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:**

That the state general fund revenue for fiscal years 2013, 2014, and 2015 be estimated to be \$1,994,950,000, \$2,056,252,000, and \$2,137,410,000, respectively.

**BE IT FURTHER RESOLVED**, that the Legislature accepts for budget purposes the preliminary unassigned fiscal year 2012 fund balance of

\$452,400,000 for the general fund, prepared according to generally accepted accounting principles.

BE IT FURTHER RESOLVED, that the Legislature recommends that the Governor's Office of Budget and Program Planning use the revenue estimates and the underlying assumptions contained in this resolution as the official revenue estimates for fiscal years 2013, 2014, and 2015.

#### GENERAL FUND REVENUE

The projections for total general fund revenue for fiscal years 2013, 2014, and 2015 are based on the assumption of the continuation of Montana law as it existed on January 1, 2013, and on the assumption of the expiration of the federal Economic Growth and Tax Relief Act of 2001 (Pub. L. 107-16, 115 Stat. 38) and the Jobs and Growth Tax Relief Reconciliation Act of 2003 (Pub. L. 108-27, 117 Stat. 752). The revenue estimates contained in the following tables are based on the assumptions listed in the tables that follow the general fund estimates and the assumptions for each general fund revenue source contained in the "Legislative Budget Analysis, 2015 Biennium, Volume 2 — Revenue Estimates" prepared by the Legislative Fiscal Division.

Source of Revenue	Current Law General Fund Revenue Estimates (In Millions of Dollars)			
	Actual Fiscal 2012	Estimated Fiscal 2013	Estimated Fiscal 2014	Estimated Fiscal 2015
Individual Income Tax	898.851	983.953	1,039.160	1,104.898
Property Tax	236.662	241.741	246.621	254.664
Corporation License Tax	127.771	150.658	154.096	155.022
Vehicle Tax	83.871	84.608	85.070	85.651
Insurance Tax & License Fees	58.951	59.932	52.021	54.052
Coal Trust Interest	25.840	24.451	24.424	24.411
US Mineral Royalty	31.057	36.989	30.953	29.009
All Other Revenue	47.258	32.595	32.488	32.773
Tobacco Settlement	3.322	3.552	3.519	3.486
Telecommunications Excise Tax	21.459	22.606	23.236	23.823
Video Gambling Tax	53.824	57.706	59.929	62.117
Treasury Cash Account Interest	2.654	2.779	2.346	2.778
Estate Tax	0.060	0.000	0.000	0.000
Oil & Natural Gas Production Tax	97.560	98.750	99.336	97.427
Motor Vehicle Fee	16.084	16.225	16.314	16.425
Public Institution Reimbursements	14.562	16.332	17.663	18.301
Lodging Facility Use Tax	15.606	17.314	18.365	19.477
Coal Severance Tax	12.350	12.864	14.857	15.906
Liquor Excise & License Tax	17.037	18.206	19.284	20.431
Cigarette Tax	31.483	30.991	30.433	29.499
Investment License Fee	6.961	7.210	7.457	7.714
Lottery Profits	13.061	14.477	14.342	15.076
Liquor Profits	9.500	10.604	10.985	11.602
Nursing Facilities Fee	5.077	4.876	4.740	4.603
Electrical Energy Tax	4.481	4.442	4.521	4.565
Metalliferous Mines Tax	10.010	10.904	10.595	10.039

1871	MONTANA SESSION LAWS 2013			SJR 2
Highway Patrol Fines	4.385	4.427	4.467	4.508
Public Contractors Tax	(3.042)	1.140	3.259	3.259
Wholesale Energy Tax	3.427	4.038	4.140	4.217
Tobacco Tax	5.709	5.821	6.005	6.197
Driver's License Fee	4.369	3.867	4.389	3.923
Rental Car Sales Tax	3.420	3.539	3.632	3.744
Railroad Car Tax	2.273	2.157	2.320	2.437
Wine Tax	2.104	2.144	2.218	2.291
Beer Tax	2.956	3.052	3.067	3.085
Total General Fund	1,870.954	1,994.950	2,056.252	2,137.410

SIGNIFICANT ASSUMPTIONS FOR  
GENERAL FUND REVENUE ESTIMATES

Year Assumption	2012	2013	2014	2015
<b>Individual Income Tax</b>				
FY Income Tax Audit Collections (Millions)	\$28.307	\$36.193	\$37.255	\$38.046
CY Taxpayer Population (Percent Change)	0.67%	1.34%	1.34%	1.58%
<u>Income Indicators</u>				
CY Wage and Salary Income (Percent Change)	4.35%	3.17%	4.50%	5.07%
CY Net Farm Income (Percent Change)	-14.75%	60.25%	23.45%	5.74%
CY Interest Income (Percent Change)	-1.12%	1.03%	2.96%	6.16%
CY Dividend Income (Percent Change)	1.66%	13.08%	-1.88%	9.48%
CY Rent, Royalty, and Partnership Income (Percent Change)	3.12%	4.64%	8.96%	5.10%
CY Net Business Income (Percent Change)	4.74%	7.10%	-1.64%	2.17%
CY Capital Gains and Losses (Percent Change)	28.89%	3.39%	3.40%	10.88%
CY Supplemental Gains (Percent Change)	16.28%	2.94%	8.32%	7.99%
CY Social Security Income (Percent Change)	3.02%	3.90%	8.51%	6.97%
CY IRA Income (Percent Change)	9.95%	10.76%	12.05%	11.75%
CY Pension Income (Percent Change)	5.09%	5.58%	7.00%	7.49%
CY Other Income (Percent Change)	0.00%	0.00%	0.00%	0.00%
CY Bond Interest (Percent Change)	16.04%	-1.08%	-7.29%	-5.60%
CY Federal Income Tax Refunds (Percent Change)	0.00%	0.00%	0.00%	0.00%
CY Other Additions to Income (Percent Change)	11.75%	12.78%	13.51%	14.20%
CY IRA Reduction (Percent Change)	0.95%	0.98%	0.99%	0.99%
CY Reductions to Income (Percent Change)	-1.37%	11.35%	11.87%	12.31%
CY Other Reductions to Income (Percent Change)	12.67%	12.96%	13.34%	13.71%



<u>Deductions From Income</u>					
CY	Medical Premiums (Percent Change)	5.36%	5.36%	5.36%	5.36%
CY	Medical Deductions (Percent Change)	4.10%	4.10%	4.10%	4.10%
CY	Real Estate Tax (Percent Change)	5.22%	5.22%	5.22%	5.22%
CY	Other Taxes (Percent Change)	1.15%	1.15%	1.15%	1.15%
CY	Home Mortgage (Percent Change)	3.62%	3.62%	3.62%	3.62%
CY	Contributions (Percent Change)	6.72%	6.82%	6.92%	7.01%
CY	Gambling Losses (Percent Change)	10.32%	10.32%	10.32%	10.32%
FY	Bonus Depreciation (Millions)		\$0.529	\$0.418	\$0.274
CY	Homeowner and Renter Credit (Millions)	\$10.786	\$10.786	\$10.786	\$10.786
CY	All Other Credits (Percent Change)	30.62%	5.80%	6.21%	7.32%
<u>Other Individual Income Tax Assumptions</u>					
CY	All Filers Liability (Millions)	\$842.262	\$887.531	\$940.049	\$1,005.320
CY	Current Calendar Year to Fiscal Year Conversion	50.0%	50.0%	50.0%	50.0%
CY	Previous Calendar Year to Fiscal Year Conversion	50.0%	50.0%	50.0%	50.0%
FY	Fiscal Year 2012 Adjusted Base (Millions)	\$889.940			

**Property Taxes: Taxable Value for Statewide General Fund  
Mill Levies and Other Property Tax Indicators**

<u>Taxable Value—40-Mill and 55-Mill Levies</u>					
FY	Property Class One (Millions)	\$3.888	\$4.189	\$4.275	\$4.337
FY	Property Class Two (Millions)	\$22.987	\$31.132	\$33.820	\$35.056
FY	Property Class Three (Millions)	\$150.429	\$147.792	\$145.202	\$142.657
FY	Property Class Four (Millions)	\$1,418.797	\$1,446.304	\$1,478.146	\$1,511.683
FY	Property Class Five (Millions)	\$40.642	\$45.673	\$48.816	\$52.176
FY	Property Class Six (Millions)	\$0.000	\$0.000	\$0.000	\$0.000
FY	Property Class Seven (Millions)	\$1.194	\$1.170	\$1.147	\$1.124
FY	Property Class Eight (Millions)	\$186.854	\$179.237	\$180.358	\$179.206
FY	Property Class Nine (Millions)	\$304.226	\$322.490	\$345.727	\$370.637
FY	Property Class Ten (Millions)	\$6.390	\$6.349	\$6.308	\$6.268
FY	Property Class Twelve (Millions)	\$71.336	\$72.349	\$76.657	\$81.222
FY	Property Class Thirteen (Millions)	\$193.267	\$197.605	\$208.267	\$219.505
FY	Total Taxable Value 55-Mill and 40-Mill (Millions)	\$2,370.852	\$2,422.804	\$2,512.787	\$2,589.610
<u>Other Property Tax Indicators</u>					
FY	Tax Increment Finance Value (Millions)	\$46.300	\$47.037	\$47.037	\$45.359
FY	Property Tax Abatement Value (Millions)	\$25.369	\$20.225	\$20.877	\$21.539
FY	Taxable Value in 6-Mill Vo-Tech Counties (Millions)	\$2,442.522	\$2,490.066	\$2,580.701	\$2,656.509

FY	Taxable Value in 1.5-Mill Vo-Tech Counties (Millions)	\$797.739	\$806.969	\$836.367	\$862.955
	<u>Property Tax Nonlevy Revenue</u>				
FY	40-Mill Nonlevy Revenue (Millions)	\$0.000	\$0.000	\$0.000	\$0.000
FY	40-Mill Adjustments (Millions)	\$0.000	\$0.000	\$0.000	\$0.000
FY	55-Mill Nonlevy Revenue (Millions)	\$13.027	\$12.647	\$8.933	\$9.627
FY	55-Mill Adjustments (Millions)	\$0.000	\$0.000	\$0.000	\$0.000
FY	1.5-Mill Nonlevy Revenue (Millions)	\$0.000	\$0.000	\$0.000	\$0.000
FY	1.5-Mill Adjustments (Millions)	\$0.000	\$0.000	\$0.000	\$0.000
	<b>Vehicle Tax</b>				
FY	Large Trucks Growth Rate (Percent Change)	0.68%	0.88%	0.55%	0.68%
FY	Motor Home Growth Rate (Percent Change)	-12.26%	0.88%	0.55%	0.68%
FY	Light Vehicle Growth Rate (Percent Change)	-1.99%	0.88%	0.55%	0.68%
FY	Boat and Snowmobile Growth Rate (Percent Change)	6.86%	0.88%	0.55%	0.68%
	<b>Corporation License Tax</b>				
	<u>Tax Liability by Industrial Sector (Millions)</u>				
CY	Agriculture	\$2.757	\$2.758	\$2.798	\$2.841
CY	Mining	\$14.531	\$13.742	\$13.152	\$12.339
CY	Utilities	\$0.805	\$1.646	\$1.751	\$2.255
CY	Construction	\$1.040	\$1.342	\$1.379	\$1.560
CY	Manufacturing	\$35.540	\$34.141	\$32.215	\$34.280
CY	Trade	\$14.159	\$14.515	\$14.892	\$15.348
CY	Transportation	\$9.126	\$9.600	\$10.162	\$10.851
CY	Information	\$1.880	\$2.305	\$2.358	\$2.613
CY	Professional	\$7.344	\$7.599	\$7.848	\$8.095
CY	Large Banks	\$20.902	\$21.819	\$22.823	\$24.014
CY	Social	\$2.113	\$2.194	\$2.283	\$2.370
CY	Unknown	\$0.150	\$0.150	\$0.150	\$0.150
	<u>Other Corporation License Tax Factors</u>				
FY	Refunds (Millions)	-\$38.757	-\$24.632	-\$24.632	-\$25.713
FY	Audits, Penalties, Interest (Millions)	\$27.366	\$22.306	\$22.602	\$22.602
FY	Insure Montana Credit (Millions)	\$0.000	\$1.000	\$1.000	\$1.000
FY	Calculated Fiscal Factor	1.269	1.350	1.350	1.350
FY	Bonus Depreciation (Millions)	\$0.000	\$2.137	\$4.103	\$3.282
	<b>Insurance Premiums Tax and License Fees</b>				
FY	General Fund Fee Revenue (Millions)	\$0.028	\$0.028	\$0.028	\$0.028
FY	Genetics Fee (Millions)	\$1.295	\$1.295	\$1.295	\$1.295
FY	Premiums Tax (Millions)	\$71.963	\$73.356	\$75.599	\$78.488
FY	Offsets (Millions)	\$2.400	\$2.300	\$1.000	\$1.000
FY	Refunds (Millions)	\$0.20	\$0.20	\$0.20	\$0.20

**Video Gambling Tax**

FY	Video Machine Net Income (Millions)	\$358.824	\$384.706	\$399.527	\$414.115
----	--	-----------	-----------	-----------	-----------

**Motor Vehicle Fee—General Fund Allocations**

FY	Motor Vehicle Registration Fee (Millions)	\$10.242	\$10.332	\$10.389	\$10.460
FY	Recording of Liens Fee (Millions)	\$0.559	\$0.564	\$0.567	\$0.571
FY	Title Fee (Millions)	\$2.387	\$2.408	\$2.421	\$2.438
FY	Personal License Plate Fee (Millions)	\$1.246	\$1.257	\$1.264	\$1.272
FY	New License Plate Fee (Millions)	\$0.554	\$0.559	\$0.562	\$0.565
FY	Other Fees (Millions)	\$0.900	\$0.908	\$0.913	\$0.919

**U.S. Mineral Royalty**

CY	Oil Production (Millions of Barrels)	3.113	2.740	2.566	2.391
CY	Coal Production (Millions of Tons)	26.756	22.147	21.259	22.720
CY	Natural Gas Production (MMCF)	16.604	14.364	11.911	9.458
CY	Oil Price (Per Barrel)	85.652	80.027	78.296	73.507
CY	Coal Price (Per Ton)	16.412	16.072	16.385	16.815
CY	Natural Gas Price (Per MCF)	2.410	3.267	4.182	4.443
CY	Oil Royalty Rate (Percent)	12.44%	12.44%	12.44%	12.44%
CY	Coal Royalty Rate (Percent)	10.96%	10.96%	10.96%	10.96%
CY	Natural Gas Royalty Rate (Percent)	12.76%	12.76%	12.76%	12.76%
CY	Other Royalties (Millions)	\$0.236	\$0.236	\$0.236	\$0.236
CY	Rent and Bonus (Millions)	\$21.264	\$26.984	\$10.208	\$10.208

**Telecommunications Excise Tax**

FY	Taxable Gross Receipts (Millions)	\$568.31	\$600.15	\$616.94	\$632.58
----	-----------------------------------	----------	----------	----------	----------

**Tobacco Settlement**

FY	Volume Change (Percent Change)	-3.09%	-2.37%	-4.02%	-4.02%
FY	Cumulative Volume Change (Percent Change)	-47.34%	-48.59%	-50.66%	-52.64%
FY	CPI Change (Percent Change)	3.00%	3.00%	3.00%	3.00%
FY	Cumulative CPI Change (Percent Change)	49.92%	54.42%	59.05%	63.83%
FY	Subsequent Manufacturers' Payment (Millions)	\$511.641	\$514.960	\$509.915	\$504.952
FY	Nonparticipating Manufacturers' Adjustment (Millions)	-\$3.166	-\$3.186	-\$3.155	-\$3.125

**Public Institution Reimbursements**

FY	Private Payments (Millions)	\$1.840	\$2.433	\$2.487	\$2.517
FY	Insurance Payments (Millions)	\$0.462	\$0.668	\$0.664	\$0.660
FY	Medicaid Payments (Millions)	\$7.645	\$9.296	\$10.151	\$10.361
FY	Medicare Payments (Millions)	\$3.996	\$5.904	\$6.219	\$6.527
FY	Debt Service MT Developmental Center (Millions)	\$0.984	\$0.988	\$0.988	\$0.988
FY	Debt Service MT State Hospital (Millions)	\$1.834	\$1.794	\$1.794	\$1.794

1875		MONTANA SESSION LAWS 2013			SJR 2
FY	Medicare Part D (Millions)	\$0.619	\$0.812	\$0.922	\$1.018
<b>Estate Tax</b>					
FY	Annual Change in Tax (Percent Change)	38.35%	-100.00%	0.00%	0.00%
<b>Oil Production Tax</b>					
CY	Oil Production (Million Barrels)	25.014	25.652	26.344	26.806
CY	Montana Oil Price (Weighted Price/Barrel)	\$87.931	\$83.707	\$80.546	\$76.194
CY	Effective Tax Rate (Percent)	9.58%	10.10%	10.28%	10.48%
<b>Natural Gas Production Tax</b>					
CY	Natural Gas Production (MMCF)	75.601	68.381	61.478	55.068
CY	Montana Natural Gas Price (Weighted Price/MCF)	\$2.390	\$3.492	\$4.252	\$4.121
CY	Effective Tax Rate (Percent)	9.41%	9.69%	9.56%	9.49%
<b>Treasury Cash Account</b>					
FY	TCA Average Balance (Millions)	\$880.340	\$886.847	\$753.354	\$762.300
FY	TCA Average Yield (Percent)	0.30%	0.31%	0.31%	0.36%
FY	TRANS Issue Size (Millions)	\$0.000	\$0.000	\$0.000	\$0.000
<b>Liquor Excise and License Tax</b>					
FY	Gross Sales (Millions)	\$89.987	\$95.334	\$100.981	\$106.974
FY	Tribal Distributions (Millions)	\$0.335	\$0.337	\$0.357	\$0.375
<b>Coal Severance Tax</b>					
CY	Severance Tax Coal Production (Million Tons)	34.493	37.056	36.946	37.671
CY	Montana Contract Sales Price (Weighted CSP/Ton)	\$12.074	\$12.618	\$13.072	\$13.588
<b>Cigarette Tax</b>					
FY	Cigarette Packs (Millions)	44.895	44.517	43.699	42.367
FY	Effective Tax Rate Per Pack (Dollars)	\$1.70	\$1.70	\$1.70	\$1.70
FY	Tribal Distributions (Millions)	\$3.818	\$3.590	\$3.498	\$3.406
<b>Lottery Profits</b>					
FY	Total Lottery Sales (Millions)	\$52.602	\$54.417	\$55.763	\$57.308
FY	Lottery Interest Earnings (Millions)	\$0.011	\$0.013	\$0.014	\$0.020
FY	Other Revenue (Millions)	\$0.007	\$0.007	\$0.007	\$0.007
FY	Lottery Operating Budget (Millions)	\$7.807	\$7.290	\$7.963	\$7.853
FY	Lottery Prizes and Commissions (Millions)	\$31.761	\$32.678	\$33.487	\$34.415
<b>Nursing Facilities Fee</b>					
FY	Bed Days (Millions)	1.722	1.674	1.627	1.580
FY	Intermediate Care Revenue (Millions)	\$14.700	\$14.304	\$13.919	\$13.544
<b>Liquor Profits</b>					
FY	Gross Liquor Sales (Millions)	\$113.383	\$120.121	\$127.236	\$134.787

SJR 2		MONTANA SESSION LAWS 2013				1876
FY	Cost of Goods Sold (Millions)	\$63.924	\$67.954	\$72.160	\$76.637	
FY	Liquor Discounts and Commissions (Millions)	\$14.013	\$14.845	\$15.725	\$16.658	
FY	Liquor Operating Costs (Millions)	\$1.923	\$1.923	\$2.103	\$2.069	
FY	Other Income (Millions)	-\$0.009	-\$0.009	-\$0.009	-\$0.009	
<b>Investment License Fee</b>						
FY	License Registration (Percent Change)	0.56%	3.58%	3.43%	3.44%	
FY	Portfolio Growth (Percent Change)	36.99%	4.49%	3.98%	3.87%	
FY	Expense Growth (Percent Change)	-1.11%	4.44%	16.33%	-0.53%	
<b>Electrical Energy Tax</b>						
FY	Kilowatt Hours Produced (Millions)	21,624.098	22,207.522	22,604.971	22,824.278	
<b>Highway Patrol Fines</b>						
FY	Montana Population >= 16 Years of Age	0.804	0.811	0.818	0.826	
FY	Per Capita Fines	\$5.44	\$5.46	\$5.46	\$5.46	
<b>Metalliferous Mines Tax</b>						
CY	Copper Production (Million lb)	Not disclosed, confidential information				
CY	Silver Production (Million oz)	Not disclosed, confidential information				
CY	Gold Production (Million oz)	Not disclosed, confidential information				
CY	Lead Production (Million lb)	Not disclosed, confidential information				
CY	Zinc Production (Million lb)	Not disclosed, confidential information				
CY	Molybdenum Production (Million lb)	Not disclosed, confidential information				
CY	Palladium Production (Million oz)	Not disclosed, confidential information				
CY	Platinum Production (Million oz)	Not disclosed, confidential information				
CY	Nickel Production (Million lb)	Not disclosed, confidential information				
CY	Rhodium Production (Million oz)	Not disclosed, confidential information				
CY	Sapphire Production (Million oz)	Not disclosed, confidential information				
CY	Copper Sulfide Production (Million lb)	Not disclosed, confidential information				
CY	Copper Price (Per lb)	Not disclosed, confidential information				
CY	Silver Price (Per oz)	Not disclosed, confidential information				
CY	Gold Price (Per oz)	Not disclosed, confidential information				
CY	Lead Price (Per lb)	Not disclosed, confidential information				
CY	Zinc Price (Per lb)	Not disclosed, confidential information				
CY	Molybdenum Price (Per lb)	Not disclosed, confidential information				
CY	Palladium Price (Per oz)	Not disclosed, confidential information				
CY	Platinum Price (Per oz)	Not disclosed, confidential information				
CY	Nickel Price (Per lb)	Not disclosed, confidential information				
CY	Rhodium Price (Per oz)	Not disclosed, confidential information				
CY	Sapphire Price (Per oz)	Not disclosed, confidential information				
CY	Copper Sulfide Price (Per lb)	Not disclosed, confidential information				
CY	Effective Tax Rate (Percent)	Not disclosed, confidential information				
<b>Public Contractors Tax</b>						
FY	DOT Contracts (Millions)	\$369.168	\$379.194	\$363.947	\$363.947	

1877		MONTANA SESSION LAWS 2013			SJR 2	
FY	Other Contracts (Millions)	\$137.636	\$360.186	\$360.186	\$360.186	
FY	Credits and Refunds (Millions)	\$8.110	\$6.254	\$3.983	\$3.983	
<b>Wholesale Energy Transaction Tax</b>						
FY	Kilowatt Hours (Millions)	23,182.689	27,762.064	28,461.344	28,992.297	
FY	Credits for Taxes Paid (Millions)	\$0.000	\$0.000	\$0.000	\$0.000	
<b>Beer Tax</b>						
FY	Barrels of Beer (Millions)	0.949	0.977	0.983	0.988	
FY	Tribal Distribution (Millions)	\$0.063	\$0.058	\$0.060	\$0.060	
FY	Effective Tax Rate (Dollars Per Barrel)	\$4.15	\$4.15	\$4.15	\$4.15	
<b>Driver's License Fees</b>						
FY	Driver's License Fees (Millions)	\$3.259	\$2.846	\$3.313	\$2.896	
FY	Duplicate License Fees (Millions)	\$0.295	\$0.258	\$0.300	\$0.262	
FY	Motorcycle Endorsement Fees (Millions)	\$0.018	\$0.015	\$0.018	\$0.015	
FY	Commercial Vehicle Endorsement (Millions)	\$0.689	\$0.689	\$0.689	\$0.689	
<b>Tobacco Tax</b>						
FY	Value of Tobacco Products (Millions)	\$6.649	\$6.656	\$6.656	\$6.656	
FY	Snuff Ounces (Millions)	10.398	10.806	11.258	11.736	
FY	Tribal Distribution (Millions)	\$0.606	\$0.571	\$0.576	\$0.589	
<b>Railroad Car Tax</b>						
CY	Total MT Market Value of Fleets (Millions)	\$123.766	\$117.899	\$126.558	\$131.583	
CY	Taxable Value Rate (Percent)	3.45%	3.45%	3.45%	3.45%	
CY	95% of Industrial and Commercial Mill Levy	0.533	0.530	0.532	0.537	
<b>Wine Tax</b>						
FY	Wine Liters (Millions)	11.515	11.735	12.130	12.531	
FY	Tribal Distribution (Millions)	\$0.042	\$0.042	\$0.042	\$0.043	

#### SELECTED NONGENERAL FUND REVENUE

The estimates for selected nongeneral fund revenue for fiscal year 2013 and the 2014-2015 biennium are based on the assumption of a continuation of Montana law as existed on January 1, 2013. The revenue estimates contained in the following table are based on the assumptions listed in the tables that follow the nongeneral fund estimates and the assumptions for each nongeneral fund revenue source contained in the "Legislative Budget Analysis, 2015 Biennium, Volume 2 — Revenue Estimates" prepared by the Legislative Fiscal Division.

##### Current Law

##### Selected Nongeneral Fund Revenue Estimates

(In Millions of Dollars)

Source of Revenue	Actual Fiscal 2012	Estimated Fiscal 2013	Estimated Fiscal 2014	Estimated Fiscal 2015
Diesel Tax	71.349	73.278	75.258	77.291
Federal Forest Receipts	20.487	18.101	2.284	2.138



SJR 2	MONTANA SESSION LAWS 2013			1878
Gasoline Tax	132.911	133.397	133.885	134.375
GVW and Other Fees	34.745	33.969	34.707	35.486
Resource Indemnity Tax	2.344	2.210	2.541	2.620
Diesel Storage Tank Tax	2.943	3.022	3.104	3.188
Arts Trust Interest	0.568	0.580	0.593	0.608
Capital Land Grant Interest and Income	0.610	0.232	0.664	1.022
Deaf & Blind Interest and Income	0.242	0.288	0.246	0.264
Parks Trust Interest	1.034	1.063	1.089	1.119
Pine Hills Interest and Income	0.393	0.302	0.370	0.392
RIT Trust Interest	5.064	4.661	4.661	4.662
Gasoline Storage Tank Tax	3.750	3.764	3.778	3.791
TSE Trust Interest	9.866	9.873	10.383	10.998
Economic Development Trust	2.731	2.858	3.113	3.419
Tobacco Trust Interest	6.701	6.825	7.298	7.821
Regional Water Trust Interest	2.937	3.032	3.287	3.591
Property Tax: 6 Mill	15.325	15.815	16.535	16.989
Common School Interest and Income	102.391	68.129	65.698	61.956
Total Nongeneral Fund	416.389	381.399	369.494	371.730

**SELECTED ASSUMPTIONS FOR  
NONGENERAL FUND REVENUE ESTIMATES**

Year Assumption	2012	2013	2014	2015
<b>Gasoline Tax</b>				
FY Taxable Gallons of Gasoline (Millions)	504.105	505.949	507.799	509.656
FY Taxable Gallons of Gasoline — Storage Tank Cleanup (Millions)	500.016	501.845	503.680	505.522
FY Refunds (Millions)	-\$1.836	-\$1.843	-\$1.850	-\$1.856
FY Alcohol Incentive (Millions)	\$0.000	\$0.000	\$0.000	\$0.000
<b>Diesel Tax</b>				
FY Taxable Gallons of Diesel (Millions)	272.924	280.299	287.873	295.652
FY Taxable Gallons of Diesel — Storage Tank Cleanup (Millions)	392.360	402.962	413.851	425.033
FY Refunds (Millions)	-\$3.629	-\$3.727	-\$3.828	-\$3.932
<b>GVW Fees</b>				
FY GVW Fees (Millions)	\$10.489	\$10.651	\$10.814	\$10.984
FY Form 3 GVW Fees (Millions)	\$1.102	\$1.134	\$1.161	\$1.197
FY Trip Permit Fees (Millions)	\$0.865	\$0.700	\$0.750	\$0.805
FY County GVW Fees (Millions)	\$12.086	\$12.272	\$12.461	\$12.657
FY Overweight Trip Permit Fees (Millions)	\$4.353	\$3.477	\$3.659	\$3.850
FY Special Permit Fees (Millions)	\$1.422	\$1.240	\$1.300	\$1.361
FY Temporary Fuel Permits (Millions)	\$0.254	\$0.263	\$0.274	\$0.284
FY Other Fees (Millions)	\$4.174	\$4.231	\$4.289	\$4.349

**6-Mill Levy Property Tax Indicators (See General Fund Property Tax Assumptions for Other Detail)**

FY	Taxable Value (Millions)	\$2,442.522	\$2,490.066	\$2,580.701	\$2,656.509
FY	Nonlevy Revenue (Millions)	\$0.890	\$0.875	\$1.051	\$1.050
FY	6-Mill Adjustments (Millions)	\$0.000	\$0.000	\$0.000	\$0.000

Adopted February 6, 2013

**SENATE JOINT RESOLUTION NO. 3**

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING A STUDY OF THE OPERATIONS OF THE MONTANA BOARD OF PARDONS AND PAROLE.

WHEREAS, the increase in the prison population in Montana prisons is well known and documented and has recently led the Montana Legislature to appropriate millions of dollars for increased capacity at Montana prisons for medium security inmates; and

WHEREAS, it costs over \$90 per day to incarcerate an offender but only \$5 per day to supervise an offender on parole, and according to the 2011 biennial report of the Board of Pardons and Parole, 72% of the correctional population is eligible for parole but 60% of those eligible for parole are denied parole on their initial appearance before the Board; and

WHEREAS, the Legislature has the responsibility to ensure that the statutes and policies administered by the Board do not contribute to prison overcrowding and unnecessary additional expense of housing prison inmates who may be safely paroled; and

WHEREAS, the Law and Justice Interim Committee heard testimony during the 2011-2012 interim from persons with loved ones appearing before the Board; and

WHEREAS, the testimony those persons gave to the Committee indicated strong dissatisfaction with the operation of the Board for many reasons, including inmate access to the inmates' own parole files and discrepancies between prison files and Board files; and

WHEREAS, the Board has more discretion than do most other agencies of state government in making administrative decisions and decisions regarding whether to release inmates on parole; and

WHEREAS, it has recently been determined that the Board is exempt from any of the standards contained in section 2-4-305, MCA, governing administrative rules of state agencies, including the prohibition contained in that section that rules may not contravene statutes; and

WHEREAS, as many as 15 states have eliminated their parole boards for various reasons, including monetary savings, but no such proposal has been recently considered by the Montana Legislature; and

WHEREAS, the operation of the Board has not been the subject of a study by an interim study committee of the Montana Legislature for many years; and

WHEREAS, it is appropriate for an interim committee of the Legislature to review the operation and rules of and the statutes governing the Montana Board of Pardons and Parole.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to designate an appropriate interim committee, pursuant to section 5-5-217, MCA, to study the operation of the Montana Board of Pardons and Parole, including the parole philosophy of the Board, the statutes and rules administered by the Board, the degree to which the Board has prevented or contributed to the need for additional prison beds, the effect of the possible elimination of the Board, and other aspects of the Board's administration as appropriate.

BE IT FURTHER RESOLVED, that the study solicit the views of the law enforcement community, the Judicial Branch of state government, providers of community services, the Department of Corrections, and other appropriate stakeholders.

BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review requirements, be concluded prior to September 15, 2014.

BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions, comments, or recommendations of the appropriate committee, be reported to the 64th Legislature.

Adopted March 13, 2013

#### **SENATE JOINT RESOLUTION NO. 4**

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN INTERIM STUDY OF WAYS TO IMPROVE THE MARKETING, MANAGEMENT, OPERATION, MAINTENANCE, AND FUNDING OF STATE-OWNED SITES AT VIRGINIA CITY, NEVADA CITY, AND REEDER'S ALLEY IN HELENA.

WHEREAS, the state-owned historic sites at Virginia City and Nevada City are among the most valuable and fascinating historic sites in Montana and are a tremendous resource for all residents, families, schools, and surrounding communities and for Montana's economy; and

WHEREAS, the proximity of Virginia City and Nevada City to Yellowstone National Park make them ripe to capitalize on the millions of visitors that travel to or through the area each year; and

WHEREAS, the 1997 Legislature authorized the purchase of these properties in Virginia City and Nevada City, including 248 buildings, 160 acres, and over 1 million artifacts for \$6.5 million dollars; and

WHEREAS, the 1997 Legislature stipulated that the state-owned sites in Virginia City and Nevada City must be managed to become self-sufficient and profitable and that no general fund money is to be given to them in the future; and

WHEREAS, in subsequent sessions, the Legislature has not altered that statutory directive; and

WHEREAS, the Montana Heritage Preservation and Development Commission, which manages the sites along with Reeder's Alley in Helena, has struggled to achieve that goal of self-sufficiency for many reasons, including extensive preservation, stabilization, and maintenance needs; and

WHEREAS, the Commission employs only two full-time maintenance workers and the Commission's repair and maintenance budget, as approved by the 2011 Legislature, was just \$23,890 for fiscal years 2012 and 2013; and

WHEREAS, long-range building program money was not appropriated to the Commission by the 2011 Legislature; and

WHEREAS, the Commission reorganized in August 2011 due to a \$400,000 budget shortfall, resulting in a reduction in force of five FTE; and

WHEREAS, the Commission, as part of that reorganization, is placing a greater emphasis on business planning and has hired a full-time business development manager; and

WHEREAS, the Legislative Environmental Quality Council reviewed the Commission and its work as part of the House Joint Resolution No. 32 study of state parks and outdoor recreation and heritage resource programs during the 2011-2012 interim; and

WHEREAS, the Council found much opportunity and greater need for state support to improve the Commission's marketing, operation, preservation, and maintenance of Virginia City, Nevada City, and Reeder's Alley; and

WHEREAS, the Council recognizes the changes and improvements that are being made under the Commission's new organizational structure and business plan; and

WHEREAS, the Council feels that while integrating the administration of Virginia City, Nevada City, and Reeder's Alley with other recreational and heritage resources, including state parks, might be desirable due to seemingly natural alliances between their missions, operations, and resource needs, it does not seem appropriate to do so at this time.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to designate an appropriate interim committee or statutory committee, pursuant to 5-5-217, MCA, or direct sufficient staff resources to:

(1) provide continued oversight of the Montana Heritage Preservation and Development Commission and its management and operation of state-owned sites at Virginia City, Nevada City, and Reeder's Alley;

(2) review the implementation and impacts of the Commission's restructuring and newly adopted business plan;

(3) review in greater detail the myriad properties and artifacts the state purchased at Virginia City and Nevada City to determine whether the statutory mission for the sites should be redefined or whether recommendations should be made regarding the deaccession of any properties or artifacts;

(4) identify overall preservation needs at Virginia City, Nevada City, and Reeder's Alley and make recommendations regarding the scale and scope of those efforts based on available resources;

(5) review marketing efforts and identify other ways to make Virginia City, Nevada City, and Reeder's Alley better known to residents and nonresidents alike;

(6) review the Commission's funding and revenue and make recommendations for improving overall finances, especially funding for preservation and maintenance work;

(7) identify opportunities to integrate and better coordinate the administration of state-owned sites at Virginia City, Nevada City, and Reeder's Alley with other recreational and heritage resources, including state parks; and

(8) evaluate the makeup of the Commission and whether its membership, powers, and duties should be restructured or redefined, including whether some duties should be transferred to the Department of Commerce, to which the Commission is attached.

BE IT FURTHER RESOLVED, that if the study is assigned to staff, any findings or conclusions be presented to and reviewed by an appropriate committee designated by the Legislative Council.

BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review requirements, be concluded prior to September 15, 2014.

BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions, comments, or recommendations of the appropriate committee, be reported to the 64th Legislature.

Adopted March 14, 2013

## **SENATE JOINT RESOLUTION NO. 6**

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN INTERIM STUDY TO ANALYZE THE IMPACTS OF THE MONTANA RENEWABLE POWER PRODUCTION AND RURAL ECONOMIC DEVELOPMENT ACT; AND REQUIRING THAT THE FINAL RESULTS OF THE STUDY BE REPORTED TO THE 64TH LEGISLATURE.

WHEREAS, the Montana Renewable Power Production and Rural Economic Development Act, Title 69, chapter 3, part 20, has required certain utilities to procure a percentage of their resources from renewable resources since 2008; and

WHEREAS, beginning in 2015, and in each succeeding year, a public utility and competitive electricity supplier are required to procure a minimum of 15% of its retail sales of electrical energy in Montana from renewable resources; and

WHEREAS, there are ongoing discussions about increasing the renewable portfolio standard or abolishing the requirement; and

WHEREAS, there has been limited analysis of the impact the Renewable Power Production and Rural Economic Development Act has had in Montana. NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to designate an appropriate interim committee, pursuant to section 5-5-217, MCA, or direct sufficient staff resources to:

(1) review the economic impacts of the renewable portfolio standard by analyzing:

(a) the renewable portfolio standard's contribution to new electrical generation in Montana;

(b) the short-term and long-term jobs created by the standard;

(c) industries working in Montana due in part to the standard;

(d) the use of renewable energy credits in Montana by the renewable energy industry; and

(e) how the standard has been used to leverage Montana's competitive advantages in developing new electric transmission;

(2) review the environmental benefits of the renewable portfolio standard by analyzing:

(a) the standard's contribution to diversified generation in Montana and to reduced dependence on fossil fuels;

(b) the types of renewable energy generation used in meeting the standard; and

(c) potential contributions to air quality improvements attributable to the standard; and

(3) review the impacts the renewable portfolio standard has had on Montana consumers by analyzing:

(a) whether the standard has mitigated or contributed to higher energy costs for consumers;

(b) how the standard has been used to hedge against volatility in fossil fuel prices; and

(c) whether the standard complements or hinders other efforts to help consumers.

BE IT FURTHER RESOLVED, that upon completion of the study, the committee make recommendations, if appropriate, to:

(1) revise Montana's Renewable Power Production and Rural Economic Development Act; and

(2) clarify existing law to ensure that the compliance costs do not outweigh the economic and environmental benefits.

BE IT FURTHER RESOLVED, that if the study is assigned to staff, any findings or conclusions be presented to and reviewed by an appropriate committee designated by the Legislative Council.

BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review requirements, be concluded prior to September 15, 2014.

BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions, comments, or recommendations of the appropriate committee, be reported to the 64th Legislature.

Adopted March 13, 2013

## SENATE JOINT RESOLUTION NO. 8

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA RECOGNIZING THE MILITARY SERVICE OF MONTANANS IN THE ARMED FORCES OF THE UNITED STATES.

WHEREAS, all Americans have the right, by virtue of wearing the noble title of citizen, to great personal freedoms in the pursuit of life, liberty, and happiness; and

WHEREAS, the history of our young country demonstrates countless examples of bravery and personal sacrifice in order to preserve the freedoms and liberties of the collective citizenry; and



WHEREAS, since September 11, 2001, the nation has once again called upon those who have dedicated their lives to the defense of the nation to stand up against forces that wish ill upon the United States; and

WHEREAS, Montanans have always answered the call to defend the nation, and Montanans will continue to serve and lead in the global war on terror; and

WHEREAS, Montanans serving in every branch of service, both on active duty and in the National Guard and Reserves, have been deployed in the global war on terror at great personal sacrifice to themselves and their families; and

WHEREAS, a number of Montanans have made the ultimate sacrifice in Operation Enduring Freedom and Operation Iraqi Freedom; and

WHEREAS, we as Montanans will continue to support these heroes as they return home to face the challenge of rejoining family, friends, and community.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Montana Legislature recognize the dedication, professionalism, and bravery of all Montanans who have served and will serve in the armed forces of the United States as part of the global war on terror.

BE IT FURTHER RESOLVED, that the Secretary of State send copies of this resolution to the Montana Congressional Delegation, the respective Secretaries of the United States Army, Navy, and Air Force, the Commandant of the United States Marine Corps, the Commandant of the United States Coast Guard, and the Adjutant General of the Montana National Guard.

BE IT FURTHER RESOLVED, that the Secretary of State include with the copies sent to the respective Secretaries of the Army, Navy, and Air Force, the Commandant of the United States Marine Corps, the Commandant of the United States Coast Guard, and the Adjutant General of the Montana National Guard a request that the respective Secretaries and Commandants and the Adjutant General use every means available to provide a copy of this resolution to each member of the Armed Forces who hails from Montana.

BE IT FURTHER RESOLVED, that the purpose and intent of this resolution is to convey to Montana service personnel that the heartfelt thanks of all Montanans are extended to them, that we are proud of them, that they are in our prayers, and that we send them best wishes for a safe return.

Adopted March 14, 2013

## **SENATE JOINT RESOLUTION NO. 11**

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING THE GOVERNOR ESTABLISH AN ECONOMIC DEVELOPMENT CENTER IN CALGARY, ALBERTA.

WHEREAS, the contiguous states of the United States share a friendly northern border of 5,000 miles, and Montana's northern border consists of 525 miles of those total miles;

WHEREAS, Alberta and Montana bilaterally share the tribal heritage of the Blackfoot Confederacy, the Niits tapi, and recognize the importance of these "original people", including their First Nations' tribal land;

WHEREAS, Canada and the United States have diverse populations, permit dual citizenship, and share multicultural values;

WHEREAS, the Montana Legislature recognizes the cultural, educational, and economic benefits of establishing and maintaining international relations and commerce with Canada, and in particular with Alberta;

WHEREAS, the United States and Canada have similar interests in encouraging economic development, including agriculture, tourism, health care, and natural resource development;

WHEREAS, it is in the best interest of the Montana economy to work with Alberta to benefit the mutual exchange of goods and services.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Senate and House of Representatives of the State of Montana agree that Montana should maintain a physical presence in Canada to promote a cross-border partnership for economic development.

BE IT FURTHER RESOLVED, that the Montana Legislature calls upon the Governor to establish an economic development center located in Calgary, Alberta, for the mutual benefit of the Montana economy and its northern neighbors.

BE IT FURTHER RESOLVED, that the Secretary of State send a copy of this resolution to the Governor and to each member of the Montana Congressional Delegation.

Adopted April 8, 2013

### **SENATE JOINT RESOLUTION NO. 13**

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING THE MONTANA UNIVERSITY SYSTEM TO STUDY AND ADOPT GOALS AND PERFORMANCE MEASURES DIRECTED AT INCREASING COLLEGE COMPLETION RATES; REQUESTING THAT THE MONTANA UNIVERSITY SYSTEM WORK WITH THE GOVERNOR; PROVIDING THE PERFORMANCE MEASURES TO BE STUDIED; AND REQUESTING THAT REPORTS BE PROVIDED TO THE 64TH LEGISLATURE, THE GOVERNOR, AND THE BOARD OF REGENTS.

WHEREAS, less than half of the students nationally who enter a 4-year university, and even fewer who enter a 2-year college, finish with a degree or credential; and

WHEREAS, 60% of students entering 2-year colleges and 25% of students entering open-admissions universities are placed in some type of remedial education; and

WHEREAS, the Montana Legislature and the Montana University System agree on the importance of studying and reporting common measures of progress using consistent data; and

WHEREAS, the Montana Legislature and the Montana University System share a uniform desire to set and attain state completion goals that focus on significantly increasing the number of students that successfully complete college, with credentials that have value in the workplace.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Montana University System be requested to work in conjunction with the Governor to study and adopt a universal set of goals and performance

measures directed at increasing college completion rates. Measures to be studied include:

- (1) outcome and progress metrics in degree production;
- (2) graduation rates;
- (3) transfer rates;
- (4) time to complete a degree;
- (5) enrollment in remedial education;
- (6) success in remedial education;
- (7) credit accumulation;
- (8) retention rates; and
- (9) course completion rates.

BE IT FURTHER RESOLVED, that the Montana University System be requested to set specific goals by July 1, 2014, to increase college completion rates and develop a state action plan for increasing completion rates.

BE IT FURTHER RESOLVED, that the data on which the study is based be collected in a manner that allows for comparisons across states and across institutions of higher education.

BE IT FURTHER RESOLVED, that the Montana University System report to the 64th Legislature, the Governor, and the Board of Regents on its progress in establishing the goals and the action plan and on the data gathered regarding the performance measures.

Adopted April 8, 2013

### **SENATE JOINT RESOLUTION NO. 14**

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN INTERIM STUDY TO IDENTIFY OPPORTUNITIES TO MAKE COMBINED PRIMARY AND SCHOOL ELECTIONS FEASIBLE.

WHEREAS, Senate Bill No. 140, which would have combined school and certain primary elections, was introduced in the 63rd Legislature and tabled by the Senate Local Government Standing Committee after the Committee agreed to request an interim study directed at identifying ways to make combined elections feasible; and

WHEREAS, an interim study would focus an appropriate interim committee on identifying the technical elements of election administration that would need to be reconciled to have combined elections, including varying deadlines, election dates, authorities responsible for conducting and paying for elections, and varying local government boundaries; and

WHEREAS, the goal of an interim study is to provide the 64th Legislature with a plan for implementation of combined elections and coordination among applicable government agencies.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to designate an appropriate interim committee, pursuant to section 5-5-217, MCA, or direct sufficient staff resources to study local government and school district election laws and procedures to identify opportunities to combine elections.

BE IT FURTHER RESOLVED, that the study examine:

(1) existing dates, deadlines, and other procedures in Montana law that would require adjustment in order to conduct combined elections; and

(2) changes that election administrators would need to implement to combine primary and school elections, including:

(a) accommodating various administrative boundaries for jurisdictions holding elections, including state legislative, county, school district, city, and other district elections, and reducing voter confusion about these boundaries;

(b) administering the technical elements of combined elections, including the effects on overseas and military voters, different poll location and opening and closing times, and which local government authority is responsible for election costs; and

(c) determining the responsibility for conducting combined elections that involve county election administrators and school district officials.

BE IT FURTHER RESOLVED, that the committee request participation of stakeholders in the election process, including county election administrators, the Office of the Secretary of State, school administrators and officials, and other interested parties as determined by the committee.

BE IT FURTHER RESOLVED, that if the study is assigned to staff, any findings or conclusions be presented to and reviewed by an appropriate committee designated by the Legislative Council.

BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review requirements, be concluded prior to September 15, 2014.

BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions, comments, or recommendations of the appropriate committee, be reported to the 64th Legislature.

Adopted April 18, 2013

## SENATE JOINT RESOLUTION NO. 15

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN INTERIM STUDY EVALUATING THE MANAGEMENT OF CERTAIN FEDERAL LANDS, ASSESSING RISKS, AND IDENTIFYING SOLUTIONS.

WHEREAS, Article II, section 3, of the Montana Constitution provides that all persons have a constitutional right to a clean and healthful environment; and

WHEREAS, Article IX, section 1, of the Montana Constitution mandates that the state maintain and improve a clean and healthful environment for present and future generations; and

WHEREAS, over 25%, or 25 million acres, of land within Montana is managed by the United States Forest Service and the federal Bureau of Land Management; and

WHEREAS, management of Forest Service and Bureau of Land Management lands in Montana has a significant and direct bearing on Montana's environment, education funding, economy, culture, wildlife, and the health, safety, and welfare of our citizens; and

WHEREAS, federal funding and the capacity for responsible management of Forest Service and Bureau of Land Management lands are in serious jeopardy while critical threats such as beetle kills, invasive species, watershed

degradation, access restrictions, and catastrophic wildfires continue to escalate; and

WHEREAS, government officials have a vested interest and fundamental duty to ensure our abundant public lands and natural resources are managed responsibly and prudently.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to designate an appropriate interim committee or statutory committee, pursuant to section 5-5-217, MCA, or direct sufficient staff resources to:

(1) identify measures that will help ensure that public lands within Montana are managed responsibly and prudently for present and future generations;

(2) evaluate public lands presently managed by the Forest Service and Bureau of Land Management; and

(3) prepare a report and recommendations to the Legislature, including:

(a) an assessment to analyze available information pertaining to the Forest Service and Bureau of Land Management lands within Montana and identify significant concerns or risks associated with these lands relative to:

(i) environmental quality;

(ii) economic productivity and sustainability;

(iii) public health, safety, and welfare;

(iv) consistency with state and local objectives;

(v) ownership and jurisdictional responsibilities; and

(vi) other aspects as considered appropriate by the assigned interim committee;

(b) a survey of county commissions whose counties contain 15% or more land area under the management of the Forest Service and/or Bureau of Land Management, incorporating their responses into the report;

(c) identification of solutions and goals to improve concerns or risks identified by subsection (3)(a);

(d) investigation of all lawful mechanisms, including actions implemented in other states, that may aid in achieving desired goals; and

(e) recommendations to agencies and the Legislature of necessary actions to achieve solutions and goals.

BE IT FURTHER RESOLVED, that if the study is assigned to staff, any findings or conclusions be presented to and reviewed by an appropriate committee designated by the Legislative Council.

BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review requirements, be concluded prior to September 15, 2014.

BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions, comments, or recommendations of the appropriate committee, be reported to the 64th Legislature.

Adopted April 18, 2013

**SENATE JOINT RESOLUTION NO. 18**

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA URGING THE MONTANA CONGRESSIONAL DELEGATION AND THE PRESIDENT OF THE UNITED STATES OF AMERICA TO INITIATE A PROCESS WHEREIN THE FEDERAL GOVERNMENT MUST ACCOMPLISH A BALANCED BUDGET WITHIN 10 YEARS AND LOWER ANNUAL FEDERAL DEFICIT SPENDING LEVELS.

WHEREAS, the fiscal policies of the United States federal government have placed our country on an untenable path and threaten future generations of Montanans; and

WHEREAS, high levels of debt directly threaten the ability of a government to control its own budget priorities; and

WHEREAS, our nation's fiscal crisis threatens our economy and national security, has contributed to a loss of trust in government, and exposes individual states to dire economic times; and

WHEREAS, the federal government has raised the debt ceiling 79 times since 1960 to prevent the United States from facing its first ever default; and

WHEREAS, the interest expense on our national debt exceeds \$151 billion for fiscal year 2013, and by 2023, interest on the national debt is estimated to be nearly \$900 billion; and

WHEREAS, payments on our nation's debt exceed \$200 billion annually, and as a result, the credit rating of the United States in 2011 was lowered for the first time; and

WHEREAS, by borrowing revenue from the future and spending it today, our nation's debt is being passed on to future generations; and

WHEREAS, passing massive amounts of federal debt to the next generation is contradictory to the American principle of leaving our nation, states, and local communities in better shape than we found them; and

WHEREAS, the federal debt threatens the livelihood of Montana's veterans; and

WHEREAS, Montana and 48 other states are required by law to pass balanced budgets; and

WHEREAS, nearly all states are constitutionally required to produce balanced budgets, and although economic conditions vary and demand for government services may increase, leaders are required to make difficult decisions in accordance with the fundamental principles of fiscal prudence; and

WHEREAS, the people of Montana expect and demand the same of our federal government; and

WHEREAS, the federal government has failed to approve a budget since 2009 and has not produced a balanced budget since 2001; and

WHEREAS, that which cannot continue, will not.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislature of the State of Montana hereby calls upon the Montana Congressional Delegation and the President of the United States of America to initiate a process wherein the federal government reduces annual deficit spending and accomplishes a balanced budget within 10 years.

BE IT FURTHER RESOLVED, that the Secretary of State send a copy of this resolution to each member of the Montana Congressional Delegation and the President of the United States.

Adopted April 4, 2013

## SENATE JOINT RESOLUTION NO. 20

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN INTERIM STUDY OF PRESCRIPTION DRUG ABUSE AND THE EFFECTS OF THE ABUSE ON MONTANANS.

WHEREAS, the Centers for Disease Control and Prevention report that prescription drug abuse is the fastest-growing problem in the United States; and

WHEREAS, the Centers for Disease Control and Prevention report that approximately 29,000 Americans died from unintentional drug overdoses in 2007 and the increase in unintentional deaths is due to increased use of opioid analgesics, which since 2003 have been responsible for more deaths than heroin and cocaine combined; and

WHEREAS, Montana Department of Justice statistics show that prescription drug abuse contributed to the deaths of more than 300 Montanans in 2008, outpacing motor vehicle crashes, homicides, methamphetamine, heroin, and cocaine deaths in Montana combined; and

WHEREAS, the Centers for Disease Control and Prevention report that prescription drug abuse and overdose deaths are highest among men, persons who are between the ages of 19 and 65, non-Hispanic white people, and poor and rural populations; and

WHEREAS, surveys have shown that the 9 million people who reported long-term medical use of opioids and the 5 million people who reported nonmedical use within a month of being surveyed are at the highest risk of prescription drug overdoses; and

WHEREAS, managed effectively, prescription drugs can provide effective relief for individuals with chronic pain; and

WHEREAS, 10% of Montana teens surveyed for the 2010 Montana Prevention Needs Assessment reported using prescription pain relievers at some point in their lives; and

WHEREAS, national data suggests that rural teens are more likely than urban teens to abuse prescription drugs; and

WHEREAS, 51% of teens in a national survey said they believe teens can obtain prescription drugs from the family medicine cabinet; and

WHEREAS, a 2011 study estimated that the total cost in the United States of nonmedical use of prescription opioids was \$53.4 billion, of which \$42 billion was attributable to lost productivity, \$8.2 billion to criminal justice costs, \$2.2 billion to drug abuse treatment, and \$944 million to medical complications.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to designate an appropriate interim committee, pursuant to section 5-5-217, MCA, to study strategies for reducing prescription drug abuse, particularly the use of opioid pain relievers



for the treatment of chronic pain caused by conditions other than cancer or the treatment of cancer.

BE IT FURTHER RESOLVED, that the study efforts include:

(1) compiling data on the major illicit sources of prescription drugs by using information from available sources, including the Montana prescription drug registry;

(2) evaluating the extent and impact of current efforts in Montana to prevent prescription drug abuse and to mitigate the effects of the abuse;

(3) identifying a comprehensive and coordinated statewide strategy that restricts access to prescription drugs for illicit use while ensuring access for individuals who have legitimate need for the drugs;

(4) identifying opportunities for collaboration among the public health, law enforcement, and medical communities at the state and local levels;

(5) identifying the communities most in need of prevention and mitigation efforts related to prescription drug abuse in order to prevent abuse and addiction and prevent or reduce the related need for chemical dependency treatment and the potential for an individual's involvement in the criminal justice system; and

(6) identifying appropriate steps that Montana policymakers may take to reduce prescription drug abuse in order to improve the health of Montanans.

BE IT FURTHER RESOLVED, that the study include representatives of the Department of Public Health and Human Services, the Department of Justice, the Board of Pharmacy, the Board of Medical Examiners, health care providers, and other parties interested in efforts to prevent prescription drug abuse.

BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review requirements, be concluded prior to September 15, 2014.

BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions, comments, or recommendations of the appropriate committee, be reported to the 64th Legislature.

Adopted April 18, 2013

## SENATE JOINT RESOLUTION NO. 21

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA COMMEMORATING THE 163RD INFANTRY REGIMENT AND ITS SUCCESSORS ON THE 70TH ANNIVERSARY OF THE BATTLE OF SANANANDA, PAPUA NEW GUINEA.

WHEREAS, the 163rd Infantry Regiment (1917-1953) and its successor units, the 163rd Armored Cavalry Regiment (1953-1970), 1/163rd Infantry Battalion (Mechanized), 163rd Armored Brigade (1970-1995), and the 1/163rd Infantry Battalion, 116th Cavalry Regiment (1995-present) has served Montana and this nation in war and in peace for the past century; and

WHEREAS, the 163rd Infantry Regiment was ordered into active duty on September 16, 1940, with a force of 1,700 men, including nearly 200 representatives of Montana tribes and after training for 1 year became part of the initial American forces ordered into duty in the Pacific theater when the United States entered World War II in December 1941; and

WHEREAS, the 163rd Infantry Regiment earned numerous citations and letters of appreciation from Army headquarters during and after World War II,

in particular for what General Jacob Devers referred to as “76 days of unrelieved fighting, a record in jungle warfare,” as the 163rd Infantry Regiment and the 41st Infantry Division to which it was assigned carried on a 1,000-mile campaign in the jungles of New Guinea; and

WHEREAS, the year 2013 is the occasion of the 70th anniversary of the 163rd Infantry Regiment’s heroic efforts to help the allied forces win the Battle of Sanananda, Papua New Guinea, in World War II in the Southwest Pacific, a battle recognized as the first major land victory against the Japanese forces; and

WHEREAS, the 163rd Infantry Regiment battled enemy forces, fighting in Papua New Guinea, in the Battles of Aitape, Biak, Wadke, in the southern Philippines in the battle of Zamboanga, and in the Sulu Archipelago with amphibious landings on Tawi-Tawi, Jolo, Sanga-Sanga, and Bongao; and

WHEREAS, the 163rd Infantry Regiment was credited with winning three major battles, Sanananda, Biak, and Zamboanga, and three smaller battles, Wadke, Jolo, and Calinan; and

WHEREAS, the 163rd Infantry Regiment served as one of the initial occupation forces in Japan in World War II until being demobilized and sent home in January 1946; and

WHEREAS, the 163rd Infantry Regimental Combat Team, upon its return to Montana, became a major element of Montana’s National Guard, serving as the basis for the Montana Army and Air National Guard, which continue to serve Montana today; and

WHEREAS, the 163rd Infantry Regiment is the successor to the following: volunteer troops known as the Montana Territorial Volunteers, who served from 1867 to 1887; the First Montana Infantry Regiment; the Montana National Guard formed in March 1887; the First Montana Infantry Regiment, United States Volunteers, which was formed to fight in the Spanish-American and Philippine-American Wars in 1898-1899 and which later became the 2nd Montana Infantry providing emergency services for Montana before being activated to serve on the U.S.-Mexican border in 1916 and being redesignated as the 163rd Infantry Regiment prior to being called to duty in World War I in 1917-1919; and

WHEREAS, more than 100,000 Montanans have served or are currently serving in units associated with the 163rd Infantry Regiment and deserve recognition for their accomplishments in serving the state and the country including in the Global War on Terror beginning in 2001 and continuing today.

**NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:**

That the 63rd Legislature recognizes the 163rd Infantry Regiment and its successors on the 70th anniversary of the end of the Battle of Sanananda, Papua New Guinea, and tenders to every officer and to every man and woman of the 163rd Infantry Regiment and its successors and expresses deep gratitude of the whole body of citizens for this great victory, purchased with the blood of their bravest, hopeful that the Regiment and its successors will accept this expression as evidence of the love and devotion that we have for it, which sustains us on the home front and inspires us to dedicate each day to aid our men and women overseas and at home.

Adopted April 13, 2013

**SENATE JOINT RESOLUTION NO. 22**

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN INTERIM STUDY EVALUATING CURRENT COURT PROCEDURES IN FAMILY LAW CASES AND IDENTIFYING ALTERNATIVE SOLUTIONS.

WHEREAS, Montana's district courts experienced a record number of filings in 2012, exceeding 50,000 new case filings statewide for the first time in history; and

WHEREAS, more than one in five of all cases filed in the district courts are domestic relations and family law cases, approximately 60% of which, more than 6,500 cases in 2012, have at least one party who is not represented by counsel; and

WHEREAS, the high percentage of the district courts' caseload and the attention the various issues in these filings require have the dual effect of overwhelming the bench and depriving litigants of the prompt, careful consideration they deserve; and

WHEREAS, children and families suffer in contested parenting cases, where the win-lose adversarial court system often escalates family conflict instead of working to find solutions that will create a healthy environment in which children may grow up without being caught in the middle of their parents' disagreements; and

WHEREAS, other states have created alternatives for handling family law matters, including early case management and early neutral evaluation programs, administrative law models that allow fact-gathering and processing of family cases prior to involvement by the court, and other alternative dispute resolution processes; and

WHEREAS, alternative dispute resolution methods would assist parties in resolving matters before significant financial and emotional resources are expended on litigation and would help avoid lengthy and expensive court battles, while at the same time freeing up the district courts to spend more time on the other areas of their growing caseloads.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to designate an appropriate interim committee, pursuant to section 5-5-217, MCA, or direct sufficient staff resources to:

(1) evaluate the cost and effectiveness of Montana's current court processes in addressing domestic relations matters;

(2) research family law models and approaches, legislative and otherwise, being used in other states; and

(3) identify measures that will help improve the administration of justice and promote the nonadversarial resolution of family law disputes.

BE IT FURTHER RESOLVED, that if the study is assigned to staff, any findings or conclusions be presented to and reviewed by an appropriate committee designated by the Legislative Council.

BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review requirements, be concluded prior to September 15, 2014.

BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions, comments, or recommendations of the appropriate committee, be reported to the 64th Legislature.

Adopted April 18, 2013

### **SENATE JOINT RESOLUTION NO. 23**

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN INTERIM STUDY OF MONTANA'S TAX APPEALS AND HEARING PROCESS AND THE OPTIONS AVAILABLE FOR STREAMLINING AND IMPROVING THE APPEAL PROCESS.

WHEREAS, the tax laws in Montana include numerous complicated tax types, tax rates, and tax applications all of which are subject to an appeals process; and

WHEREAS, the Montana Constitution requires that the Legislature shall provide independent appeal procedures for taxpayer grievances with respect to appraisals, assessments, equalization, and taxes, including a review procedure at the local government level; and

WHEREAS, mediation can be an important component of the taxpayer appeal process; and

WHEREAS, appeals of centrally assessed properties and large industrial facility properties can be especially protracted and complicated, and require specific expertise in taxation; and

WHEREAS, it is in the interest of the state of Montana to ensure that taxpayer appeals are fair, time efficient, and equitable.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to designate an appropriate interim committee or statutory committee, pursuant to section 5-5-217, MCA, to:

- (1) review the current local government tax appeal process and state tax appeal process;
- (2) analyze whether the current local government tax appeal process and state tax appeal process should be maintained;
- (3) analyze whether there should be changes generally to the current local government tax appeal process and state tax appeal process to improve access and efficiency for taxpayer appeals;
- (4) analyze the appropriateness and timeliness of formal mandatory or voluntary mediation processes as part of the taxpayer appeal process;
- (5) analyze whether changes to the appeal process are necessary for appeal of centrally assessed properties and large industrial facility properties to ensure an efficient process that attempts to avoid costly and time-consuming appeals;
- (6) determine whether to recommend an alternate process other than the current local government tax appeal process and state tax appeal process, including:
  - (a) consideration of specific education, experience, and continuing education of state tax appeal board members; and
  - (b) implementation of a tax court system; and

(c) implementation of a rotating district judge to handle direct appeals from centrally assessed and large industrial facility properties; and

(7) ensure that the resulting recommendations for tax appeals processes be in accordance with Article VIII, section 7, of the Montana Constitution.

BE IT FURTHER RESOLVED, that all aspects of the study, including presentation, review requirements, and recommendations, be concluded before September 15, 2014.

BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions, comments, or recommendations of the committee, be reported to the 64th Legislature.

Adopted April 18, 2013

### **SENATE JOINT RESOLUTION NO. 24**

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING A STUDY OF HOW MILITARY TRAINING MAY APPLY TO PROFESSIONAL AND OCCUPATIONAL LICENSING AND OTHER CIVILIAN JOB CERTIFICATION REQUIREMENTS.

WHEREAS, extensive military training provided to military members in many cases is similar to or meets the requirements for professional and occupational licenses and certifications required for civilian and state or local government jobs; and

WHEREAS, military members of the National Guard and Reserves bring the attributes of discipline and a strong work ethic to the Montana job market; and

WHEREAS, military members and veterans may be more easily hired if professional and occupational licensing boards or other certification entities give due recognition to their extensive military training and the similarities of that training with professional and occupational licensing requirements or requirements for certification for other state or local government jobs.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to designate an appropriate interim committee, pursuant to section 5-5-217, MCA, or direct sufficient staff resources to:

(1) monitor work done by professional and occupational licensing boards regarding recognition of military training as equivalent to licensing requirements;

(2) identify and examine other certifications or licensing for civilian or state or local government jobs for which military training and skills may be acceptable equivalents; and

(3) identify statutes, if any, that may need to be amended to allow reciprocity for military training for licensure or certification.

BE IT FURTHER RESOLVED, that if the study is assigned to staff, any findings or conclusions be presented to and reviewed by an appropriate committee designated by the Legislative Council.

BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review requirements, be concluded prior to September 15, 2014.

BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions, comments, or recommendations of the appropriate committee, be reported to the 64th Legislature.

Adopted April 18, 2013

## SENATE JOINT RESOLUTION NO. 26

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN INTERIM STUDY OF THE TRANSPORTING OF OVERSIZE LOADS THROUGH MONTANA.

WHEREAS, there are many compelling reasons to establish a predictable, timely, and cost-effective process that will allow numerous manufacturing firms, contractors, motor carriers, and others involved in commerce, both within and outside the state of Montana, to efficiently and in a cost-effective manner transport oversize and other loads through Montana; and

WHEREAS, the Legislature is committed to fostering the economic activity generated by transporting the loads, with substantial benefits accruing to Montana workers, small businesses, and local communities; and

WHEREAS, there are compelling reasons to reduce project costs and expedite the movement of people and goods by eliminating delays, reducing regulatory burdens, improving agencies' work practices, lowering costs, and accelerating completion of transportation projects; and

WHEREAS, Montana has an obligation to improve its portion and the whole of the national freight network, strengthen the ability of communities to access national and international trade markets, and support economic development; and

WHEREAS, in conjunction with other states and federal transportation authorities, Montana is committed to fostering actions that do not result in significant environmental impacts and, therefore, expediting the review processes and project delivery in furtherance of the objectives envisioned by the Moving Ahead for Progress in the 21st Century Act, Public Law 112-141, commonly referred to as MAP-21.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to designate an appropriate interim committee, pursuant to section 5-5-217, MCA, to identify:

(1) any impediments in Montana law that preclude or discourage transporting oversize loads through the state; and

(2) options to remove or mitigate the impediments to efficiently and in a cost-effective manner transport oversize and other loads through Montana.

BE IT FURTHER RESOLVED, that the committee look to other states or Canadian provinces for legislative methods or means enacted to foster the transport of oversize loads through various public jurisdictions, including by establishing or authorizing the establishment of commerce corridors.

BE IT FURTHER RESOLVED, that the Senate and House of Representatives request that the Montana Department of Transportation, the Montana Department of Environmental Quality, local governments, appropriate highway user groups and, to the extent possible, U.S. Department

of Transportation officials make their respective staffs, information, and expertise available to the committee to advance the purposes of the study.

BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review requirements, be concluded prior to September 15, 2014.

BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions, comments, or recommendations of the appropriate committee, be reported to the 64th Legislature.

Adopted April 20, 2013

## Senate Resolutions

### SENATE RESOLUTION NO. 1

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA ADOPTING THE SENATE RULES.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the following Senate Rules be adopted:

#### RULES OF THE MONTANA SENATE

##### CHAPTER 1

##### Administration

**S10-10. Officers of the Senate.** The officers of the Senate are the officers listed and elected in accordance with Title 5, chapter 2, part 2, MCA.

**S10-20. Term of office.** The term of office for the officers and employees of the Senate established by law is until the succeeding Legislature is organized. This rule may not be construed to mean the staff will be full-time employees during an interim.

**S10-30. President, President pro tempore, and other officers.** (1) The Senate shall, at the beginning of each regular session, and at other times as may be necessary, elect a Senator as President and a Senator as President pro tempore.

(2) The Senate shall choose its other officers and is the judge of the elections, returns, and qualifications of the Senators.

**S10-40. Voting by presiding officer.** Any Senator, when acting as presiding officer of the Senate, shall vote as any other Senator.

**S10-50. Presiding officer and duties.** (1) The presiding officer of the Senate is the President of the Senate, who must be chosen in accordance with law.

(2) The President shall take the chair on every legislative day at the hour to which the Senate adjourned at the last sitting.

(3) The President may name a Senator to perform the duties of the President when the President pro tempore is not present in the Senate chamber. The Senator who is named is vested during that time with all the powers of the President.



(4) The President has general control over the assignment of rooms for the Senate and shall preserve order and decorum. The President may order the galleries and lobbies cleared in case of disturbance or disorderly conduct.

(5) The President shall sign all necessary certifications of the Senate, including enrolled bills and resolutions, journals, subpoenas, and payrolls. The President's signature must be attested by the Secretary of the Senate.

(6) The President shall approve the calendar for each legislative day.

(7) The President is the chief administrative officer of the Senate, with authority for the general supervision of all Senate employees. The President may seek the advice and counsel of the Legislative Administration Committee.

(8) The President of the Senate is the authorized approving authority of the Senate during the term of election to that office.

(9) The President shall refer bills to committee upon introduction or reception in the office of the Secretary of the Senate.

**S10-60. Succession.** (1) In case of the absence or disqualification of the President, the President pro tempore of the Senate shall perform the duties of the President until the vacancy is filled or the disability removed.

(2) Whenever the President pro tempore of the Senate is of the opposite political party from that of the President, the following procedure applies:

(a) If the President dies while in office, the members of the Senate have the right to immediately nominate and elect an acting President of the same party.

(b) If the President is absent for 2 or more legislative days or at any time after the 85th legislative day or at any time during special session of the Legislature and wants to appoint an acting President during the President's absence, the President may do so, or the members of the Senate have the right to immediately nominate and elect an acting President of the President's caucus.

(c) An acting President of the Senate has the powers of the President and supersedes the powers of the President pro tempore.

**S10-70. President-elect.** The President-elect nominated by the appropriate party caucus held in accordance with section 5-2-201, MCA, has the responsibility and authority to assume the duties of President of the Senate.

**S10-80. Legislative Administration Committee duties.** (1) The Legislative Administration Committee shall consider matters relating to legislative administration, staffing patterns, budgets, equipment, operations, and expenditures.

(2) The committee has authority to act in the interim to prepare for future legislative sessions.

(3) The committee shall approve contracts for purchase or lease of equipment and supplies for the Senate, subject to the approval of the President.

(4) The committee shall consider disputes or complaints involving the competency or decorum of legislative employees referred to it by the President and recommend dismissal, suspension, or retention of employees.

(5) The chair of the Legislative Administration Committee may, upon approval of the President, have purchase orders and requisitions prepared and forwarded to the accounting office in the Legislative Services Division.

**S10-90. Majority Leader.** The primary functions of the majority leader usually relate to floor duties. The duties of the majority leader may include but are not limited to:

(1) being the lead speaker for the majority party during floor debates;

- (2) helping the President develop the calendar;
- (3) assisting the President with program development, policy formation, and policy decisions;
- (4) presiding over the majority caucus meetings; and
- (5) other duties as assigned by the caucus.

**S10-100. Majority Whip.** The duties of the majority whip may include but are not limited to:

- (1) assisting the majority leader;
- (2) ensuring member attendance;
- (3) counting votes;
- (4) generally communicating the majority position; and
- (5) other duties as assigned by the caucus.

**S10-110. Minority Leader.** The minority leader is the principal leader of the minority caucus. The duties of the minority leader may include but are not limited to:

- (1) developing the minority position;
- (2) negotiating with the majority party;
- (3) directing minority caucus activities on the chamber floor;
- (4) leading debate for the minority; and
- (5) other duties as assigned by the caucus.

**S10-120. Minority Whip.** The major responsibilities for the minority whip may include but are not limited to:

- (1) assisting the minority leader on the floor;
- (2) counting votes;
- (3) ensuring attendance of minority party members; and
- (4) other duties as assigned by the caucus.

**S10-130. Senate employees.** (1) In addition to the employees appointed by the President in accordance with section 5-2-221, MCA, the Senate shall employ staff recommended by the leadership and the Legislative Administration Committee as necessary to perform the functions of the Senate.

(2) The Secretary of the Senate shall designate a secretary to take and prepare written minutes of committee meetings for each standing committee. A committee secretary is immediately responsible to the chair, but shall work under the overall direction of the Secretary of the Senate, subject to authority of the committee chair.

(3) The President, majority leader, and minority leader may each appoint a private secretary.

**S10-140. Secretary of the Senate and duties.** The Secretary of the Senate works under the direction of the President. The responsibilities of the Secretary of the Senate include:

- (1) performing the duties prescribed by law or other provisions of these rules;
- (2) serving as parliamentary advisor to the Senate;
- (3) compiling and maintaining the calendar for approval by the President;
- (4) keeping the leadership informed on the progress and workload of the Senate;

- (5) transmitting bills with appropriate messages to the House of Representatives as instructed by action of the Senate;
- (6) keeping and maintaining records of the Senate; and
- (7) supervision of the Senate employees, except as otherwise provided.

**S10-150. Sergeant-at-Arms duties.** Under the direction of the President, the Sergeant-at-Arms shall:

- (1) maintain order as directed by the President or chair of the Committee of the Whole;
- (2) enforce the lobbying rules of the Senate;
- (3) supervise the employees assigned to the Sergeant's office;
- (4) receive, distribute, and maintain supplies, equipment, and other inventory of the Senate, along with records of purchase and disposal in accordance with law;
- (5) perform duties as required by other rules and the Senate.

**S10-160. Legislative aides.** Each Senator may designate one person of legal age to serve as an aide during the session. Exceptions to this policy may be approved by the Rules Committee. The Senator shall register an aide with the Secretary of the Senate and arrange for the purchase of a name tag with the Sergeant-at-Arms.

**S10-170. Senate journal.** (1) The Senate shall keep and authenticate a journal of its proceedings as required by law and the rules.

(2) The Secretary of the Senate will supervise the preparation of the journal by the journal clerks trained by the Legislative Services Division under the direction of the President.

(3) In addition to the proceedings required by law to be recorded, the journal must include:

- (a) committee reports;
- (b) every motion, the name of the Senator presenting it, and its disposition;
- (c) the introduction of legislation in the Senate;
- (d) consideration of legislation subsequent to introduction;
- (e) roll call votes;
- (f) messages from the Governor and the House of Representatives;
- (g) every amendment, the name of the Senator presenting it, and its disposition;
- (h) the names of Senators and their votes on any question upon a request by two Senators before a vote is taken; and
- (i) any other records the Senate directs by rule or action.

(4) The Secretary of the Senate shall provide information that may be necessary for the preparation of the daily journal for printing by the Legislative Services Division. Upon approval by the President, the daily journal must be reproduced and made available.

(5) Any Senator may examine the daily journal and propose corrections. Without objection by the Senate, the President may direct the correction to be made.

(6) The President shall authenticate the original daily journal, from time to time, and the Secretary of the Senate shall, as appropriate, deliver it to the Legislative Services Division to be prepared for publication and distribution in accordance with law.

**CHAPTER 2****Decorum**

**S20-10. Questions of order — appeal.** The President of the Senate shall decide all questions of order, subject to an appeal by any Senator seconded by two other Senators. A Senator may not speak more than once on an appeal without the consent of a majority of the Senate.

**S20-20. Violation of rules — call to order — appeal.** (1) If a Senator, in speaking or otherwise, violates the rules of the Senate, the President shall, or the majority leader or minority floor leader may, call the Senator to order, in which case the Senator called to order must be seated immediately.

(2) The Senator called to order may move for an appeal to the Senate, and if the motion is seconded by two Senators, the matter must be submitted to the Senate for determination by majority vote. The motion is nondebateable.

(3) If the decision of the Senate is in favor of the Senator called to order, the Senator may proceed. If the decision is against the Senator, the Senator may not proceed.

(4) If a Senator is called to order, the matter may be referred to the Rules Committee by the minority or majority leader. The Committee may recommend to the Senate that the Senator be censured or be subject to other action. Censure consists of an official public reprimand of a Senator for inappropriate behavior. The Senate shall act upon the recommendation of the Committee.

**S20-30. Questions of privilege — restrictions.** (1) Questions of privilege in order of precedence are those:

(a) affecting the collective rights, safety, dignity, or integrity of the proceedings of the Senate; and

(b) affecting the rights, reputation, or conduct of individual Senators in their capacity as Senators.

(2) A Senator may not address the Senate on a question of privilege between the time:

(a) an undebatable motion is offered and the vote is taken on the motion;

(b) the previous question is ordered and the vote is taken on the proposition included under the previous question; or

(c) a motion to lay on the table is offered and the vote is taken on the motion.

**S20-40. Recognition by chair.** A Senator desiring to speak shall rise and address the presiding officer and, once being recognized, shall speak standing in place. The presiding officer may grant permission for a speaker to speak from elsewhere in the chamber. When two or more Senators rise at the same time, the presiding officer shall name the order of the speakers.

**S20-50. Floor privileges.** (1) When the Senate is in session no person is permitted in the chambers except:

(a) legislators;

(b) legislative officers and employees whose presence is necessary for the conduct of business of the session;

(c) registered representatives of the media; and

(d) former legislators (not currently registered as lobbyists).

(2) The President may make exceptions for visiting dignitaries.

(3) Beginning 1 hour before and ending one-half hour after adjournment, no person is permitted in the chambers except those authorized as exceptions under subsection (1) or (2).

**S20-60. Communications to Senate.** A communication to the Senate must be addressed to the President and must bear the name of the person submitting it. The President shall decide if the communication bears including in the calendar.

**S20-70. Distribution of materials on floor — exception.** (1) Subject to subsection (2), material may not be distributed on the Senators' desks in the chamber unless the material bears the signature of the bearer and a Senator and has been approved by the President.

(2) Subsection (1) does not apply to material written by staff at the request of a Senator and placed on the Senator's desk.

### CHAPTER 3 Committees

**S30-10. Committee appointments.** (1) There is a Committee on Committees consisting of six members. If the Senate is evenly divided between parties, the committee shall consist of six Senators, three from the majority party and three from the minority party.

(2) The Committee on Committees shall, with the approval of the Senate, appoint the members of Senate standing committees, select committees, and joint committees. Prior to making committee assignments, the Committee on Committees shall take into consideration the recommendations of the minority leader for minority committee assignments.

(3) The President of the Senate shall appoint all conference committees and special committees, with the advice of the majority leader and minority leader.

(4) The Senate may change the membership of any committee on 1 day's notice.

**S30-20. Standing committees — classification.** (1) The standing committees of the Senate are as follows:

- (a) class one committees:
  - (i) Business, Labor, and Economic Affairs;
  - (ii) Finance and Claims;
  - (iii) Judiciary; and
  - (iv) Taxation;
- (b) class two committees:
  - (i) Education and Cultural Resources;
  - (ii) Local Government;
  - (iii) Natural Resources;
  - (iv) Public Health, Welfare, and Safety; and
  - (v) State Administration;
- (c) class three committees:
  - (i) Agriculture, Livestock, and Irrigation;
  - (ii) Energy and Telecommunications;
  - (iii) Fish and Game; and
  - (iv) Highways and Transportation; and
- (d) on call committees:
  - (i) Ethics;
  - (ii) Legislative Administration; and
  - (iii) Rules.

(2) A class 1 committee is scheduled to meet Monday through Friday. A class 2 committee is scheduled to meet Monday, Wednesday, and Friday. A class 3 committee is scheduled to meet Tuesday and Thursday. Unless a class is prescribed for a committee, it meets upon the call of the chair.

(3) The Legislative Council shall review the workload of the standing committees to determine if any change is indicated in the class of a standing committee for the next legislative session. The Legislative Council's recommendations must be submitted to the leadership nominated or elected at the pre-session caucus provided for in 5-2-201.

**S30-40. Ex officio members — quorum.** (1) A quorum of a committee is a majority of the members of the committee. A quorum of a committee must be present at a meeting to act officially. A quorum of a committee may transact business, and a majority of the quorum, even though it is a minority of the committee, is sufficient for committee action.

(2) The majority leader and the minority leader are ex officio nonvoting members of all committees in order to establish a quorum.

**S30-50. Chair's duties.** (1) The chair of a committee is the presiding officer of that committee and is responsible for:

(a) maintaining order within the committee room and its environs;

(b) scheduling hearings and executive action;

(c) supervising committee work, including the appointment of subcommittees to act on a formal or informal basis; and

(d) authenticating committee reports by signing them and submitting them promptly to the Secretary of the Senate. The chair shall sign business reports reflecting action taken in each committee meeting that enable the preparation of committee minutes. The minutes must be printed on archival paper.

(2) The Secretary of the Senate shall arrange to have the minutes copied in an electronic format. An electronic copy will be provided to the Legislative Services Division and the State Law Library of Montana. The archival paper copy must be delivered to the Montana Historical Society.

**S30-60. Meetings — notice — purpose — minutes.** (1) All meetings of committees must be open to the public at all times, subject always to the power and authority of the chair to maintain safety, order, and decorum. The date, time, and place of committee meetings must be announced.

(2) Notice of a committee hearing must be made by posting the date, time, and subject of the hearing in a conspicuous public place not less than 3 legislative days in advance of the hearing. This 3-day notice requirement does not apply to hearings scheduled:

(a) prior to the third legislative day;

(b) less than 10 legislative days before the transmittal deadline applicable to the subject of the hearing;

(c) to consider confirmation of a gubernatorial appointment received less than 10 legislative days before the last scheduled day of a legislative session; or

(d) due to appropriate circumstances.

(3) When a committee hearing is scheduled with less than 3 days' notice, the committee chair shall use all practical means to disseminate notice of the hearing to the public.

(4) Notice of conference committee hearings must be given as provided in Joint Rule 30-30.

(5) A committee or subcommittee may be assembled for:

(a) a public hearing at which testimony is to be heard and at which official action may be taken on bills, resolutions, or other matters;

(b) a formal meeting at which the committees may discuss and take official action on bills, resolutions, or other matters without testimony; or

(c) a work session at which the committee may discuss bills, resolutions, or other matters but take no formal action.

(6) All committees meet at the call of the chair or upon the request of a majority of the members of the committee.

(7) A committee may not meet during the time the Senate is in session without leave of the President. Any Senator attending a meeting while the Senate is in session must be considered excused to attend business of the Senate subject to a call of the Senate.

(8) All meetings of committees must be recorded and the minutes must be available to the public within a reasonable time after the meeting. The official record must contain at least the following information:

(a) the time and place of each meeting of the committee;

(b) committee members present, excused, or absent;

(c) the names and addresses of persons appearing before the committee, whom each represents, and whether the person is a proponent, opponent, or other witness;

(d) all motions and their disposition;

(e) the results of all votes; and

(f) all testimony and exhibits.

(9) If a bill is heard in a joint committee, it must be referred to a standing committee. The standing committee is not required to hold an additional hearing but shall take executive action and may report the bill to the Committee of the Whole.

(10) A bill or resolution may not be considered or become a law unless referred to a committee and returned from a committee.

(11) A bill may be rereferred at any time before its passage.

**S30-70. Procedures — member privileges.** (1) The chair shall notify the sponsor of any bill pending before the committee of the time and place it will be considered.

(2) A standing or select committee may not hear legislation unless the sponsor or one of the cosponsors is present or unless the sponsor has given written consent.

(3) (a) Subject to subsection (3)(b), the committee shall act on each bill in its possession:

(i) by reporting the bill out of the committee:

(A) with the recommendation that it be referred to another committee;

(B) favorably as to passage; or

(C) unfavorably; or

(ii) by tabling the measure in committee.

(b) At the written request of the sponsor made at least 48 hours prior to a scheduled hearing, a committee shall finally dispose of a bill without a hearing. Except as provided in S30-60(9), a bill may not be reported from a committee without a hearing.



(4) The committee may not report a bill to the Senate without recommendation.

(5) In reporting a measure out of committee, a committee shall include in its report:

- (a) the measure in the form reported out;
- (b) the recommendation of the committee;
- (c) an identification of all proposed changes; and
- (d) a fiscal note, if required.

(6) If a measure is taken from a committee and brought to the Senate floor for debate on second reading on that day without a committee recommendation, the bill does not include amendments formally adopted by the committee because committee amendments are merely recommendations to the Senate that are formally adopted when the committee report is accepted by the Senate.

(7) A second to any motion offered in a committee is not required in order for the motion to be considered by the committee.

(8) The vote of each member on all committee actions must be recorded and reported in the committee minutes. All motions may be adopted only on the affirmative vote of a majority of the members voting.

(9) A motion to take a bill from the table may be adopted by the affirmative vote of a majority of the members present at any meeting of the committee.

(10) An action formally taken by a committee may not be altered in the committee except by reconsideration and further formal action of the committee.

(11) A committee may reconsider any action as long as the matter remains in the possession of the committee. A bill is in the possession of the committee until a report on the bill is made to the Committee of the Whole. A committee member need not have voted with the prevailing side in order to move reconsideration.

(12) The chair shall decide points of order.

(13) The privileges of committee members include the following:

- (a) to participate freely in committee discussions and debate;
- (b) to offer motions;
- (c) to assert points of order and privilege;
- (d) to question witnesses upon recognition by the chair;
- (e) to offer any amendment to any bill; and
- (f) to vote, either by being present or by proxy, using a standard form.

(14) Any meeting of a committee held through the use of telephone or other electronic communication must be conducted in accordance with Chapter 3 of the Senate Rules.

(15) A committee may consolidate into one bill any two or more related bills referred to it whenever legislation may be simplified by the consolidation.

(16) Committee procedure must be informal, but when any questions arise on committee procedure, the rules or practices of the Senate are applicable except as stated in the Senate Rules.

**S30-80. Public testimony — 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, subject to time constraints. Written testimony may not be required of any witness, but all witnesses must be encouraged to submit a statement in writing for the committee's official record.

(3) The chair may order the committee room cleared of visitors if there is disorderly conduct. During committee meetings, visitors may not speak unless called upon by the chair. Restrictions on time available for testimony may be announced.

(4) The number of people in a committee room may not exceed the maximum posted by the State Fire Marshall. The chair shall maintain that limit.

(5) In any committee meeting, the use of cameras, television, radio, or any form of telecommunication equipment is allowed, but the chair may designate the areas of the hearing room from which the equipment must be operated. Cell phone use is at the discretion of the chair.

**S30-100. Pairs prohibited — absentee or proxy voting.** Pairs in standing committee are prohibited. Standing and select committees may by a majority vote of the committee authorize Senators to vote in absentia. Authorization for absentee or proxy voting must be reflected in the committee minutes.

**S30-140. Reconsideration in committee.** A committee may at any time prior to submitting a report to the Secretary of the Senate reconsider its previous action on legislation.

**S30-150. Committee requested legislation.** (1) (a) Except as provided in subsection (1)(b), at least three-fourths of all the members of a standing committee must have voted in favor of the question to allow the committee to request the drafting and introduction of legislation.

(b) The Finance and Claims Committee may request the drafting and introduction of legislation by a majority vote of all of the members of the committee.

(2) The chair of a committee shall introduce, or shall designate a member of the committee to introduce, legislation requested by the committee. The introduced bill must be referred to the requesting committee.

**S30-160. Ethics Committee.** (1) The Ethics Committee shall meet only upon the call of the chair after the referral of an issue from the Rules Committee or to consider a request for a determination pursuant to subsection (4). The Rules Committee may be convened to consider the referral of a matter to the Ethics Committee upon the request of a Senator. The Rules Committee shall prepare a written statement of the specific question or issue to be addressed by the Ethics Committee. The issues referred to the Ethics Committee must be related to the actions of a Senator during a legislative session.

(2) The matters that may be referred to the Ethics Committee are:

(a) a violation of:

(i) 2-2-103;

(ii) 2-2-104;

(iii) 2-2-111;

(iv) 2-2-112;

(b) the use or threatened use of a Senator's position for personal or personal business benefit or advantage; or

(c) any other violation of law by a Senator while acting in the capacity of Senator.

(3) If there is a recommendation from the Ethics Committee, the recommendation is made to the Senate.

(4) As provided in 2-2-112, a Senator may seek a determination from the Ethics Committee concerning the possibility of a personal conflict of interest.

#### CHAPTER 4

##### Legislation

**S40-10. Types of legislation.** The only types of legislation that may be introduced in the Senate are those that have been drafted and approved by the Legislative Services Division and signed by a Senator as chief sponsor. The types of legislation allowed include:

- (1) bills of any subject, except appropriations;
- (2) joint resolutions, which may be used for any purpose specified in Joint Rule 40-60; and
- (3) simple resolutions, which may:
  - (a) adopt or amend Senate rules;
  - (b) provide for the internal affairs of the Senate;
  - (c) express confirmation of the Governor's appointments; or
  - (d) make recommendations concerning the districting and apportionment plan as provided by Article V, section 14(4), of the Montana Constitution.

**S40-20. Introduction — first reading.** (1) Upon receiving a bill or resolution from a Senator, the Secretary of the Senate shall assign an appropriate sequential number, which constitutes introduction of the legislation. Legislation properly introduced or received in the Senate must be announced across the rostrum and public notice provided. This announcement constitutes first reading, and no debate or motion is in order except that a Senator may question adherence to rules. Acknowledgment by the Secretary of the Senate of receipt of legislation transmitted from the House commences the time limit for consideration of the legislation. All legislation received by the Senate may be referred to a committee prior to being read across the rostrum.

(2) Bills and resolutions preintroduced as provided in Joint Rule 40-40 may be assigned to committee and printed prior to the legislative session. The Legislative Services Division is responsible for ensuring the preintroduction intent from each Senator and presenting the preintroduced legislation to the Secretary of the Senate.

(3) Upon referral to committee, the Secretary of the Senate shall publicly post a listing of the bill or resolution by a summary of its title, together with a notation of the committee to which it has been assigned.

(4) The sponsor may ask the Legislative Services Division to change or correct a short title used on the bill status system.

**S40-30. Additional sponsors.** (1) Additional sponsors may be added on motion of the chief sponsor at any time prior to a standing committee report on the bill or resolution. Forms for adding sponsors will be supplied on request by the Secretary of the Senate.

(2) Upon passage of the motion, the names of the additional sponsors will be printed in the journal and the form containing the signatures of the additional sponsors will be forwarded to the Legislative Services Division with the original bill for the inclusion of the names in subsequent printings of the bill or resolution.

**S40-40. Reading limitations.** (1) Every bill must be read three times prior to passage, either by title or by summary of title as provided in these rules.

(2) A bill or resolution may not have more than one reading on the same day except the last legislative day.

(3) An amendment may not be offered on third reading.

**S40-60. Scheduling for second reading.** (1) All bills and resolutions that have been reported by a committee or withdrawn from a committee by motion, accepted by the Senate, and reproduced must be scheduled for consideration by Committee of the Whole.

(2) Until the 50th legislative day, 1 day must elapse between receiving the legislation from printing and scheduling for second reading for consideration by Committee of the Whole unless a printed version of an unamended bill is available.

(3) The majority leader shall arrange legislation on the agenda in the order in which the bills will be considered, unless otherwise ordered by the Senate or Committee of the Whole.

## CHAPTER 5

### Floor Action

**S50-10. Attendance — mandatory voting — quorum.** (1) Unless excused, Senators must be present at every sitting of the Senate and shall vote on questions put before the Senate.

(2) A majority of the Senate shall constitute a quorum to do business, but a smaller number may adjourn from day to day and compel the attendance of absent Senators, in the manner and under penalties as the Senate may prescribe (Montana Constitution, Art. V, sec. 10(2)).

**S50-20. Orders of business.** After prayer, roll call, and report on the journal, the order of business of the Senate is as follows:

- (1) communications and petitions;
- (2) reports of standing committees;
- (3) reports of select committees;
- (4) messages from the Governor;
- (5) messages from the House of Representatives;
- (6) motions;
- (7) first reading and commitment of bills;
- (8) second reading of bills (Committee of the Whole);
- (9) third reading of bills;
- (10) unfinished business;
- (11) special orders of the day; and
- (12) announcement of committee meetings.

To revert to or pass to a new order of business requires only a majority vote. Unless otherwise specified in the motion to recess, the Senate shall revert to Order of Business No. 1 when reconvening after a recess.

**S50-30. Limitations on debate.** A Senator may not speak more than twice on any one motion or question without unanimous consent of the Senate, unless the Senator has introduced or proposed the motion or question under debate, in which case the Senator may speak twice and also close the debate. However, a Senator who has spoken may not speak again on the same motion or question to the exclusion of a Senator who has not spoken.

**S50-40. Procedure upon offering a motion.** (1) When a motion is offered it must be restated by the presiding officer. If requested by the presiding officer or a Senator, it must be reduced to writing, presented at the rostrum, and read aloud by the Secretary.

(2) A motion may be withdrawn by the Senator offering it at any time before it is amended or voted upon.

**S50-50. Precedence of motions.** (1) When a question is under debate only the following privileged and subsidiary motions may be made:

- (a) to adjourn (nondebatable S50-60);
- (b) for a call of the Senate (nondebatable S50-60);
- (c) to recess (nondebatable S50-60);
- (d) question of privilege;
- (e) to lay on the table (nondebatable S50-60);
- (f) for the previous question (nondebatable S50-60);
- (g) to postpone to a certain day;
- (h) to refer or commit;
- (i) to amend; and
- (j) to postpone indefinitely.

(2) The motions listed in subsection (1) have precedence in the order listed.

(3) A question may be indefinitely postponed by a majority roll call of all Senators present and voting. When a bill or resolution is postponed indefinitely, it is finally rejected and may not be acted upon again except upon a motion of reconsideration as provided in S50-90.

(4) A motion or proposition on a subject different from that under consideration may not be accepted unless a substitute motion is in order.

**S50-60. Nondebatable motions.** The following motions are not debatable:

- (1) to adjourn;
- (2) for a call of the Senate;
- (3) to recess or rise;
- (4) for parliamentary inquiry;
- (5) for suspension of the rules;
- (6) to lay on the table;
- (7) for the previous question;
- (8) to limit, extend the limits of, or to close debate;
- (9) to amend an undebatable motion;
- (10) to change a vote (S50-200);
- (11) to pass business in Committee of the Whole;
- (12) to take from the table;
- (13) a decision of the presiding officer, unless appealed or unless the presiding officer submits the question to the Senate for advice or decision; and
- (14) all incidental motions, such as motions relating to voting or other questions of a general procedural nature.

**S50-70. Amending motions — restrictions.** (1) Subject to subsection (2), no more than one amendment and no more than one substitute motion may be made to a motion. This rule permits the main motion and two modifying motions.

(2) A motion for a call of the Senate, for the previous question, to table, or to take from the table may not be amended.

**S50-80. Previous question.** (1) Except as provided in subsection (2), the effect of calling for the previous question, if adopted, is to close debate immediately, to prevent the offering of amendments or other subsidiary motions, and to bring to vote promptly the immediately pending main question and the adhering subsidiary motions, whether on appeal or otherwise. The motion for the previous question is nondebatable as provided in S50-60(7).

(2) When the previous question is ordered on any debatable question on which there has been no debate, the question may be debated for one-half hour, one-half of that time to be given to the proponents and one-half to the opponents. The sponsor of the main motion on which the previous question is adopted may close on the motion regardless of whether debate on the main motion has occurred.

(3) A call of the Senate is not in order after the previous question is ordered unless it appears upon an actual count by the presiding officer that a quorum is not present.

**S50-90. Reconsideration — time restrictions.** (1) Subject to subsection (6), any Senator may, on the day the vote was taken or on the next day the Senate is in session, move to reconsider the question. A motion to reconsider is a debatable motion, but the debate is limited to the motion. The debate on a motion to reconsider may not address the substance of the matter for which reconsideration is sought. However, an inquiry may be made concerning the purpose of the motion to reconsider.

(2) A motion to reconsider must be disposed of when made unless a proper substitute motion is made and adopted.

(3) A motion to recall a bill from the House of Representatives constitutes notice to reconsider and must be acted on as a motion to reconsider. A motion to reconsider or to recall a bill from the House of Representatives may be made only under Order of Business No. 6 and, under that order of business, takes precedence over all motions except motions to recess or adjourn.

(4) When a motion to reconsider is laid on the table, a two-thirds majority is required to take it from the table. When a motion to reconsider fails, the question is finally and conclusively settled.

(5) If a motion to reconsider third reading action is carried, there may not be further action until the succeeding legislative day.

(6) If the Senate has adjourned for more than 2 days, then a motion to reconsider action taken on the last day the Senate was in session is in order on the day the Senate reconvenes or on the following legislative day.

**S50-100. Dividing a question — segregation excluded.** A Senator may request to divide a question if it includes two or more propositions so distinct in substance that if one thing is taken away a substantive question will remain. A vote is not required on a request to divide a question, but the chair may rule that a question is not divisible. The ruling of the chair may be appealed as provided in S20-10 and S20-20. For an appeal of a ruling of the presiding officer, the question for the Senate must be stated as, "Shall the ruling of the chair be upheld?". A motion to segregate pursuant to S50-140(4) is not a request to divide a question.

**S50-110. Rules for questions or bills requiring other than a majority vote.** (1) Except as provided in subsection (2), a question or bill requires more

than a majority vote for final passage, a majority vote is sufficient to decide any question relating to the question or bill prior to third reading.

(2) Any vote in the Senate on a bill proposing an amendment to the Montana Constitution under circumstances in which there exists the mathematical possibility of obtaining the necessary two-thirds vote of the Legislature will cause the bill to progress as though it had received the majority vote. This rule does not prevent a committee from indefinitely postponing or tabling a bill proposing an amendment to the Montana Constitution.

(3) If a bill has been amended in the House of Representatives and the amendments are accepted by the Senate, the bill must again be placed on third reading in the Senate to determine if the required number of votes has been cast.

**S50-120. Committee reports to Senate — reconsideration.** (1) Reports of standing committees must be read on Order of Business No. 2, and, subject to subsection (4), debate may not be had on any report.

(2) On an adverse committee report, the sponsor may respond to the chair of the committee making the report.

(3) Any Senator seeking a reconsideration of the Senate's action on the adoption of a committee report shall do so on Order of Business No. 6 by motion to reconsider as provided in S50-90. Any Senator may make the reconsideration motion and need not have voted on the prevailing side. This rule applies notwithstanding any joint rule to the contrary. Subject to S50-90(6), the reconsideration motion must be made within 1 legislative day of the adoption of the committee report and is not in order if the bill has been considered in Committee of the Whole.

(4) (a) Subject to subsection (4)(b), the Rules Committee and conference committees may report at any time, except during a call of the Senate, when a vote is being taken, or during Committee of the Whole.

(b) The Rules Committee may report during Committee of the Whole on matters referred to the Committee by the Committee of the Whole.

**S50-130. Conference committee — reports.** (1) When a conference committee report is filed with the Secretary of the Senate, the report must be read under Order of Business No. 3, select committees, and placed on the calendar the succeeding legislative day for consideration on second reading. If recommended favorably by the Committee of the Whole, it may be considered on third reading the same legislative day.

(2) If both the Senate and the House of Representatives adopt the same conference committee report on legislation requiring more than a majority vote for final passage, the Senate, following approval of the conference committee report on third reading, shall place the final form of the legislation on third reading to determine if the required vote is obtained.

(3) If the Senate rejects a conference committee report, the committee continues to exist unless dissolved by the President or by motion. The committee may file a subsequent report.

(4) A Senate conference committee may confer regarding matters assigned to it with any House conference committee with like jurisdiction and submit recommendations for consideration of the Senate.

**S50-140. Second reading — Committee of the Whole report — segregation — rejection.** (1) The Senate may resolve itself into a Committee of the Whole for consideration of business on second reading, by approval of a motion for that purpose.



(2) After a Committee of the Whole has been formed, the President shall appoint a chair to preside.

(3) All legislation considered in the Committee of the Whole must be read by a summary of its title. The sponsor shall make an opening statement, proposed amendments must be considered, and then the bill must be considered in its entirety.

(4) Prior to adoption of the Committee of the Whole report, a Senator may move to segregate legislation. If the motion prevails, the legislation remains on second reading.

(5) When a Committee of the Whole report on legislation is rejected, the legislation remains on second reading.

**S50-150. Committee of the Whole amendments.** (1) All Committee of the Whole amendments must be prepared by the staff of the Legislative Services Division, stipulating the date and time of preparation and staff approval, and delivered to the Secretary of the Senate for reading before the amendment is voted on.

(2) Each amendment, rejected or adopted, must be printed in the journal, along with the name of the sponsor and the vote on each.

**S50-160. Motions in Committee of the Whole.** (1) All proper motions on second reading are debatable unless specified in S50-60.

(2) The only motions in order during Committee of the Whole are to:

(a) recommend passage or nonpassage;

(b) recommend concurrence or nonconcurrence (House amendments to Senate legislation);

(c) amend;

(d) indefinitely postpone;

(e) pass consideration;

(f) change the order in which legislation is placed on the agenda (nondebatable S50-60(14));

(g) rise (nondebatable S50-60(3));

(h) rise and report progress and ask leave to sit again (nondebatable S50-60(3)); or

(i) rise and report (nondebatable S50-60(3)).

(3) The motions listed in subsection (2) may be made in descending order as listed.

**S50-170. Committee of the Whole — generally.** (1) The Committee of the Whole may not appoint subcommittees.

(2) The Committee of the Whole may not punish its members for misconduct, but may report disorder to the Senate.

**S50-180. Voting on second reading — positive disposition of motions.** (1) On Order of Business No. 8, in addition to other methods, a recorded vote may be made in the following manner: the chair may call for a voice vote to accept or reject a question. If the vote is other than unanimous, the chair may ask that the lesser number on the question indicate their vote by standing. The Secretary will then record the vote of those standing. The chair may then rule that unless excused those not standing and present have voted on the prevailing side of the question and that their vote be recorded as voting on the prevailing side. If there was a unanimous voice vote, all those present will be recorded as having voted for the question.

(2) A motion on second reading must be disposed of by a positive vote.

**S50-190. Third reading procedure.** (1) Unless rereferred to a committee by a majority vote after the adoption of the Committee of the Whole report but before moving to another order of business, all legislation passing second reading must be placed on third reading the day following the receipt of the engrossing or other appropriate printing report.

(2) On Order of Business No. 9 the Secretary shall read the title and the President shall state the question as follows: "Senate bill number (or other appropriate identification)..... having been read three several times, the question is, shall the bill (or other appropriate identification) pass the Senate?"

(3) If an electronic voting system is used, the President shall state "Those in favor vote yes and those opposed vote no" and the Secretary will sound the signal and open the board for voting. After a reasonable pause the presiding officer asks "Has every member voted?" (reasonable pause), "Does any member wish to change his or her vote?" (reasonable pause), "The Secretary will record the vote."

**S50-200. Senate voting — changing a vote — objection.** (1) A roll call vote must be taken on the request of two Senators, if the request occurs before the vote is taken.

(2) On a roll call vote the names of the Senators must be called alphabetically, unless an electronic voting system is used. A Senator may not vote after the decision is announced from the chair. A Senator may not explain a vote until after the decision is announced from the chair.

(3) A Senator may move to change the Senator's vote, on any recorded vote, within 1 legislative day of the vote. The Senator making the motion shall first specify the bill number, the date of the vote, and the original vote tally. A vote may not be changed if it would affect the outcome of legislation. The motion is nondebateable. If none of the Senators present object, the change must be entered into the journal.

(4) If any Senator objects to the request in subsection (3), the Senator making the request may move to suspend the rules to allow the Senator to change the Senator's vote.

(5) An error caused by a malfunction of the voting system may be corrected without a vote within 10 minutes of the malfunction.

**S50-210. Pairs — Committee of the Whole.** (1) Two Senators may pair on a question that will be determined by a majority vote. On a question requiring a two-thirds vote for adoption, three Senators may pair, with two Senators for the question and one Senator against. Pairing is permitted only when one of the paired Senators is excused when the vote is taken.

(2) An agreement to pair must be in writing and dated and signed by the Senators agreeing to be bound and must specify the duration of the pair. When an agreement to pair is filed with the Secretary of the Senate, it binds the Senators signing until the expiration of time for which it was signed, unless the paired Senators sooner appear and ask that the agreement be canceled.

**S50-220. Call of the Senate.** (1) In the absence of a quorum, a majority of Senators present may compel the attendance of absent Senators by ordering a call of the Senate.

(2) If a quorum is present, five Senators may order a call of the Senate.

(3) On a call of the Senate, a Senator who refuses to attend may be arrested by the Sergeant-at-Arms or any other person, as the majority of the Senators present direct. When the attendance of an absent Senator is secured and the Senate refuses to excuse the Senator's absence, the Senator may not be paid any

expense payments while absent and is liable for the expenses incurred in procuring the Senator's attendance.

(4) During a call of the Senate, all business must be suspended. After a call has been ordered, no motion is in order except a motion to adjourn or remove the call. The call may be removed by a two-thirds vote of the members present.

**S50-230. House amendments to Senate legislation.** (1) When the House has properly returned Senate legislation with House amendments, the Senate shall announce the amendments on Order of Business No. 5 and the President shall place them on second reading for debate. The President may rerefer Senate legislation with House amendments to a committee for a hearing if the House amendments constitute a significant change in the Senate legislation. The second reading vote is limited to consideration of the House amendments.

(2) If the Senate accepts House amendments, the Senate shall place the final form of the legislation on third reading to determine if the legislation, as amended, is passed or if the required vote is obtained.

(3) If the Senate rejects the House amendments, the Senate may request the House to recede from its amendments or may direct appointment of a conference committee and request the House to appoint a like committee.

**S50-240. Governor's amendments.** (1) When the Governor returns a bill with recommended amendments, the Senate shall announce the amendments under Order of Business No. 4.

(2) The Senate may debate and adopt or reject the Governor's recommended amendments on second reading on any legislative day.

(3) If both the Senate and the House of Representatives accept the Governor's recommended amendments on a bill that requires more than a majority vote for final passage, the Senate shall place the final form of the legislation on third reading to determine if the required vote is obtained.

**S50-250. Governor's veto.** (1) When the Governor returns a bill with a veto, the Senate shall announce the veto under Order of Business No. 4.

(2) On any legislative day, a Senator may move to override the Governor's veto by a two-thirds vote under Order of Business No. 6.

## CHAPTER 6

### Rules

**S60-10. Senate rules — amendment — adoption — suspension.** (1) A motion to amend or adopt a rule of the Senate must be referred to the Rules Committee without debate. A rule of the Senate may be amended or adopted only with the concurrence of a majority of the Senate and after 1 day's notice.

(2) A rule may be suspended temporarily by a two-thirds vote.

**S60-20. Mason's Manual of Legislative Procedure.** Mason's Manual of Legislative Procedure (2010) governs the proceedings of the Senate in all cases not covered by these rules.

## CHAPTER 7

### Nominations from the Governor

**S70-10. Nominations.** (1) The Governor shall nominate and, by and with the consent of the Senate, appoint all officers whose offices are established by the Montana Constitution or which may be created by law and for whom appointment or election is not otherwise provided.

(2) If during a recess of the Senate a vacancy occurs in any office subject to Senate confirmation, the Governor shall appoint some fit person to discharge

the duties of the office until the next meeting of the Senate, when the Governor shall nominate a person to fill the office.

**S70-20. Introduction and first reading of nominations.** (1) Nominations received from the Governor must be:

- (a) received by the President;
- (b) delivered to the Secretary of the Senate;
- (c) read under Order of Business No. 4, messages from the Governor; and
- (d) referred to committee. The President of the Senate may refer any individual nomination contained in a list received from the Governor to any standing committee.

(2) The procedure in subsection (1) constitutes introduction and first reading of the nominations.

(3) The Secretary shall distribute a copy of the list of nominations to each Senator.

**S70-30. Committee process — preliminary reports — separate consideration.** (1) (a) The committee shall research each nominee and may request biographical information from the Governor for each nominee if none has been provided.

(b) The committee chair shall submit a bill draft request on behalf of the committee for a simple resolution to include the nominee submitted to the committee or a group of nominees, the group of nominees being specified by the committee chair. These bill draft requests will not count against any bill draft request limit imposed on members. When the resolution has been prepared and introduced, the committee shall hold a hearing on the resolution after appropriate public notice has been given.

(2) Following the hearings for a group of nominees, the committee shall issue preliminary standing committee reports to be distributed to each Senator, stating the committee's recommendations concerning the nominees. A preliminary standing committee report is not required for a resolution for a single nominee pursuant to subsection (5).

(3) (a) If a Senator wishes to have an individual nominee or group of nominees considered by the Senate separately from the group of nominees recommended by the committee, the Senator may request of the chair of the committee that the nominee or nominees be considered by a separate resolution.

(b) A Senator shall request separate consideration of a nominee within 3 days of receipt of the preliminary standing committee report. The committee chair shall honor this request.

(4) After waiting 3 days from the day of distribution of the preliminary standing committee report, the committee chair shall issue a final standing committee report and deliver the report to the Secretary of the Senate.

(a) If a nominee is to be separated from the resolution, the final standing committee report must include an amendment deleting that nominee.

(b) When a nominee has been separated at the request of a Senator or when a single nomination has been submitted to a committee, the committee chair shall submit a bill draft request on behalf of the committee for a simple resolution to include only the single or separated nominee. When the resolution has been prepared and introduced, the committee shall take executive action on the resolution. When a hearing on the separated nomination was held prior to the committee's preliminary standing committee report, an additional hearing is not required to be held before the committee takes action on the separate

resolution. After the committee's executive action, the committee chair shall issue a standing committee report.

(5) If a resolution contains only one nominee, the committee shall dispense with the preliminary standing committee report and shall issue a final standing committee report to be distributed to each Senator stating the committee's recommendation concerning the nominee.

(6) The Secretary will read the reports under Order of Business No. 2, reports of standing committees.

(7) After the report has been read, the resolution must be placed on Order of Business No. 11 the next legislative day for consideration by the Senate. Motions to approve or disapprove of the resolution are in order and may be debated.

### **Appendix A**

#### List of Questions Requiring Other Than a Majority Vote

The following questions require the vote specified:

- (1) a call of the Senate with a quorum pursuant to S50-220(2) (five Senators);
- (2) a motion to lift a call of the Senate pursuant to S50-220(4) (two-thirds of the members present);
- (3) a motion to amend or suspend rules pursuant to S60-10 (two-thirds);
- (4) a motion to override the Governor's veto pursuant to S50-250 and Article VI, section 10(3), of the Montana Constitution (two-thirds);
- (5) a motion to approve a bill to appropriate the principal of the coal trust fund pursuant to Article IX, section 5, of the Montana Constitution (three-fourths of each house);
- (6) a motion to approve a bill to appropriate highway revenue as described in Article VIII, section 6, of the Montana Constitution for purposes other than those described in that section (three-fifths of each house);
- (7) a motion to approve a bill proposing to amend the Montana Constitution pursuant to Article XIV, section 8, of the Montana Constitution (two-thirds of the entire Legislature);
- (8) an appeal of the ruling of the presiding officer pursuant to S20-10 (one Senator, seconded by two other Senators);
- (9) a motion to approve a bill conferring immunity from suit as described in Article II, section 18, of the Montana Constitution (two-thirds);
- (10) a motion to approve a bill to appropriate the principal of the tobacco settlement trust fund pursuant to Article XII, section 4, of the Montana Constitution (two-thirds); and
- (11) a motion to appropriate the principal of the noxious weed management trust fund pursuant to Article IX, section 6, of the Montana Constitution (three-fourths).

Adopted January 10, 2013

## **SENATE RESOLUTION NO. 2**

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA RAISING CONCERNS ABOUT POTENTIAL CHANGES TO THE OPERATION AND ADMINISTRATION OF FEDERAL POWER MARKETING ADMINISTRATIONS.

WHEREAS, the Montana Senate is concerned about outcomes resulting from Department of Energy Secretary Steven Chu's March 16, 2012, memorandum that may affect Western Area Power Administration and Bonneville Power Administration and its Montana electricity customers; and

WHEREAS, the memo states there will be directives issued to the federal Power Marketing Administration administrators related to the broadly stated initiatives contained in the memorandum; and

WHEREAS, these directives could harm the nearly 50% of Montanans whose electric bills are based on the underlying preference power from federal Power Marketing Administrations and the Montana Legislature has a stake in the outcome of this initiative; and

WHEREAS, the federal Department of Energy asserts it has conducted a "robust" process of public involvement in the development of recommendations to implement the initiatives by holding five public 1-day workshops and six listening sessions in cities across the western United States; and

WHEREAS, a committee composed of Western Area Power Administration and Department of Energy employees, known as the Joint Outreach Team, met in nonpublic work sessions to develop its draft recommendations; and

WHEREAS, the Montana Senate does not consider these nonpublic Joint Outreach Team meetings either robust or public; and

WHEREAS, the Western Area Power Administration has an outstanding history of being an electric industry leader; and

WHEREAS, the Montana Senate is appreciative that the Western Area Power Administration and Department of Energy Joint Outreach Team leaders attended a joint session of the Montana House and Senate energy committees on January 9, 2013, to share the outcomes of their report; and

WHEREAS, the Joint Outreach Team is planning to make final recommendations to the Secretary of Energy in January 2013.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That if the final recommendations are consistent with what the Joint Outreach Team leaders shared during their January 9, 2013, visit to Montana, these recommendations would:

- (1) be much narrower in scope than the present draft report;
- (2) contain greater recognition of the superb job Western Area Power Administration has done and is doing in the areas covered in the report;
- (3) ensure change is incremental, not wholesale; and
- (4) most important, provide economic protections to Montana preference customers.

BE IT FURTHER RESOLVED, that although the Montana Senate supports actions to increase efficiency, actions that create cost shifts to Montana preference customers who have paid their way are unacceptable.

BE IT FURTHER RESOLVED, that the Montana Senate requests that, in the future, the Department of Energy make a greater effort to notify the Legislature of actions impacting Montana citizens in advance of public hearings rather than leaving the Legislature to first hear about these Department of Energy actions from its constituents.



BE IT FURTHER RESOLVED, that the Secretary of State send copies of this resolution to the members of Montana's Congressional Delegation and to the U.S. Secretary of Energy.

Adopted January 19, 2013

### **SENATE RESOLUTION NO. 3**

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA PROVIDING RECOMMENDATIONS ON THE LEGISLATIVE REDISTRICTING PLAN TO THE MONTANA DISTRICTING AND APPORTIONMENT COMMISSION.

WHEREAS, the Montana Districting and Apportionment Commission submitted its legislative redistricting plan to the Legislature on January 8, 2013, as required by Article V, section 14, of the Montana Constitution; and

WHEREAS, the Commission adopted criteria to guide the drawing of district lines that preserve the principle of "one person, one vote"; and

WHEREAS, the Senate recognizes that the Commission established a maximum 3% population deviation, which surpasses the standard of a 5% population deviation, and commends the Commission for accomplishing a deviation of less than 1% for both House and Senate Districts; and

WHEREAS, the Commission formed districts that successfully comply with all requirements of the federal Voting Rights Act and that protect the voting rights of minority populations; and

WHEREAS, the Senate contends that criteria directing the creation of compact and contiguous districts that preserve communities of interest and, when possible, follow the lines of political and geographic boundaries have not been satisfactorily adhered to; and

WHEREAS, the Senate contends that pairings of House Districts made to form Senate Districts fracture communities of interest, particularly the assignments of House Districts 73, 74, 75, 76, 77, and 79 in Deer Lodge, Jefferson, and Silver Bow Counties; and

WHEREAS, pairing House Districts 75 and 78 results in a Senate District that is primarily rural in nature and pairing House Districts 73 and 76 and House Districts 74 and 77 results in two Senate Districts that are tied together by common interests, including the historical copper mining industry; and

WHEREAS, the Senate contends that the Commission split Lake County into four different Senate Districts, ignoring communities of interest and county political boundaries; and

WHEREAS, the Senate contends that holdover Senator Webb has been assigned to a Senate District predominantly composed of citizens who have never had the opportunity to vote for him, when it is possible to assign him to a district that includes more than 80% of the population from his original Senate District; and

WHEREAS, the Legislature is required to return the plan to the Commission with its recommendations on or before February 7, 2013.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate urges the passage of amendments necessary for the Legislative Redistricting Plan to conform to the Commission's established



criteria. To this end, the Senate recommends that the Commission consider the following amendments:

(1) preserve both compactness and communities of interest by reassigning the following House Districts into Senate District pairings: House Districts 73 and 76, House Districts 74 and 77, and House Districts 75 and 78. The House District lines for Districts 74 and 77 should be moved together in order to meet the contiguous standard in the Commission's criteria.

(2) reassign Senator Webb from Senate District 23 to Senate District 22, which includes the communities from which he was originally elected.

BE IT FURTHER RESOLVED, that a copy of this resolution be kept on file by the Secretary of State and that copies be sent by the Secretary of State to the presiding officer and each member of the Montana Districting and Apportionment Commission.

Adopted February 7, 2013

### **SENATE RESOLUTION NO. 5**

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT MADE BY THE CHIEF JUSTICE OF THE MONTANA SUPREME COURT AND SUBMITTED TO THE SENATE OF THE HONORABLE WILLIAM RUSSELL MCELYEA AS ASSOCIATE WATER JUDGE OF THE STATE OF MONTANA.

WHEREAS, Chief Justice Mike McGrath of the Montana Supreme Court made the appointment, below designated, pursuant to an Order of the Court, dated May 29, 2012; and

WHEREAS, the following appointment has been submitted to the Senate:

William Russell McElyea as Associate Water Judge of the State of Montana, to serve a 4-year term commencing July 1, 2012, and ending June 30, 2016.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the 63rd Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointment.

BE IT FURTHER RESOLVED, that the Secretary of the Senate immediately deliver a copy of this resolution, certified by the President and Secretary of the Senate, to the Secretary of State and a copy, certified by the Secretary of the Senate, to the Governor pursuant to section 5-5-303, MCA.

Adopted March 26, 2013

### **SENATE RESOLUTION NO. 6**

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT AS THE WORKERS' COMPENSATION JUDGE MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 16, 2013, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointment, below designated, that has been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As Workers' Compensation Court Judge of the State of Montana, in accordance with section 2-15-1702, MCA:

Mr. James Shea, Helena, Montana, appointed to a 6-year term commencing September 6, 2011, and ending September 6, 2017.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 63rd Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointment and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted March 26, 2013

### SENATE RESOLUTION NO. 7

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE BOARD OF CRIME CONTROL, THE BOARD OF PRIVATE SECURITY, AND THE PUBLIC SAFETY OFFICER STANDARDS AND TRAINING COUNCIL MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 16, 2013, 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 a member of the Board of Crime Control, in accordance with section 2-15-2006, MCA:

Tara Jensen, Missoula, Montana, appointed to a term ending January 1, 2015.

(2) As members of the Board of Private Security, in accordance with section 2-15-1781, MCA:

Raymond Murray, Missoula, Montana, appointed to a term ending August 1, 2014;

Holly Dershem-Bruce, Glendive, Montana, appointed to a term ending August 1, 2014;

Daniel Taylor, Glasgow, Montana, appointed to a term ending August 1, 2015;

Leo C. Dutton, Helena, Montana, appointed to a term ending August 1, 2015;

Tom Mangan, Helena, Montana, appointed to a term ending August 1, 2015;

(3) As members of the Public Safety Officer Standards and Training Council, in accordance with section 44-4-402, MCA:

Mike Anderson, Montana City, Montana, appointed to a term ending January 1, 2015;

Hal Harper, Helena, Montana, appointed to a term ending January 1, 2015.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 63rd Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy of this

resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 4, 2013

### SENATE RESOLUTION NO. 8

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 16, 2013.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

(1) As members of the Alternative Health Care Board, in accordance with section 2-15-1730, MCA:

Anne Camber, Libby, Montana, for a term ending September 1, 2015.

Christine White Deeble, Missoula, Montana, for a term ending September 1, 2016.

Phyllis Lefon, Clancy, Montana, for a term ending September 1, 2014.

Nancy Patterson, Great Falls, Montana, for a term ending September 1, 2015.

(2) As members of the Board of Chiropractors, in accordance with section 2-15-1737, MCA:

Lee S. Hudson, Great Falls, Montana, for a term ending January 1, 2015.

Alice Whiteman, Missoula, Montana, for a term ending January 1, 2015.

(3) As members of the Board of Clinical Laboratory Science Practitioners, in accordance with section 2-15-1753, MCA:

Carl Donovan, Great Falls, Montana, for a term ending April 16, 2015.

Sarah Kolar, Lewistown, Montana, for a term ending April 16, 2015.

Troy Krieger, Billings, Montana, for a term ending April 16, 2016.

Vicki Rice, Helena, Montana, for a term ending April 16, 2015.

(4) As members of the Board of Dentistry, in accordance with section 2-15-1732, MCA:

Clifford Christenot, Libby, Montana, for a term ending March 29, 2017.

David W. Johnson, Great Falls, Montana, for a term ending March 29, 2017.

James Madison, Jefferson City, Montana, for a term ending March 29, 2017.

Lorraine Merrick, Helena, Montana, for a term ending March 29, 2017.

(5) As members of the Board of Hearing Aid Dispensers, in accordance with section 2-15-1740, MCA:

Wyman McDonald, Ronan, Montana, for a term ending July 1, 2014.

Alfred McLees, Billings, Montana, for a term ending July 1, 2015.

Mary Eve Tolbert, Saint Ignatius, Montana, for a term ending July 1, 2014.

Rebecca Wisnoskie, Helena, Montana, for a term ending July 1, 2015.

(6) As members of the Board of Massage Therapy, in accordance with section 2-15-1782, MCA:

Stacy J. Baird, East Helena, Montana, for a term ending May 6, 2016.

Carole Love, Billings, Montana, for a term ending May 6, 2013.

Lyndsay Schott, Whitefish, Montana, for a term ending May 6, 2015.

(7) As members of the Board of Medical Examiners, in accordance with section 2-15-1731, MCA:

Tanja A. Brekke, Bozeman, Montana, for a term ending September 1, 2015.

Dean Center, Bozeman, Montana, for a term ending September 1, 2016.

Charles Farmer, Cut Bank, Montana, for a term ending September 1, 2013.

Mary Anne Guggenheim, Helena, Montana, for a term ending September 1, 2015.

James Upchurch, Hardin, Montana, for a term ending September 1, 2015.

(8) As members of the Board of Nursing, in accordance with section 2-15-1734, MCA:

Heather O'Hara, Helena, Montana, for a term ending July 1, 2016.

Patsy Reece, Rexford, Montana, for a term ending July 1, 2015.

Tammy Talley, Missoula, Montana, for a term ending July 1, 2016.

Laura Weiss, Great Falls, Montana, for a term ending July 1, 2015.

(9) As members of the Board of Nursing Home Administrators, in accordance with section 2-15-1735, MCA:

Joshua Brown, Bozeman, Montana, for a term ending May 28, 2017.

Carla Neiman, Plains, Montana, for a term ending May 28, 2017.

(10) As members of the Board of Pharmacy, in accordance with section 2-15-1733, MCA:

Shirley Baumgartner, Glasgow, Montana, for a term ending July 1, 2016.

Marian Jensen, Butte, Montana, for a term ending July 1, 2017.

(11) As members of the Board of Physical Therapy Examiners, in accordance with section 2-15-1748, MCA:

Christian Appel, Bozeman, Montana, for a term ending July 1, 2015.

Dana Hughes, Conrad, Montana, for a term ending July 1, 2015.

Brian Miller, Kalispell, Montana, for a term ending July 1, 2014.

Kathy van Hook, Helena, Montana, for a term ending July 1, 2015.

(12) As a member of the Board of Plumbers, in accordance with 2-15-1765, MCA:

Jeffrey Gruizenga, Billings, Montana, for a term ending May 4, 2016.

(13) As members of the Board of Psychologists, in accordance with section 2-15-1741, MCA:

Linda Holden, Valier, Montana, for a term ending September 1, 2017.

Marla Lemons, Butte, Montana, for a term ending September 1, 2016.

(14) As members of the Board of Radiologic Technologists, in accordance with section 2-15-1738, MCA:

Kelli Bush, Butte, Montana, for a term ending July 1, 2015.

Sharlett Dale, Harlowton, Montana, for a term ending July 1, 2015.

(15) As members of the Board of Sanitarians, in accordance with section 2-15-1751, MCA:

Susan K. Brueggeman, Polson, Montana, for a term ending July 1, 2014.

Rodney Fink, Columbus, Montana, for a term ending July 1, 2015.

Eugene Pizzini, East Helena, Montana, for a term ending July 1, 2014.

Gene Townsend, Three Forks, Montana, for a term ending July 1, 2014.

(16) As members of the Board of Speech-Language Pathologists and Audiologists, in accordance with section 2-15-1739, MCA:

Lynn Harris, Missoula, Montana, for a term ending December 31, 2014.

Tina Hoagland, Billings, Montana, for a term ending December 31, 2014.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 63rd Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted March 18, 2013

### SENATE RESOLUTION NO. 9

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA ACKNOWLEDGING THE IDLE NO MORE MOVEMENT IN CANADA.

WHEREAS, the Idle No More movement began with four women in Saskatchewan, Canada, who shared a vision of bringing people together to recognize and honor indigenous sovereignty and to protect the land, water, and environment for the future, and sparked a global grassroots movement; and

WHEREAS, the goals of Idle No More are ongoing education and the revitalization of indigenous peoples' cultures, languages, and human rights and research and education about sustainable development; and

WHEREAS, treaties have been in place between the Queen of England and the First Nations of Canada that predate the existing 1982 Constitution of Canada and the Idle No More movement is seeking to have Canada respect those treaties; and

WHEREAS, indigenous peoples and tribes in Montana have close ties with the First Nations, support their relations in Canada, and share similar experiences; and

WHEREAS, the Montana Senate supports the individual and collective rights of indigenous peoples, as well as their rights to culture, identity, language, employment, health, and education; and

WHEREAS, the Montana Senate supports the rights of indigenous peoples to maintain and strengthen their own institutions, cultures, and traditions and to pursue their development in keeping with their own needs and aspirations; and

WHEREAS, the Montana Senate strongly disapproves of any discrimination against indigenous peoples and promotes full and effective participation in all matters that concern them and the right to remain distinct and to pursue their own visions of economic and social development.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

(1) That the Montana Senate acknowledges the Idle No More movement in Canada and around the world.

(2) That the Montana Senate is committed to improved relationships with tribes and tribal leaders and all indigenous individuals and communities in the United States.

(3) That the Secretary of State send a copy of this resolution to the United States Secretary of State John F. Kerry, the United States Permanent Representative to the United Nations Susan Rice, and the Montana Congressional Delegation of Senator Max Baucus, Senator Jon Tester, and Representative Steve Daines.

Adopted March 6, 2013

### **SENATE RESOLUTION NO. 10**

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE BOARD OF WATER WELL CONTRACTORS MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 16, 2013, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As members of the Board of Water Well Contractors, in accordance with section 2-15-3307, MCA:

Mr. Kevin Haggerty, Bozeman, Montana, appointed to a term ending July 1, 2015.

Mr. Pat Byrne, Great Falls, Montana, appointed to a term ending July 1, 2013.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 63rd Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted March 15, 2013

### **SENATE RESOLUTION NO. 11**

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE BOARD OF VETERINARY MEDICINE, BOARD OF HAIL INSURANCE, AND BOARD OF HORSERACING MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 16, 2013, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

(1) As members of the Board of Veterinary Medicine, in accordance with section 2-15-1742, MCA:

Rebecca Mattix, Bozeman, Montana, appointed to a term ending July 31, 2016.

Barbara Calm, Kila, Montana, appointed to a term ending July 31, 2017.

(2) As a member of the Board of Hail Insurance, in accordance with section 2-15-3003, MCA:

Trudy Laas Skari, Big Arm, Montana, appointed to a term ending April 18, 2015.

(3) As members of the Board of Horseracing, in accordance with section 2-15-3106, MCA:

Allen Fisher, Ashland, Montana, appointed to a term ending January 20, 2015.

John Hayes, Great Falls, Montana, appointed to a term ending January 20, 2015.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 63rd Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted March 26, 2013

### **SENATE RESOLUTION NO. 12**

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT TO THE PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED FEBRUARY 22, 2013, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointment, below designated, that has been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As a member of the Pacific Northwest Electric Power and Conservation Planning Council, in accordance with section 90-4-402, MCA:

Mr. Pat Smith, Arlee, Montana, appointed to serve a term at the pleasure of the Governor.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 63rd Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointment and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted March 12, 2013

### **SENATE RESOLUTION NO. 13**

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT TO THE PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL MADE BY THE GOVERNOR AND



SUBMITTED BY WRITTEN COMMUNICATION DATED FEBRUARY 22, 2013, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointment, below designated, that has been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As a member of the Pacific Northwest Electric Power and Conservation Planning Council, in accordance with section 90-4-402, MCA:

Ms. Jennifer Anders, Clancy, Montana, appointed to serve a term at the pleasure of the Governor.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 63rd Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointment and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted March 12, 2013

#### **SENATE RESOLUTION NO. 14**

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT OF THE DIRECTOR OF AGRICULTURE MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED FEBRUARY 22, 2013, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointment, below designated, that has been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA.

As Director of Agriculture, in accordance with sections 2-15-111 and 2-15-3001, MCA:

Mr. Ron de Yong, Helena, Montana, appointed to serve a term at the pleasure of the Governor.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 63rd Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointment and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted March 22, 2013

#### **SENATE RESOLUTION NO. 15**

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT OF THE DIRECTOR OF THE DEPARTMENT OF TRANSPORTATION MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED FEBRUARY 22, 2013, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointment, below designated, that has been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As the Director of the Department of Transportation, in accordance with sections 2-15-111 and 2-15-2501, MCA:

Michael T. Tooley, Helena, Montana, appointed to serve a term at the pleasure of the Governor.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 63rd Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointment and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted March 16, 2013

### **SENATE RESOLUTION NO. 16**

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT OF THE DIRECTOR OF REVENUE MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED FEBRUARY 22, 2013, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointment, below designated, that has been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As Director of Revenue, in accordance with sections 2-15-111 and 2-15-1302, MCA:

Mr. Mike Kadas, Missoula, Montana, appointed to serve a term at the pleasure of the Governor.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 63rd Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointment and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted March 16, 2013

### **SENATE RESOLUTION NO. 17**

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO AN APPOINTMENT TO THE BOARD OF FUNERAL SERVICE MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 16, 2013, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointment, below designated, that has been submitted to the Governor pursuant to section 5-5-302, MCA:

As a member of the Board of Funeral Service, in accordance with section 2-15-1743, MCA:

Mr. John Tarr, Helena, Montana, appointed to a term ending July 1, 2017.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 63rd Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointment and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted March 26, 2013

### **SENATE RESOLUTION NO. 18**

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT OF THE COMMISSIONER OF THE DEPARTMENT OF LABOR AND INDUSTRY MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED FEBRUARY 22, 2013, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointment, below designated, that has been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As Commissioner of the Department of Labor and Industry, in accordance with sections 2-15-111 and 2-15-1701, MCA:

Ms. Pam Bucy, Helena, Montana, appointed to serve a term at the pleasure of the Governor.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 63rd Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointment and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted March 13, 2013

### **SENATE RESOLUTION NO. 19**

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT OF THE DIRECTOR OF THE DEPARTMENT OF COMMERCE MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED FEBRUARY 22, 2013, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointment, below designated, that has been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As Director of the Department of Commerce, in accordance with sections 2-15-111 and 2-15-1801, MCA:

Ms. Meg O'Leary, Helena, Montana, appointed to serve a term at the pleasure of the Governor.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 63rd Legislature of the State of Montana does hereby concur in, confirm, and consent to the above nomination and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted March 13, 2013

### **SENATE RESOLUTION NO. 20**

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT TO THE STATE TAX APPEAL BOARD MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED FEBRUARY 26, 2013, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointment, below designated, that has been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As a member of the State Tax Appeal Board, in accordance with section 15-2-101, MCA:

Mr. Dave McAlpin, Missoula, Montana, appointed to a term ending January 1, 2019.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 63rd Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointment and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted March 22, 2013

### **SENATE RESOLUTION NO. 21**

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT OF THE DIRECTOR OF THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED FEBRUARY 22, 2013, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointment, below designated, that has been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA.

As Director of the Department of Public Health and Human Services, in accordance with sections 2-15-111 and 2-15-2201, MCA:

Mr. Richard Opper, Helena, Montana, appointed to serve a term at the pleasure of the Governor.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 63rd Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointment and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted March 20, 2013

### **SENATE RESOLUTION NO. 22**

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE PUBLIC EMPLOYEES' RETIREMENT BOARD MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 16, 2013, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As members of the Public Employees' Retirement Board, in accordance with section 2-15-1009, MCA:

Mr. Bob Bugni, East Helena, Montana, appointed to a term ending April 1, 2014;

Ms. Melissa Strecker, Missoula, Montana, appointed to a term ending April 1, 2017.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 63rd Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 8, 2013

### **SENATE RESOLUTION NO. 23**

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE BOARD OF VETERANS' AFFAIRS MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 16, 2013, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As members of the Board of Veterans' Affairs, in accordance with section 2-15-1205, MCA:

Mr. Joseph Tropila, Great Falls, Montana, appointed to a term ending August 1, 2015;

Mr. David E. Boyd, Poplar, Montana, appointed to a term ending August 1, 2015;

Mr. Gary Sorensen, Missoula, Montana, appointed to a term ending August 1, 2015;

Mr. William Willing, Anaconda, Montana, appointed to a term ending August 1, 2015;

Ms. Sarah Price, Helena, Montana, appointed to a term ending August 1, 2014;

Ms. Anita Oldbull Big Man, Billings, Montana, appointed to a term ending August 1, 2015;

Mr. Peter Olson, Culbertson, Montana, appointed to a term ending August 1, 2016.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 63rd Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 2, 2013

### **SENATE RESOLUTION NO. 25**

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT OF THE DIRECTOR OF THE DEPARTMENT OF MILITARY AFFAIRS MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED FEBRUARY 22, 2013.

WHEREAS, the Governor of the State of Montana has made the appointment, below designated, that has been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As the Director of the Department of Military Affairs, Adjutant General, in accordance with sections 2-15-111 and 2-15-1202, MCA:

Major General Matthew Quinn, Missoula, Montana, appointed to serve a term at the pleasure of the Governor.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 63rd Legislature of the State of Montana does hereby concur in, confirm, and consent to the above nomination and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted March 26, 2013

### **SENATE RESOLUTION NO. 26**

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT OF THE DIRECTOR OF THE DEPARTMENT OF

ADMINISTRATION MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED FEBRUARY 22, 2013, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the following appointment, below designated, that has been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As director of the Department of Administration, in accordance with sections 2-15-111 and 2-15-1001, MCA:

Ms. Sheila Hogan, Helena, Montana, appointed to serve a term at the pleasure of the Governor.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 63rd Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointment and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted March 22, 2013

### **SENATE RESOLUTION NO. 27**

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT OF THE DIRECTOR OF THE DEPARTMENT OF CORRECTIONS MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED FEBRUARY 22, 2013, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointment, below designated, that has been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As the Director of the Department of Corrections, in accordance with sections 2-15-111 and 2-15-2301, MCA:

Mike Batista, Helena, Montana, appointed to serve a term at the pleasure of the Governor.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 63rd Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointment and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted March 26, 2013

### **SENATE RESOLUTION NO. 28**

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT OF THE DIRECTOR OF THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS MADE BY THE GOVERNOR AND SUBMITTED BY



WRITTEN COMMUNICATION DATED FEBRUARY 22, 2013, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointment, below designated, that has been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As Director of the Department of Fish, Wildlife, and Parks, in accordance with sections 2-15-111 and 2-15-3401, MCA:

Mr. M. Jeff Hagener, Helena, Montana, appointed to serve a term at the pleasure of the Governor.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 63rd Legislature of the State of Montana does hereby concur in, confirm, and consent to the above nomination and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted March 23, 2013

### SENATE RESOLUTION NO. 29

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO APPOINTMENTS TO THE MONTANA HISTORICAL SOCIETY BOARD OF TRUSTEES MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 16, 2013, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As members of the Montana Historical Society Board of Trustees, in accordance with section 22-3-104, MCA:

Ms. B. Leslie Halligan, Missoula, Montana, appointed to a term ending July 1, 2017.

Mr. Kent Kleinkopf, Missoula, Montana, appointed to a term ending July 1, 2017.

Mr. Stephen Lozar, Polson, Montana, appointed to a term ending July 1, 2017.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 63rd Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 2, 2013

### SENATE RESOLUTION NO. 30

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO APPOINTMENT

TO THE BOARD OF PUBLIC EDUCATION MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 16, 2013, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointment, below designated, that has been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As a member of the Board of Public Education in accordance with section 2-15-1508, MCA:

Ms. Sharon Carroll, Ekalaka, Montana, appointed to a term ending February 1, 2019.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 63rd Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointment and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 4, 2013

### **SENATE RESOLUTION NO. 31**

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE BOARD OF PRIVATE ALTERNATIVE ADOLESCENT RESIDENTIAL OR OUTDOOR PROGRAMS MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 16, 2013, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As members of the Board of Private Alternative Adolescent Residential or Outdoor Programs, in accordance with section 2-15-1745, MCA:

Mr. Tim Callahan, Great Falls, Montana, appointed to a term ending April 19, 2014.

Ms. Penny James, Trout Creek, Montana, appointed to a term ending April 19, 2014.

Ms. Darcie Kelly, Helena, Montana, appointed to a term ending April 19, 2014.

Mr. John Santa, Marion, Montana, appointed to a term ending April 19, 2014.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 63rd Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 19, 2013

**SENATE RESOLUTION NO. 32**

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE MONTANA ARTS COUNCIL MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 16, 2013, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As members of the Montana Arts Council, in accordance with section 22-2-102, MCA:

Ms. Cynthia Andrus, Bozeman, Montana, appointed to a term ending February 1, 2017.

Ms. Jane Waggoner Deschner, Billings, Montana, appointed to a term ending February 1, 2017.

Mr. J.P. Gabriel, Bozeman, Montana, appointed to a term ending February 1, 2017.

Mr. Allen Secher, Whitefish, Montana, appointed to a term ending February 1, 2017.

Ms. Judy Ulrich, Dillon, Montana, appointed to a term ending February 1, 2017.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 63rd Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 2, 2013

**SENATE RESOLUTION NO. 34**

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA INVITING FIREARMS MANUFACTURERS AND FIREARMS ACCESSORY MANUFACTURERS THREATENED BY HOSTILE LAWS IN OTHER STATES TO MOVE TO MONTANA.

WHEREAS, some states have enacted laws or are considering enacting laws that would prohibit the possession of certain firearms or of certain firearms accessories; and

WHEREAS, these laws may make it impossible for existing manufacturers to remain in or legally do business in those states; and

WHEREAS, many firearms and firearms accessory manufacturers are examining options for relocating their manufacturing to a more firearms-friendly location; and

WHEREAS, Montana is a firearms-friendly state with a good legal infrastructure for firearms possession, use, and manufacture; and

WHEREAS, Montana has a well-educated workforce of people with a strong work ethic and with a culture of firearms knowledge and tolerance; and

WHEREAS, Montana offers space, beauty, and a great place to live and work.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That Montana says to threatened firearms manufacturers and firearms accessory manufacturers: "Come to Montana. We want you here!"; and

BE IT FURTHER RESOLVED, that Montana says: "Montana is open for business for manufacturers of firearms and firearm accessories"; and

BE IT FURTHER RESOLVED, that the Secretary of State is encouraged to coordinate with firearm-related groups and businesses existing in Montana to develop contacts with manufacturers of firearms and firearm accessories in other states and deliver this resolution to them; and

BE IT FURTHER RESOLVED, that Governor Steve Bullock is urged to actively seek out any manufacturers of firearms and firearms accessories to encourage them to move to Montana and to aid these manufacturers in relocation in whatever way may be possible.

Adopted April 13, 2013

### **SENATE RESOLUTION NO. 35**

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE BOARD OF PERSONNEL APPEALS MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 16, 2013, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Governor pursuant to section 5-5-302, MCA:

As members of the Board of Personnel Appeals, in accordance with section 2-15-1705, MCA:

Mr. Richard Parish, Helena, Montana, as a substitute member, appointed to a term ending January 1, 2015.

Ms. Anne L. MacIntyre, East Helena, Montana, as chairperson, appointed to a term ending January 1, 2016.

Mr. Max Hallfrisch, Great Falls, Montana, as a substitute member, appointed to a term ending January 1, 2015.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 63rd Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 2, 2013

### **SENATE RESOLUTION NO. 36**

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE

APPOINTMENTS TO CERTAIN PROFESSIONAL AND OCCUPATIONAL LICENSING BOARDS MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 16, 2013, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Governor pursuant to section 5-5-302, MCA:

As a member of the Board of Architects and Landscape Architects, in accordance with section 2-15-1761, MCA:

Mr. Dale Nelson, Great Falls, Montana, appointed to a term ending March 27, 2015.

As members of the State Electrical Board, in accordance with section 2-15-1764, MCA:

Ms. Dawn Achten, Billings, Montana, appointed to a term ending July 1, 2016.

Mr. Keith Simendinger, Helena, Montana, appointed to a term ending July 1, 2017.

As a member of the Board of Occupational Therapy Practice, in accordance with section 2-15-1749, MCA:

Ms. Sanna Beerman, Black Eagle, Montana, appointed to a term ending December 31, 2015.

As a member of the Board of Optometry, in accordance with section 2-15-1736, MCA:

Mr. Randall Hoch, Lewistown, Montana, appointed to a term ending April 3, 2016.

As members of the Board of Professional Engineers and Professional Land Surveyors, in accordance with section 2-15-1763, MCA:

Mr. Casey E. Johnston, Butte, Montana, appointed to a term ending July 1, 2015.

Mr. Ruhul Amin, Bozeman, Montana, appointed to a term ending July 1, 2015.

Ms. Ingrid Clare Lovitt-Abramson, Missoula, Montana, appointed to a term ending July 1, 2015.

Ms. Jane L. Eby, Kalispell, Montana, appointed to a term ending July 1, 2015.

As members of the Board of Public Accountants, in accordance with section 2-15-1756, MCA:

Mr. Wayne Hintz, Helena, Montana, appointed to a term ending July 1, 2014.

Ms. Beatrice Rosenleaf, Anaconda, Montana, appointed to a term ending July 1, 2016.

Mr. Jack Meyer, Missoula, Montana, appointed to a term ending July 1, 2016.

As members of the Board of Real Estate Appraisers, in accordance with section 2-15-1758, MCA:

Mr. Thomas G. Stevens, Missoula, Montana, appointed to a term ending May 1, 2014.

Ms. Julie Forbes, Jefferson City, Montana, appointed to a term ending May 1, 2015.

Ms. Lori Christophersen, Bozeman, Montana, appointed to a term ending May 1, 2015.

Mr. George Simek, Billings, Montana, appointed to a term ending May 1, 2014.

As a member of the Board of Realty Regulation, in accordance with section 2-15-1757, MCA:

Mr. Pat M. Goodover II, Great Falls, Montana, appointed to a term ending May 9, 2016.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 63rd Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 2, 2013

### **SENATE RESOLUTION NO. 37**

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE BOARD OF RESEARCH AND COMMERCIALIZATION TECHNOLOGY MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 16, 2013, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Governor pursuant to section 5-5-302, MCA:

As members of the Board of Research and Commercialization Technology, in accordance with section 2-15-1819, MCA:

Mr. Tom Tanner, Arlee, Montana, appointed to a term ending July 1, 2014.

Mr. Jim Davison, Anaconda, Montana, appointed to a term ending July 1, 2013.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 63rd Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 2, 2013

### **SENATE RESOLUTION NO. 38**

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE STATE BANKING BOARD MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 16, 2013, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Governor pursuant to section 5-5-302, MCA:

As members of the State Banking Board, in accordance with section 2-15-1025, MCA:

Mr. Josh Webber, Denton, Montana, appointed to a term ending July 1, 2014.

Ms. Maureen Fleming, Missoula, Montana, appointed to a term ending July 1, 2014.

Mr. Jack Johnson, Billings, Montana, appointed to a term ending July 1, 2015.

Mr. Phil G. Gaglia, Billings, Montana, appointed to a term ending July 1, 2015.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 63rd Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 2, 2013

### **SENATE RESOLUTION NO. 39**

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE BOARD OF BARBERS AND COSMETOLOGISTS MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 16, 2013, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Governor pursuant to section 5-5-302, MCA:

As members of the Board of Barbers and Cosmetologists, in accordance with section 2-15-1747, MCA:

Ms. Juanita Mace, Billings, Montana, appointed to a term ending October 1, 2016.

Ms. Darlene Battaiola, Butte, Montana, appointed to a term ending October 1, 2016.

Ms. Angela Printz, Livingston, Montana, appointed to a term ending October 1, 2017.

Mr. Thayne Orton, Florence, Montana, appointed to a term ending October 1, 2017.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 63rd Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy of this



resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 2, 2013

### **SENATE RESOLUTION NO. 40**

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT OF DEPARTMENT OF ENVIRONMENTAL QUALITY DIRECTOR TRACY STONE-MANNING MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED FEBRUARY 22, 2013, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointment, below designated, that has been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As Director of the Department of Environmental Quality, in accordance with sections 2-15-111 and 2-15-3501, MCA:

Ms. Tracy Stone-Manning, Missoula, Montana, appointed to serve a term at the pleasure of the Governor.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 63rd Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointment and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 22, 2013

### **SENATE RESOLUTION NO. 41**

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED FEBRUARY 22, 2013, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointment, below designated, that has been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As Director of the Department of Natural Resources and Conservation, in accordance with sections 2-15-111 and 2-15-3301, MCA:

Mr. John Tubbs, Helena, Montana, appointed to serve a term at the pleasure of the Governor.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 63rd Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointment and that the Secretary of the Senate immediately deliver a copy of this

resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 12, 2013

### **SENATE RESOLUTION NO. 43**

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE BOARD OF LIVESTOCK AND THE LIVESTOCK LOSS BOARD MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED MARCH 26, 2013, 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 a member of the Board of Livestock, in accordance with section 2-15-3102, MCA:

Mr. John Lehfeldt, Lavina, Montana, appointed to a term ending January 1, 2019.

Mr. John Scully, Ennis, Montana, appointed to a term ending January 1, 2019.

(2) As a member of the Livestock Loss Board, in accordance with section 2-15-3110, MCA:

Mrs. Whitney Klasna, Lambert, Montana, appointed to a term ending January 1, 2017.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 63rd Legislature of the State of Montana does hereby

concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 18, 2013

### **SENATE RESOLUTION NO. 44**

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO AN APPOINTMENT TO THE BOARD OF REGENTS MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 16, 2013, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointment, below designated, that has been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As a member of the Board of Regents, in accordance with section 2-15-1508, MCA:

Mr. Jeffrey K. Krauss, Bozeman, Montana, appointed to a term ending February 1, 2015.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 63rd Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointment and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 12, 2013

### **SENATE RESOLUTION NO. 45**

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO AN APPOINTMENT TO THE BOARD OF REGENTS MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 16, 2013, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointment, below designated, that has been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As a member of the Board of Regents, in accordance with section 2-15-1508, MCA:

Mr. Joseph Thiel, Bozeman, Montana, appointed to a term ending June 30, 2013.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 63rd Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointment and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 12, 2013

### **SENATE RESOLUTION NO. 46**

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO AN APPOINTMENT TO THE BOARD OF PUBLIC EDUCATION MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED MARCH 6, 2013, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointment, below designated, that has been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As a member of the Board of Public Education in accordance with section 2-15-1508, MCA:

Mr. Paul Andersen, Bozeman, Montana, appointed to a term ending February 1, 2020.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 63rd Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointment and that the Secretary of the Senate immediately deliver a copy of this

resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 18, 2013

### **SENATE RESOLUTION NO. 48**

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO APPOINTMENTS TO THE BOARD OF REGENTS MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED MARCH 6, 2013, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As members of the Board of Regents in accordance with section 2-15-1508, MCA:

Mr. Major Robinson, Billings, Montana, appointed to a term ending February 1, 2018.

Mr. Paul Tuss, Havre, Montana, appointed to a term ending February 1, 2020.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 63rd Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 18, 2013

### **SENATE RESOLUTION NO. 49**

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO CERTAIN BOARDS MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED MARCH 15, 2013, 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 a member of the Board of Clinical Laboratory Science Practitioners, in accordance with section 2-15-1753, MCA:

Mrs. Alison Mizner, Kalispell, Montana, appointed to a term ending April 16, 2017.

(2) As a member of the Board of Chiropractors, in accordance with section 2-15-1737, MCA:

Ms. Cathleen Fellows, Billings, Montana, appointed to a term ending January 1, 2016.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 63rd Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 22, 2013

### **SENATE RESOLUTION NO. 50**

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT TO THE BOARD OF DENTISTRY MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED MARCH 26, 2013, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointment, below designated, that has been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As a member of the Board of Dentistry, in accordance with 2-15-1732, MCA:

Mrs. Aimee Ameline, Great Falls, Montana, appointed to a term ending March 29, 2018.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 63rd Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointment and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 12, 2013

### **SENATE RESOLUTION NO. 51**

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE MONTANA FACILITY FINANCE AUTHORITY MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED MARCH 15, 2013, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As members of the Montana Facility Finance Authority, in accordance with section 2-15-1815, MCA:

Mr. James Kearns, Townsend, Montana, appointed to a term ending January 1, 2017.

Mr. Richard King, Missoula, Montana, appointed to a term ending January 1, 2017.

Mr. Jon Marchi, Polson, Montana, appointed to a term ending January 1, 2017.

Mr. Larry Putnam, Helena, Montana, appointed to a term ending January 1, 2017.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 63rd Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 18, 2013

### **SENATE RESOLUTION NO. 52**

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE BOARD OF INVESTMENTS MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED FEBRUARY 26, 2013, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As members of the Board of Investments, in accordance with section 2-15-1808, MCA:

Mrs. Kathy Bessette, Havre, Montana, appointed to a term ending January 1, 2017.

Mr. Mark Noennig, Billings, Montana, appointed to a term ending January 1, 2017, to be board chairman.

Mr. Jack Prothero, Great Falls, Montana, appointed to a term ending January 1, 2017.

Mrs. Marilyn Ryan, Missoula, Montana, appointed to a term ending January 1, 2017.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 63rd Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 18, 2013

### **SENATE RESOLUTION NO. 53**

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE PUBLIC EMPLOYEES' RETIREMENT BOARD MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED MARCH 26, 2013, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As members of the Public Employees' Retirement Board, in accordance with section 2-15-1009, MCA:

Mr. Mike McGinley, Dillon, Montana, appointed to a term ending April 1, 2018.

Ms. Sheena Wilson, Helena, Montana, appointed to a term ending April 1, 2018.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 63rd Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 18, 2013

### **SENATE RESOLUTION NO. 54**

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT TO THE BOARD OF INVESTMENTS MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED MARCH 26, 2013, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointment, below designated, that has been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As a member of the Board of Investments, in accordance with section 2-15-1808, MCA:

Ms. Sheena Wilson, Helena, Montana, appointed to a term ending January 1, 2017.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 63rd Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointment and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 12, 2013

### **SENATE RESOLUTION NO. 55**

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA URGING THE INTERNATIONAL OLYMPIC COMMITTEE TO KEEP WRESTLING AS PART OF THE SUMMER OLYMPICS PROGRAM; AND URGING THE UNITED STATES OLYMPIC COMMITTEE TO CONTINUE SUPPORTING THE EFFORT.

WHEREAS, the executive board of the International Olympic Committee has proposed eliminating the sport of wrestling from the Summer Olympic Games beginning in 2020, a proposal that will be approved or disapproved by the full International Olympic Committee at its September 2013 general assembly; and



WHEREAS, wrestling was one of the original sports of the ancient Greek Olympic Games and of the first modern Olympic Games; and

WHEREAS, wrestling has been a traditional strength of the United States Olympic team, with 124 medals having been awarded to the United States throughout history; and

WHEREAS, the State of Montana has a proud wrestling tradition that has produced Olympians and many celebrated wrestlers, including Kendall Cross, gold medalist in the 1996 Olympics Games; Gene Davis, bronze medalist in the 1976 Olympic Games; Mike Zadick, 2008 Olympic Games participant and 2006 World Silver Medalist; Bill Zadick, 2006 World Champion and 1996 NCAA Champion; and Brandon Eggum, 2001 World Silver Medalist; and

WHEREAS, the sport of wrestling builds great strength not only of body but also of character, including the virtues of self-confidence, self-discipline, courage, and sportsmanship; and

WHEREAS, wrestling has produced many outstanding national leaders, including United States presidents, United States Supreme Court justices, United States senators, members of the United States Congress, and business and military leaders, as well as many outstanding leaders in the State of Montana; and

WHEREAS, there are thousands of student athletes in the State of Montana that participate in wrestling; and

WHEREAS, the opportunity to win an Olympic gold medal is the motivation and drive for many wrestlers at different levels of competition, and without that ultimate goal, the sport will suffer at all levels, including high school.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate hereby urges the International Olympic Committee to keep wrestling as a core sport of the Summer Olympic Games.

BE IT FURTHER RESOLVED, that the Senate thanks the United States Olympic Committee for its continued support of wrestling and urges it to work actively toward retaining wrestling as an Olympic sport.

BE IT FURTHER RESOLVED, that copies of this resolution be sent by the Secretary of State to the International Olympic Committee, the United States Olympic Committee, and Richard Bender, Executive Director of USA Wrestling.

Adopted April 19, 2013

## **SENATE RESOLUTION NO. 56**

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO AN APPOINTMENT TO THE BOARD OF OIL AND GAS CONSERVATION MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED MARCH 29, 2013, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointment, below designated, that has been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As a member of the Board of Oil and Gas Conservation in accordance with section 2-15-3303, MCA:

Mr. John Evans, Butte, Montana, appointed to a term ending January 1, 2017.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 63rd Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointment and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 18, 2013

### **SENATE RESOLUTION NO. 57**

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO AN APPOINTMENT TO THE BOARD OF OIL AND GAS CONSERVATION MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED MARCH 29, 2013, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointment, below designated, that has been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As a member of the Board of Oil and Gas Conservation in accordance with section 2-15-3303, MCA:

Ms. Linda Nelson, Medicine Lake, Montana, appointed to a term ending January 1, 2017.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 63rd Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointment and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 18, 2013

### **SENATE RESOLUTION NO. 59**

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO AN APPOINTMENT TO THE BOARD OF OIL AND GAS CONSERVATION MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED MARCH 29, 2013, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointment, below designated, that has been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As a member of the Board of Oil and Gas Conservation in accordance with section 2-15-3303, MCA:

Mr. Wayne Smith, Valier, Montana, appointed to a term ending January 1, 2017.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 63rd Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointment and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 18, 2013

### **SENATE RESOLUTION NO. 60**

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE BOARD OF HAIL INSURANCE AND THE BOARD OF HORSERACING MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED MARCH 29, 2013, 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 a member of the Board of Hail Insurance, in accordance with section 2-15-3003, MCA:

Mr. Jim Schillinger, Baker, Montana, appointed to a term ending April 18, 2016.

(2) As members of the Board of Horseracing, in accordance with section 2-15-3106, MCA:

Ms. Susan Austin, Kalispell, Montana, appointed to a term ending January 1, 2017.

Mr. Dale Mahlum, Missoula, Montana, appointed to a term ending January 1, 2017.

Mr. Shawn Real Bird, Hardin, Montana, appointed to a term ending January 1, 2017.

Mr. Ralph Young, Columbus, Montana, appointed to a term ending January 1, 2017.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 63rd Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 18, 2013

### **SENATE RESOLUTION NO. 61**

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE BOARD OF AERONAUTICS MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED MARCH 29, 2013, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As members of the Board of Aeronautics, in accordance with section 2-15-2506, MCA:

Mr. Bill Hunt, Shelby, Montana, appointed to a term ending January 1, 2017.

Mrs. Tricia McKenna, Bozeman, Montana, appointed to a term ending January 1, 2017.

Mr. Fred Leistiko, Kalispell, Montana, appointed to a term ending January 1, 2017.

Mr. Roger Lincoln, Gildford, Montana, appointed to a term ending January 1, 2017.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 63rd Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 19, 2013

## SENATE RESOLUTION NO. 62

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE TRANSPORTATION COMMISSION MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED MARCH 29, 2013, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As members of the Transportation Commission in accordance with section 2-15-2502, MCA:

Mr. John Cobb, Augusta, Montana, appointed to a term ending January 1, 2017.

Mr. Rick Griffith, Butte, Montana, appointed to a term ending January 1, 2017.

Ms. Barb Skelton, Billings, Montana, appointed to a term ending January 1, 2017.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 63rd Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 19, 2013

**SENATE RESOLUTION NO. 63**

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA URGING CONGRESS TO SUBMIT TO THE STATES FOR RATIFICATION A BALANCED BUDGET AMENDMENT TO THE UNITED STATES CONSTITUTION.

WHEREAS, with each passing year this nation becomes deeper in debt as federal government expenditures repeatedly exceed available revenue, so that the public debt of the United States is now approximately \$16.6 trillion, or almost \$53,000 for each man, woman, and child; and

WHEREAS, the last balanced budget presented was in 1998 by President Clinton, who presented the first balanced federal budget since 1969; and

WHEREAS, knowledgeable planning, fiscal prudence, and plain good sense require that the federal budget should not be manipulated to present the appearance of being in balance while, in fact, federal indebtedness continues to grow; and

WHEREAS, believing that fiscal irresponsibility at the federal level is the greatest threat that faces our nation, resulting in a lower standard of living, endangering economic opportunity, and jeopardizing national security now and for the next generation; and

WHEREAS, the principal functions of the United States Constitution include promoting the broadest principles of a government of, by, and for the people; setting forth the most fundamental responsibilities of government; and enumerating and limiting the powers of the government to protect the basic rights of the people; and

WHEREAS, the federal government's unlimited ability to borrow involves decisions of such magnitude, with such potentially profound consequences for the nation and its people, today and in the future, that it is an appropriate subject for limitation by the United States Constitution; and

WHEREAS, Article V of the United States Constitution vests the ultimate responsibility to approve or disapprove of amendments to the United States Constitution with the people of the several states, as represented by their elected legislatures; and

WHEREAS, many states have asked Congress to pass a balanced budget amendment to the United States Constitution to be submitted to the states for ratification, but Congress continues to fail to act.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the members of the Senate of the State of Montana request the members of the Congress of the United States to expeditiously pass, and to propose to the legislatures of the several states for ratification, an amendment to the United States Constitution requiring, in the absence of a national emergency, that the total of all federal appropriations made by the Congress for any fiscal year not exceed the total of all estimated federal revenue for that fiscal year.

BE IT FURTHER RESOLVED, that the legislatures of each of the several states comprising the United States be urged to apply to the Congress requesting the proposal for ratification of a balanced budget amendment to the United States Constitution.

BE IT FURTHER RESOLVED, that the Secretary of State send copies of this resolution to the Majority Leader of the United States Senate, the Speaker

of the United States House of Representatives, the members of Montana's Congressional delegation, and the presiding officers of each house of the legislatures of each of the other states.

Adopted April 16, 2013

### **SENATE RESOLUTION NO. 64**

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE BOARD OF HOUSING MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATIONS DATED FEBRUARY 26, 2013, AND MARCH 29, 2013, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Governor pursuant to section 5-5-302, MCA:

As members of the Board of Housing, in accordance with section 2-15-1814, MCA:

Mr. JP Crowley, Helena, Montana, appointed to a term ending January 1, 2017.

Ms. Ingrid FireMoon, Wolf Point, Montana, appointed to a term ending January 1, 2017.

Mr. Doug Kaercher, Havre, Montana, appointed to a term ending January 1, 2017.

Mr. Pat Melby, Helena, Montana, appointed to a term ending January 1, 2017.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 63rd 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 5-5-303, MCA.

Adopted April 22, 2013

### **SENATE RESOLUTION NO. 65**

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE BOARD OF PERSONNEL APPEALS MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED MARCH 22, 2013, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate pursuant to section 5-5-302, MCA:

As members of the Board of Personnel Appeals, in accordance with section 2-15-1705, MCA:

Mr. James Reardon, Helena, Montana, reappointed to a term ending January 1, 2017.

Mr. Quinton Nyman, Helena, Montana, reappointed to a term ending January 1, 2017.

Ms. Rina Fontana Moore, Great Falls, Montana, appointed to a term ending January 1, 2017.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 63rd Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 22, 2013

### **SENATE RESOLUTION NO. 66**

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO CERTAIN PROFESSIONAL AND OCCUPATIONAL LICENSING BOARDS MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED MARCH 29, 2013, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate pursuant to section 5-5-302, MCA:

As a member of the Board of Optometry, in accordance with section 2-15-1736, MCA:

Dr. Marcus Kelley, Helena, Montana, appointed to a term ending April 3, 2017.

As members of the Board of Occupational Therapy Practice, in accordance with section 2-15-1749, MCA:

Ms. Caryn Kallay, Ronan, Montana, appointed to a term ending December 31, 2014.

Ms. Brenda Toner, Missoula, Montana, appointed to a term ending December 31, 2016.

Ms. Lora Wier, Choteau, Montana, appointed to a term ending December 31, 2016.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 63rd Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 22, 2013

### **SENATE RESOLUTION NO. 67**

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE BOARD OF CRIME CONTROL, THE PUBLIC



SAFETY OFFICER STANDARDS AND TRAINING COUNCIL, AND THE BOARD OF PARDONS AND PAROLE MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATIONS DATED MARCH 15, 2013, AND MARCH 26, 2013, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

(1) As members of the Board of Crime Control, in accordance with section 2-15-2006, MCA:

Beth McLaughlin, Helena, Montana, appointed to a term ending January 1, 2015;

Nick Murnion, Fort Peck, Montana, appointed to a term ending January 1, 2017;

Pam Carbonari, Kalispell, Montana, appointed to a term ending January 1, 2017;

Curtis Harper, Billings, Montana, appointed to a term ending January 1, 2017;

Michelle Miller, Butte, Montana, appointed to a term ending January 1, 2017;

Leo Dutton, Helena, Montana, appointed to a term ending January 1, 2017;

William Dial, Whitefish, Montana, appointed to a term ending January 1, 2017;

James Cashell, Bozeman, Montana, appointed to a term ending January 1, 2017;

Laura Obert, Townsend, Montana, appointed to a term ending January 1, 2017;

Stephen McArthur, Butte, Montana, appointed to a term ending January 1, 2017;

William Hooks, Helena, Montana, appointed to a term ending January 1, 2015;

Mike Batista, Helena, Montana, appointed to a term ending January 1, 2015.

(2) As members of the Public Safety Officer Standards and Training Council, in accordance with section 44-4-402, MCA:

Tony Harbaugh, Miles City, Montana, appointed to a term ending January 1, 2017;

Mike Batista, Helena, Montana, appointed to a term ending January 1, 2017;

Laurel Bulson, Helena, Montana, appointed to a term ending January 1, 2017;

Jim Thomas, Canyon Creek, Montana, appointed to a term ending January 1, 2017;

Kimberly Burdick, Fort Benton, Montana, appointed to a term ending January 1, 2017;

William Dial, Whitefish, Montana, appointed to a term ending January 1, 2015;

James Cashell, Bozeman, Montana, appointed to a term ending January 1, 2017;

John Strandell, Helena, Montana, appointed to a term ending January 1, 2017.

(3) As members of the Board of Pardons and Parole in accordance with section 2-15-2302;

Pete Lawrenson, Missoula, Montana, appointed to a term ending January 1, 2017;

Coleen Magera, Plains, Montana, appointed to a term ending January 1, 2017;

Mary Kay Puckett, Helena, Montana, appointed to a term ending January 1, 2017.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 63rd Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 22, 2013

### **SENATE RESOLUTION NO. 68**

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT TO THE FISH, WILDLIFE, AND PARKS COMMISSION MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED MARCH 11, 2013, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointment, below designated, that has been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As a member of the Fish, Wildlife, and Parks Commission, in accordance with section 2-15-3402, MCA:

Mr. Matthew Tourtlotte, Billings, Montana, appointed to a term ending January 1, 2017.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 63rd Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointment and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 24, 2013

### **SENATE RESOLUTION NO. 69**

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT TO THE FISH, WILDLIFE, AND PARKS COMMISSION MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED MARCH 11, 2013, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointment, below designated, that has been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As a member of the Fish, Wildlife, and Parks Commission, in accordance with section 2-15-3402, MCA:

Mr. Richard Stuker, Chinook, Montana, appointed to a term ending January 1, 2017.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 63rd Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointment and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 24, 2013

### **SENATE RESOLUTION NO. 70**

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT TO THE FISH, WILDLIFE, AND PARKS COMMISSION MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED MARCH 11, 2013, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointment, below designated, that has been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As a member of the Fish, Wildlife, and Parks Commission, in accordance with section 2-15-3402, MCA:

Mr. Lawrence Wetsit, Wolf Point, Montana, appointed to a term ending January 1, 2015.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 63rd Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointment and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 24, 2013

### **SENATE RESOLUTION NO. 72**

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT TO THE BOARD OF PRIVATE ALTERNATIVE ADOLESCENT RESIDENTIAL OR OUTDOOR PROGRAMS MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED APRIL 12, 2013, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointment, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As a member of the Board of Private Alternative Adolescent Residential or Outdoor Programs, in accordance with section 2-15-1745, MCA:

Mr. Rick Johnson, Kalispell, Montana, appointed to a term ending April 19, 2014.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 63rd Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointment and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 19, 2013

### **SENATE RESOLUTION NO. 73**

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE MONTANA ARTS COUNCIL MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED APRIL 12, 2013, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As members of the Montana Arts Council, in accordance with section 22-2-102, MCA:

Ms. Karen Bohlinger, Helena, Montana, appointed to a term ending February 2, 2018.

Mr. Corwin "Corky" Clairmont, Ronan, Montana, appointed to a term ending February 2, 2018.

Mr. Thomas Cordingley, Helena, Montana, appointed to a term ending February 2, 2018.

Ms. Arlene Parisot, Helena, Montana, appointed to a term ending February 2, 2018.

Mr. Jason "Jay" Pyette, Havre, Montana, appointed to a term ending February 2, 2018.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 63rd Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 23, 2013

### **SENATE RESOLUTION NO. 74**

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE BOARD OF PUBLIC ASSISTANCE MADE BY

THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED APRIL 12, 2013, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As members of the Board of Public Assistance, in accordance with section 2-15-2203, MCA:

Ms. Amy Christensen, Helena, Montana, appointed to a term ending January 1, 2017.

Ms. Laura John, Missoula, Montana, appointed to a term ending January 1, 2017.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 63rd Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 23, 2013

### **SENATE RESOLUTION NO. 75**

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE BOARD OF AERONAUTICS MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED APRIL 12, 2013, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointment, below designated, that has been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As a member of the Board of Aeronautics, in accordance with section 2-15-2506, MCA:

Mr. Walter McNutt, Sidney, Montana, appointed to a term ending January 1, 2017.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 63rd Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointment and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 22, 2013

### **SENATE RESOLUTION NO. 76**

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE BOARD OF ARCHITECTS AND LANDSCAPE

ARCHITECTS MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED APRIL 12, 2013, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate pursuant to section 5-5-302, MCA:

As members of the Board of Architects and Landscape Architects, in accordance with section 2-15-1761, MCA:

Ms. Janet Cornish, Butte, Montana, reappointed to a term ending March 27, 2016.

Ms. Shelly Engler, Bozeman, Montana, reappointed to a term ending March 27, 2016.

Ms. Maire O'Neill, Bozeman, Montana, reappointed to a term ending March 27, 2016.

Mr. Nathan Steiner, appointed to a term ending March 27, 2016.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 63rd Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 23, 2013

## SENATE RESOLUTION NO. 77

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO CERTAIN BOARDS MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED APRIL 12, 2013, 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 a member of the Board of Medical Examiners, in accordance with section 2-15-1731, MCA:

Mrs. Ana Diaz, Billings, Montana, appointed to a term ending September 1, 2013.

(2) As members of the Board of Respiratory Care Practitioners, in accordance with section 2-15-1750, MCA:

Mr. Leonard Bates, Wolf Creek, Montana, appointed to a term ending January 1, 2017.

Ms. Maria Clemons, Libby, Montana, appointed to a term ending January 1, 2017.

Mr. Rusty Davies, Billings, Montana, appointed to a term ending January 1, 2017.

Mr. Tony Jay Miller, Joplin, Montana, appointed to a term ending January 1, 2017.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 63rd Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 24, 2013



## **2012 BALLOT ISSUES**

**Approved by Voters in the  
November 2012 General Election**



**LEGISLATIVE REFERENDUM NO. 120**

## AN ACT REFERRED BY THE LEGISLATURE

AN ACT REQUIRING PARENTAL NOTIFICATION PRIOR TO AN ABORTION FOR A MINOR; PROVIDING FOR A JUDICIAL WAIVER OF NOTIFICATION; PROVIDING PENALTIES; REPEALING PRIOR STATUTES RELATING TO PARENTAL NOTIFICATION; PROVIDING THAT THE PROPOSED ACT BE SUBMITTED TO THE QUALIFIED ELECTORS OF MONTANA; AMENDING SECTIONS 41-1-405 AND 47-1-104, MCA; REPEALING SECTIONS 50-20-201, 50-20-202, 50-20-203, 50-20-204, 50-20-205, 50-20-208, 50-20-209, 50-20-211, 50-20-212, AND 50-20-215, MCA; AND PROVIDING AN EFFECTIVE DATE.

LR-120 prohibits a physician from performing an abortion on a minor under 16 years of age unless a physician notifies a parent or legal guardian of the minor at least 48 hours prior to the procedure. Notice is not required if: (1) there is a medical emergency; (2) it is waived by a youth court in a sealed proceeding; or (3) it is waived by the parent or guardian. A person who performs an abortion in violation of the act, or who coerces a minor to have an abortion, is subject to criminal prosecution and civil liability.

THE COMPLETE TEXT OF HOUSE BILL NO. 627 (CH. 307, L. 2011),  
REFERRED BY LR-120

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

**Section 1. Short title.** [Sections 1 through 9] may be cited as the “Parental Notice of Abortion Act of 2011”.

**Section 2. Legislative purpose and findings.** (1) The legislature finds that:

(a) immature minors often lack the ability to make fully informed choices that take into account both immediate and long-range consequences;

(b) the medical, emotional, and psychological consequences of abortion are sometimes serious and can be lasting, particularly when the patient is immature;

(c) the capacity to become pregnant and the capacity for mature judgment concerning the wisdom of an abortion are not necessarily related;

(d) parents ordinarily possess information essential to a physician in the exercise of the physician’s best medical judgment concerning the minor;

(e) parents who are aware that their minor daughter has had an abortion may better ensure that the daughter receives adequate medical care after the abortion; and

(f) parental consultation is usually desirable and in the best interests of the minor.

(2) The purpose of [sections 1 through 9] is to further the important and compelling state interests of:

(a) protecting minors against their own immaturity;

(b) fostering family unity and preserving the family as a viable social unit;

(c) protecting the constitutional rights of parents to rear children who are members of their household; and

(d) reducing teenage pregnancy and unnecessary abortion.

**Section 3. Definitions.** As used in this part, unless the context requires otherwise, the following definitions apply:

(1) "Actual notice" means the giving of notice directly in person or by telephone.

(2) "Coerce" means to restrain or dominate the choice of a minor female by force, threat of force, or deprivation of food and shelter.

(3) "Emancipated minor" means a person under 18 years of age who is or has been married or who has been granted an order of limited emancipation by a court as provided in 41-3-438.

(4) "Medical emergency" means a condition that, on the basis of the physician's good faith clinical judgment, so complicates the medical condition of a pregnant woman as to necessitate the immediate abortion of the woman's pregnancy to avert the woman's death or a condition for which a delay in treatment will create serious risk of substantial and irreversible impairment of a major bodily function.

(5) "Minor" means a female under 16 years of age who is not an emancipated minor.

(6) "Physical abuse" means any physical injury intentionally inflicted by a parent or legal guardian on a child.

(7) "Physician" means a person licensed to practice medicine under Title 37, chapter 3.

(8) "Sexual abuse" has the meaning given in 41-3-102.

**Section 4. Notice of parent required.** A physician may not perform an abortion upon a minor unless the physician has given at least 48 hours' actual notice to one parent or to the legal guardian of the pregnant minor of the physician's intention to perform the abortion. The actual notice may be given by a referring physician. The physician who performs the abortion must receive the written statement of the referring physician certifying that the referring physician has given actual notice. If actual notice is not possible after a reasonable effort, the physician or the physician's agent shall give alternate notice as provided in [section 5].

**Section 5. Alternative notification.** In lieu of the actual notice required by [section 4], notice may be made by certified mail addressed to the parent at the usual place of residence of the parent with return receipt requested and delivery restricted to the addressee, which means a postal employee may deliver the mail only to the authorized addressee. Time of delivery is considered to occur at noon on the next day on which regular mail delivery takes place after mailing.

**Section 6. Exceptions.** Notice is not required under [section 4 or 5] if:

(1) the attending physician certifies in the patient's medical record that a medical emergency exists and there is insufficient time to provide notice;

(2) notice is waived, in writing, by the person entitled to notice; or

(3) notice is waived under [section 8].

**Section 7. Coercion prohibited.** A parent, a guardian, or any other person may not coerce a minor to have an abortion. If a minor is denied financial support by the minor's parents, guardian, or custodian because of the minor's refusal to have an abortion, the minor must be considered an emancipated minor for the purposes of eligibility for public assistance benefits. The public assistance benefits may not be used to obtain an abortion.

**Section 8. Procedure for judicial waiver of notice.** (1) The requirements and procedures under this section are available to minors whether or not they are residents of this state.

(2) The minor may petition the youth court for a waiver of the notice requirement and may participate in the proceedings on the person's own behalf. The petition must include a statement that the petitioner is pregnant and is not emancipated. The court may appoint a guardian ad litem for the petitioner. A guardian ad litem is required to maintain the confidentiality of the proceedings. The youth court shall advise the petitioner of the right to assigned counsel and shall order the office of state public defender, provided for in 47-1-201, to assign counsel upon request.

(3) Proceedings under this section are confidential and must ensure the anonymity of the petitioner. All proceedings under this section must be sealed. The petitioner may file the petition using a pseudonym or using the petitioner's initials. All documents related to the petition are confidential and are not available to the public. The proceedings on the petition must be given preference over other pending matters to the extent necessary to ensure that the court reaches a prompt decision. The court shall issue written findings of fact and conclusions of law and rule within 48 hours of the time that the petition is filed unless the time is extended at the request of the petitioner. If the court fails to rule within 48 hours and the time is not extended, the petition is granted and the notice requirement is waived.

(4) If the court finds that the petitioner is competent to decide whether to have an abortion, the court shall issue an order authorizing the minor to consent to the performance or inducement of an abortion without the notification of a parent or guardian.

(5) The court shall issue an order authorizing the petitioner to consent to an abortion without the notification of a parent or guardian if the court finds that:

(a) there is evidence of physical abuse, sexual abuse, or emotional abuse of the petitioner by one or both parents, a guardian, or a custodian; or

(b) the notification of a parent or guardian is not in the best interests of the petitioner.

(6) If the court does not make a finding specified in subsection (4) or (5), the court shall dismiss the petition.

(7) A court that conducts proceedings under this section shall issue written and specific findings of fact and conclusions of law supporting its decision and shall order that a confidential record of the evidence, findings, and conclusions be maintained.

(8) The supreme court may adopt rules providing an expedited confidential appeal by a petitioner if the youth court denies a petition. An order authorizing an abortion without notice is not subject to appeal.

(9) Filing fees may not be required of a pregnant minor who petitions a court for a waiver of parental notification or appeals a denial of a petition.

**Section 9. Criminal and civil penalties.** (1) A person convicted of performing an abortion in violation of [section 4 or 5] shall be fined an amount not to exceed \$500 or be imprisoned in the county jail for a term not to exceed 6 months, or both.

(2) Failure to provide the notice required under [section 4 or 5] is prima facie evidence in an appropriate civil action for a violation of a professional obligation. The evidence does not apply to issues other than failure to notify the parents or guardian. A civil action may be based on a claim that the failure to notify was the

result of a violation of the appropriate legal standard of care. Failure to provide notice is presumed to be actual malice pursuant to the provisions of 27-1-221. [Sections 1 through 9] do not limit the common-law rights of parents.

(3) A person who coerces a minor to have an abortion is guilty of a misdemeanor and upon conviction shall be fined an amount not to exceed \$1,000 or be imprisoned in the county jail for a term not to exceed 1 year, or both. On a second or subsequent conviction, the person shall be fined an amount not less than \$500 and not more than \$50,000 and be imprisoned in the state prison for a term not less than 10 days and not more than 5 years, or both.

(4) A person not authorized to receive notice under [section 5] who signs a notice of waiver as provided in [section 6(2)] is guilty of a misdemeanor.

**Section 10.** Section 41-1-405, MCA, is amended to read:

**“41-1-405. Emergencies and special situations.** (1) A health professional may render or attempt to render emergency service or first aid, medical, surgical, dental, or psychiatric treatment, without compensation, to any injured person or any person regardless of age who is in need of immediate health care when, in good faith, the professional believes that the giving of aid is the only alternative to probable death or serious physical or mental damage.

(2) A health professional may render nonemergency services to minors for conditions that will endanger the health or life of the minor if services would be delayed by obtaining consent from spouse, parent, parents, or legal guardian.

(3) Consent may not be required of a minor who does not possess the mental capacity or who has a physical disability that renders the minor incapable of giving consent and who has no known relatives or legal guardians, if a physician determines that the health service should be given.

(4) Self-consent of minors does not apply to sterilization or abortion, except as provided in ~~Title 50, chapter 20, part 2~~ [sections 1 through 9].”

**Section 11.** Section 47-1-104, MCA, is amended to read:

**“47-1-104. Statewide system — structure and scope of services — assignment of counsel at public expense.** (1) There is a statewide public defender system, which must deliver public defender services in all courts in this state. The system is supervised by the commission and administered by the office.

(2) The commission shall approve a strategic plan for service delivery and divide the state into not more than 11 public defender regions. The commission may establish a regional office to provide public defender services in each region, as provided in 47-1-215, establish a contracted services program to provide services in the region, or utilize other service delivery methods as appropriate and consistent with the purposes described in 47-1-102.

(3) ~~Beginning July 1, 2006, when~~ *When* a court orders the office to assign counsel, the office shall immediately assign a public defender qualified to provide the required services. The commission shall establish protocols to ensure that the office makes appropriate assignments in a timely manner.

(4) ~~Beginning July 1, 2006, a~~ A court may order the office to assign counsel under this chapter in the following cases:

(a) in cases in which a person is entitled to assistance of counsel at public expense because of financial inability to retain private counsel, subject to a determination of indigence pursuant to 47-1-111, as follows:

(i) for a person charged with a felony or charged with a misdemeanor for which there is a possibility of incarceration, as provided in 46-8-101;

(ii) for a party in a proceeding to determine parentage under the Uniform Parentage Act, as provided in 40-6-119;

(iii) for a parent, guardian, or other person with physical or legal custody of a child or youth in any removal, placement, or termination proceeding pursuant 41-3-422 and as required under the federal Indian Child Welfare Act, as provided in 41-3-425;

(iv) for an applicant for sentence review pursuant to Title 46, chapter 18, part 9;

(v) for a petitioner in a proceeding for postconviction relief, as provided in 46-21-201;

(vi) for a petitioner in a habeas corpus proceeding pursuant to Title 46, chapter 22;

(vii) for a parent or guardian in a proceeding for the involuntary commitment of a developmentally disabled person to a residential facility, as provided in 53-20-112;

(viii) for a respondent in a proceeding for involuntary commitment for a mental disorder, as provided in 53-21-116;

(ix) for a respondent in a proceeding for the involuntary commitment of a person for alcoholism, as provided in 53-24-302; and

(x) for a witness in a criminal grand jury proceeding, as provided in 46-4-304.

(b) in cases in which a person is entitled by law to the assistance of counsel at public expense regardless of the person's financial ability to retain private counsel, as follows:

(i) as provided for in 41-3-425;

(ii) for a youth in a proceeding under the Montana Youth Court Act alleging a youth is delinquent or in need of intervention, as provided in 41-5-1413, and in a prosecution under the Extended Jurisdiction Prosecution Act, as provided in 41-5-1607;

(iii) for a juvenile entitled to assigned counsel in a proceeding under the Interstate Compact on Juveniles, as provided in 41-6-101;

(iv) for a minor who petitions for a waiver of parental notification requirements under the Parental Notice of Abortion Act, as provided in ~~50-20-212~~ *[section 8]*;

(v) for a respondent in a proceeding for the involuntary commitment of a developmentally disabled person to a residential facility, as provided in 53-20-112;

(vi) for a minor voluntarily committed to a mental health facility, as provided in 53-21-112;

(vii) for a person who is the subject of a petition for the appointment of a guardian or conservator in a proceeding under the provisions of the Uniform Probate Code in Title 72, chapter 5;

(viii) for a ward when the ward's guardian has filed a petition to require medical treatment for a mental disorder of the ward, as provided in 72-5-322; and

(c) for an eligible appellant in an appeal of a proceeding listed in this subsection (4).

(5) (a) Except as provided in subsection (5)(b), a public defender may not be assigned to act as a court-appointed special advocate or guardian ad litem in a



proceeding under the Montana Youth Court Act, Title 41, chapter 5, or in an abuse and neglect proceeding under Title 41, chapter 3.

(b) A private attorney who is contracted with under the provisions of 47-1-216 to provide public defender services under this chapter may be appointed as a court-appointed special advocate or guardian ad litem in a proceeding described in subsection (5)(a) if the appointment is separate from the attorney's service for the statewide public defender system and does not result in a conflict of interest."

**Section 12. Repealer.** The following sections of the Montana Code Annotated are repealed:

- 50-20-201. Short title.
- 50-20-202. Legislative purpose and findings.
- 50-20-203. Definitions.
- 50-20-204. Notice of parent required.
- 50-20-205. Alternate notification.
- 50-20-208. Exceptions.
- 50-20-209. Coercion prohibited.
- 50-20-211. Reports.
- 50-20-212. Procedure for judicial waiver of notice.
- 50-20-215. Criminal and civil penalties.

**Section 13. Codification instruction.** [Sections 1 through 9] are intended to be codified as an integral part of Title 50, chapter 20, and the provisions of Title 50, chapter 20, apply to [sections 1 through 9].

**Section 14. Coordination instruction.** If both Senate Bill No. 97 and [this act] are passed and approved, then [this act] is void.

**Section 15. Effective date.** If approved by the electorate, [this act] is effective January 1, 2013.

**Section 16. Submission to electorate.** [This act] shall be submitted to the qualified electors of Montana at the general election to be held in November 2012 by printing on the ballot the full title of [this act] and the following:

- FOR requiring parental notification prior to abortion for a minor, providing for judicial waiver of notification, repealing prior statutes, and providing penalties.
- AGAINST requiring parental notification prior to abortion for a minor, providing for judicial waiver of notification, repealing prior statutes, and providing penalties.

Legislative Referendum No. 120 was approved by the following vote at the General Election held November 6, 2012:

For:	334,416
Against:	139,598

**LEGISLATIVE REFERENDUM NO. 121**

## AN ACT REFERRED BY THE LEGISLATURE

AN ACT DENYING CERTAIN STATE-FUNDED SERVICES TO ILLEGAL ALIENS; ESTABLISHING PROCEDURES FOR DETERMINING A PERSON'S CITIZENSHIP STATUS; PROVIDING THAT THE PROPOSED ACT BE SUBMITTED TO THE QUALIFIED ELECTORS OF MONTANA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE.

LR-121 prohibits providing state services to people who are not U.S. citizens and who have unlawfully entered or unlawfully remained in the United States. Under LR-121, every individual seeking a state service, such as applying for any state licenses, state employment, unemployment or disability benefits, or aid for university students, must provide evidence of U.S. citizenship or lawful alien status, and/or have their status verified through federal databases. State agencies must notify the U.S. Department of Homeland Security of noncitizens who have unlawfully entered or remained in the U.S. and who have applied for state services.

The costs associated with verifying U.S. citizenship or lawful alien status will vary by agency and cannot be precisely determined. However, on-going costs may include: hiring and training state personnel to use various federal databases; software, hardware and search charges; and information assessment and management costs.

THE COMPLETE TEXT OF HOUSE BILL NO. 638 (CH. 308, L. 2011),  
REFERRED BY LR-121

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

**Section 1. Certain state services denied to illegal aliens.** (1) To the extent allowed by federal law and the Montana constitution and notwithstanding any other state law, a state agency may not provide a state service to an illegal alien and shall comply with the requirements of this section.

(2) To determine whether an applicant for a state service is an illegal alien, the agency may use the systematic alien verification for entitlements program provided by the United States department of homeland security or any other lawful method of making the determination.

(3) A state agency shall notify appropriate personnel in immigration and customs enforcement under the United States department of homeland security or its successor of any illegal alien applying for a state service.

(4) An agency shall require a person seeking a state service to provide proof of United States citizenship or legal alien status.

(5) A state agency shall execute any written agreement required by federal law to implement this section.

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

(a) "Agency" means a department, board, commission, committee, authority, or office of the legislative or executive branches of state government, including a unit of the Montana university system.

(b) "Illegal alien" means an individual who is not a citizen of the United States and who has unlawfully entered or remains unlawfully in the United States.

(c) "State service" means a payment of money, the grant of a state license or permit, or the provision of another valuable item or service under any of the following programs and provisions of law:

- (i) employment with a state agency;
- (ii) qualification as a student in the university system for the purposes of a public education, as provided in 20-25-502;
- (iii) student financial assistance, as provided in Title 20, chapter 26;
- (iv) issuance of a state license or permit to practice a trade or profession, as provided in Title 37;
- (v) unemployment insurance benefits, as provided in Title 39, chapter 51;
- (vi) vocational rehabilitation, as provided in Title 53, chapter 7;
- (vii) services for victims of crime, as provided in Title 53, chapter 9;
- (viii) services for the physically disabled, as provided in Title 53, chapter 19, parts 3 and 4;
- (ix) a grant, as provided in Title 90.

**Section 2. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 1, chapter 1, part 4, and the provisions of Title 1, chapter 1, part 4, apply to [section 1].

**Section 3. Coordination instruction.** If House Bill No. 534 is passed and approved, then [this act] is void.

**Section 4. 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 5. Effective date.** If approved by the electorate, [this act] is effective January 1, 2013.

**Section 6. Applicability.** [This act] applies to the provision of a state service, as defined in [section 1], applied for or intended to be made on or after January 1, 2013.

**Section 7. Submission to the electorate.** [This act] shall be submitted to the qualified electors of Montana at the general election to be held in November 2012 by printing on the ballot the full title of [this act] and the following:

- FOR denying certain state services to illegal aliens.
- AGAINST denying certain state services to illegal aliens.

Legislative Referendum No. 121 was approved by the following vote at the General Election held November 6, 2012:

For:	378,563
Against:	97,528

## LEGISLATIVE REFERENDUM NO. 122

AN ACT REFERRED BY THE LEGISLATURE

AN ACT PROHIBITING THE STATE OR FEDERAL GOVERNMENT FROM MANDATING THE PURCHASE OF HEALTH INSURANCE COVERAGE OR IMPOSING PENALTIES FOR DECISIONS RELATED TO THE PURCHASE

OF HEALTH INSURANCE COVERAGE; PROVIDING THAT THE PROPOSED ACT BE SUBMITTED TO THE QUALIFIED ELECTORS OF MONTANA; AND PROVIDING AN EFFECTIVE DATE.

LR-122 prohibits the state and federal governments from requiring the purchase of health insurance or imposing any penalty, tax, fee or fine on those who do not purchase health insurance. The prohibition does not apply to: (1) a court which orders the purchase of insurance when an individual or entity is a named party in a judicial dispute; (2) the state department of public health and human services as part of a child support enforcement action; or (3) the Montana university system as a requirement for students.

THE COMPLETE TEXT OF SENATE BILL NO. 418 (CH. 310, L. 2011),  
REFERRED BY LR-122

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

**Section 1. Short title.** [Sections 1 and 2] may be cited as the “Montana Health Care Freedom Act”.

**Section 2. Health insurance purchase mandate prohibited — exceptions.** (1) The state or federal government may not:

(a) mandate or require a person or entity to purchase health insurance coverage as defined in 33-22-140; or

(b) impose a penalty, tax, fee, or fine of any type if a person or entity declines to purchase health insurance coverage.

(2) This section does not apply to a requirement to purchase health insurance coverage that is imposed by:

(a) a court when an individual or entity is a named party in a judicial dispute;

(b) the department of public health and human services as part of a child support enforcement action; or

(c) the Montana university system as a requirement for students.

**Section 3. Codification instruction.** [Sections 1 and 2] are intended to be codified as an integral part of Title 50, chapter 4, and the provisions of Title 50, chapter 4, apply to [sections 1 and 2].

**Section 4. Effective date.** If approved by the electorate, [this act] is effective January 1, 2013.

**Section 5. Submission to electorate.** [This act] shall be submitted to the qualified electors of Montana at the general election to be held in November 2012 by printing on the ballot the full title of [this act] and the following:

- FOR prohibiting the state or federal government from mandating the purchase of health insurance or imposing penalties for decisions related to purchasing health insurance.
- AGAINST prohibiting the state or federal government from mandating the purchase of health insurance or imposing penalties for decisions related to purchasing health insurance.

Legislative Referendum No. 122 was approved by the following vote at the General Election held November 6, 2012:

For:	318,612
Against:	155,536

**INITIATIVE REFERENDUM NO. 124****AN ACT OF THE LEGISLATURE  
REFERRED BY REFERENDUM PETITION**

In 2004, Montana voters approved I-148, creating a medical marijuana program for patients with debilitating medical conditions. Senate Bill 423, passed by the 2011 Legislature, repeals I-148 and enacts a new medical marijuana program, which includes: permitting patients to grow marijuana or designate a provider; limiting each marijuana provider to three patients; prohibiting marijuana providers from accepting anything of value in exchange for services or products; granting local governments authority to regulate marijuana providers; establishing specific standards for demonstrating chronic pain; and reviewing the practices of doctors who certify marijuana use for 25 or more patients in a 12-month period.

If Senate Bill 423 is affirmed by the voters, there will be no fiscal impact because the legislature has funded the costs of its implementation. If Senate Bill 423 is rejected by the voters, there may be a small savings to the State.

**THE COMPLETE TEXT OF SENATE BILL NO. 423 (CH. 419, L. 2011)**

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

**Section 1. Short title — purpose.** (1) [Sections 1 through 23] may be cited as the “Montana Marijuana Act”.

(2) The purpose of [sections 1 through 23] is to:

(a) provide legal protections to persons with debilitating medical conditions who engage in the use of marijuana to alleviate the symptoms of the debilitating medical condition;

(b) allow for the limited cultivation, manufacture, delivery, and possession of marijuana as permitted by [sections 1 through 23] by persons who obtain registry identification cards;

(c) allow individuals to assist a limited number of registered cardholders with the cultivation and manufacture of marijuana or marijuana-infused products;

(d) establish reporting requirements for production of marijuana and marijuana-infused products and inspection requirements for premises; and

(e) give local governments a role in establishing standards for the cultivation, manufacture, and use of marijuana that protect the public health, safety, and welfare of residents within their jurisdictions.

**Section 2. Definitions.** As used in [sections 1 through 23], the following definitions apply:

(1) “Correctional facility or program” means a facility or program that is described in 53-1-202 and to which a person may be ordered by any court of competent jurisdiction.

(2) “Debilitating medical condition” means:

(a) cancer, glaucoma, positive status for human immunodeficiency virus, or acquired immune deficiency syndrome when the condition or disease results in symptoms that seriously and adversely affect the patient’s health status;

(b) cachexia or wasting syndrome;

(c) severe chronic pain that is persistent pain of severe intensity that significantly interferes with daily activities as documented by the patient's treating physician and by:

(i) objective proof of the etiology of the pain, including relevant and necessary diagnostic tests that may include but are not limited to the results of an x-ray, computerized tomography scan, or magnetic resonance imaging; or

(ii) confirmation of that diagnosis from a second physician who is independent of the treating physician and who conducts a physical examination;

(d) intractable nausea or vomiting;

(e) epilepsy or an intractable seizure disorder;

(f) multiple sclerosis;

(g) Crohn's disease;

(h) painful peripheral neuropathy;

(i) a central nervous system disorder resulting in chronic, painful spasticity or muscle spasms;

(j) admittance into hospice care in accordance with rules adopted by the department; or

(k) any other medical condition or treatment for a medical condition approved by the legislature.

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

(4) "Local government" means a county, a consolidated government, or an incorporated city or town.

(5) "Marijuana" has the meaning provided in 50-32-101.

(6) (a) "Marijuana-infused product" means a product that contains marijuana and is intended for use by a registered cardholder by a means other than smoking.

(b) The term includes but is not limited to edible products, ointments, and tinctures.

(7) (a) "Marijuana-infused products provider" means a Montana resident who meets the requirements of [sections 1 through 23] and who has applied for and received a registry identification card to manufacture and provide marijuana-infused products for a registered cardholder.

(b) The term does not include the cardholder's treating or referral physician.

(8) "Mature marijuana plant" means a harvestable female marijuana plant that is flowering.

(9) "Paraphernalia" has the meaning provided in 45-10-101.

(10) (a) "Provider" means a Montana resident 18 years of age or older who is authorized by the department to assist a registered cardholder as allowed under [sections 1 through 23].

(b) The term does not include the cardholder's treating physician or referral physician.

(11) "Referral physician" means a person who:

(a) is licensed under Title 37, chapter 3;

(b) has an established office in Montana; and

(c) is the physician to whom a patient's treating physician has referred the patient for physical examination and medical assessment.

(12) “Registered cardholder” or “cardholder” means a Montana resident with a debilitating medical condition who has received and maintains a valid registry identification card.

(13) “Registered premises” means the location at which a provider or marijuana-infused products provider has indicated the person will cultivate or manufacture marijuana for a registered cardholder.

(14) “Registry identification card” means a document issued by the department pursuant to [section 3] that identifies a person as a registered cardholder, provider, or marijuana-infused products provider.

(15) (a) “Resident” means an individual who meets the requirements of 1-1-215.

(b) An individual is not considered a resident for the purposes of [sections 1 through 23] if the individual:

(i) claims residence in another state or country for any purpose; or

(ii) is an absentee property owner paying property tax on property in Montana.

(16) “Second degree of kinship by blood or marriage” means a mother, father, brother, sister, son, daughter, spouse, grandparent, grandchild, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, grandparent-in-law, grandchild-in-law, stepfather, stepmother, stepbrother, stepsister, stepson, stepdaughter, stepgrandparent, or stepgrandchild.

(17) “Seedling” means a marijuana plant that has no flowers and is less than 12 inches in height and 12 inches in diameter.

(18) “Standard of care” means, at a minimum, the following activities when undertaken by a patient’s treating physician or referral physician if the treating physician or referral physician is providing written certification for a patient with a debilitating medical condition:

(a) obtaining the patient’s medical history;

(b) performing a relevant and necessary physical examination;

(c) reviewing prior treatment and treatment response for the debilitating medical condition;

(d) obtaining and reviewing any relevant and necessary diagnostic test results related to the debilitating medical condition;

(e) discussing with the patient and ensuring that the patient understands the advantages, disadvantages, alternatives, potential adverse effects, and expected response to the recommended treatment;

(f) monitoring the response to treatment and possible adverse effects; and

(g) creating and maintaining patient records that remain with the physician.

(19) “Treating physician” means a person who:

(a) is licensed under Title 37, chapter 3;

(b) has an established office in Montana; and

(c) has a bona fide professional relationship with the person applying to be a registered cardholder.

(20) (a) “Usable marijuana” means the dried leaves and flowers of the marijuana plant and any mixtures or preparations of the dried leaves and flowers that are appropriate for the use of marijuana by a person with a debilitating medical condition.

(b) The term does not include the seeds, stalks, and roots of the plant.



(21) “Written certification” means a statement signed by a treating physician or referral physician that meets the requirements of [section 7] and is provided in a manner that meets the standard of care.

**Section 3. Department responsibilities — issuance of cards — confidentiality — reports.** (1) (a) The department shall establish and maintain a program for the issuance of registry identification cards to Montana residents who:

(i) have debilitating medical conditions and who submit applications meeting the requirements of [sections 1 through 23]; and

(ii) are named as providers or marijuana-infused products providers by persons who obtain registry identification cards for their debilitating medical conditions.

(b) Persons who obtain registry identification cards are authorized to cultivate, manufacture, possess, and transport marijuana as allowed by [sections 1 through 23].

(2) The department shall conduct criminal history background checks as required by [sections 4 and 5] before issuing a registry identification card for a person named as a provider or marijuana-infused products provider.

(3) Registry identification cards issued pursuant to [sections 1 through 23] must:

(a) be laminated and produced on a material capable of lasting for the duration of the time period for which the card is valid;

(b) state the name, address, and date of birth of the registered cardholder and of the cardholder’s provider or marijuana-infused products provider, if any;

(c) state the date of issuance and the expiration date of the registry identification card;

(d) contain a unique identification number;

(e) easily identify whether the card is for a person with a debilitating medical condition, a provider, or a marijuana-infused products provider; and

(f) contain other information that the department may specify by rule.

(4) (a) The department shall review the information contained in an application or renewal submitted pursuant to [sections 1 through 23] and shall approve or deny an application or renewal within 30 days of receiving the application or renewal and all related application materials.

(b) The department shall issue a registry identification card within 5 days of approving an application or renewal.

(5) Rejection of an application or renewal is considered a final department action, subject to judicial review.

(6) (a) Registry identification cards expire 1 year after the date of issuance unless:

(i) a physician has provided a written certification stating that a card is valid for a shorter period of time; or

(ii) a registered cardholder changes providers or marijuana-infused products providers.

(b) A provider’s or marijuana-infused products provider’s registry identification card expires at the time the department issues a card to a new provider or new marijuana-infused products providers named by a registered cardholder.

(7) A registered cardholder shall notify the department of any change in the cardholder's name, address, physician, provider, or marijuana-infused products providers or change in the status of the cardholder's debilitating medical condition within 10 days of the change. If a change occurs and is not reported to the department, the registry identification card is void.

(8) The department shall maintain a confidential list of persons to whom the department has issued registry identification cards. Except as provided in subsection (9), individual names and other identifying information on the list must be confidential and are not subject to disclosure, except to:

(a) authorized employees of the department as necessary to perform the official duties of the department; and

(b) authorized employees of state or local government agencies, including law enforcement agencies, only as necessary to verify that an individual is a lawful possessor of a registry identification card.

(9) The department shall provide the names of providers and marijuana-infused products providers to the local law enforcement agency having jurisdiction in the area in which the providers or marijuana-infused products providers are located. The law enforcement agency and its employees are subject to the confidentiality requirements of [section 17].

(10) (a) The department shall provide the board of medical examiners with the name of any physician who provides written certification for 25 or more patients within a 12-month period. The board of medical examiners shall review the physician's practices in order to determine whether the practices meet the standard of care.

(b) The physician whose practices are under review shall pay the costs of the board's review activities.

(11) The department shall report biannually to the legislature the number of applications for registry identification cards, the number of registered cardholders approved, the nature of the debilitating medical conditions of the cardholders, the number of providers and marijuana-infused products providers approved, the number of registry identification cards revoked, the number of physicians providing written certification for registered cardholders, and the number of written certifications each physician has provided. The report may not provide any identifying information of cardholders, physicians, providers, or marijuana-infused products providers.

(12) The board of medical examiners shall report annually to the legislature on:

(a) the number and types of complaints the board has received involving physician practices in providing written certification for the use of marijuana, pursuant to 37-3-203; and

(b) the number of physicians whose names were provided to the board by the department as required under subsection (10). The report must include information on whether a physician whose practices were reviewed by the board pursuant to subsection (10) met the standard of care when providing written certifications.

**Section 4. Persons with debilitating medical conditions — requirements — minors — limitations.** (1) Except as provided in subsections (2) through (4), the department shall issue a registry identification card to a person with a debilitating medical condition who submits the following, in accordance with department rules:

(a) an application on a form prescribed by the department;

- (b) an application fee or a renewal fee;
  - (c) the person's name, street address, and date of birth;
  - (d) proof of Montana residency;
  - (e) a statement that the person will be cultivating and manufacturing marijuana for the person's use or will be obtaining marijuana from a provider or a marijuana-infused products provider;
  - (f) a statement, on a form prescribed by the department, that the person will not divert to any other person the marijuana that the person cultivates, manufactures, or obtains for the person's debilitating medical condition;
  - (g) the name of the person's treating physician or referral physician and the street address and telephone number of the physician's office;
  - (h) the street address where the person is cultivating or manufacturing marijuana if the person is cultivating or manufacturing marijuana for the person's own use;
  - (i) the name, date of birth, and street address of the individual the person has selected as a provider or marijuana-infused products provider, if any; and
  - (j) the written certification and accompanying statements from the person's treating physician or referral physician as required pursuant to [section 7].
- (2) The department shall issue a registry identification card to a minor if the materials required under subsection (1) are submitted and the minor's custodial parent or legal guardian with responsibility for health care decisions:
- (a) provides proof of legal guardianship and responsibility for health care decisions if the person is submitting an application as the minor's legal guardian with responsibility for health care decisions; and
  - (b) signs and submits a written statement that:
    - (i) the minor's treating physician or referral physician has explained to the minor and to the minor's custodial parent or legal guardian with responsibility for health care decisions the potential risks and benefits of the use of marijuana; and
    - (ii) the minor's custodial parent or legal guardian with responsibility for health care decisions:
      - (A) consents to the use of marijuana by the minor;
      - (B) agrees to serve as the minor's marijuana-infused products provider;
      - (C) agrees to control the acquisition of marijuana and the dosage and frequency of the use of marijuana by the minor;
      - (D) agrees that the minor will use only marijuana-infused products and will not smoke marijuana;
  - (c) submits fingerprints to facilitate a fingerprint and background check by the department of justice and federal bureau of investigation. The parent or legal guardian shall pay the costs of the background check and may not obtain a registry identification card as a marijuana-infused products provider if the parent or legal guardian does not meet the requirements of [section 5].
  - (d) pledges, on a form prescribed by the department, not to divert to any person any marijuana cultivated or manufactured for the minor's use in a marijuana-infused product.
- (3) An application for a registry identification card for a minor must be accompanied by the written certification and accompanying statements required pursuant to [section 7] from a second physician in addition to the minor's treating physician or referral physician.

(4) A person may not be a registered cardholder if the person is in the custody of or under the supervision of the department of corrections or a youth court.

(5) A registered cardholder who elects to obtain marijuana from a provider or marijuana-infused products provider may not cultivate or manufacture marijuana for the cardholder's use unless the registered cardholder is the provider or marijuana-infused products provider.

(6) A registered cardholder may cultivate or manufacture marijuana as allowed under [section 10] only:

(a) at a property that is owned by the cardholder; or

(b) with written permission of the landlord, at a property that is rented or leased by the cardholder.

(7) No portion of the property used for cultivation and manufacture of marijuana for use by the registered cardholder may be shared with or rented or leased to a provider, a marijuana-infused products provider, or a registered cardholder unless the property is owned, rented, or leased by cardholders who are related to each other by the second degree of kinship by blood or marriage.

**Section 5. Provider types — requirements — limitations — activities.** (1) The department shall issue a registry identification card to or renew a card for the person who is named as a provider or marijuana-infused products provider in a registered cardholder's approved application if the person submits to the department:

(a) the person's name, date of birth, and street address on a form prescribed by the department;

(b) proof that the person is a Montana resident;

(c) fingerprints to facilitate a fingerprint and background check by the department of justice and the federal bureau of investigation;

(d) a written agreement signed by the registered cardholder that indicates whether the person will act as the cardholder's provider or marijuana-infused products provider;

(e) a statement, on a form prescribed by the department, that the person will not divert to any other person the marijuana that the person cultivates or manufactures for a registered cardholder;

(f) a statement acknowledging that the person will cultivate and manufacture marijuana for the registered cardholder at only one location as provided in subsection (7). The location must be identified by street address.

(g) a fee as determined by the department to cover the costs of the fingerprint and background check and associated administrative costs of processing the registration.

(2) The department may not register a person under this section if the person:

(a) has a felony conviction or a conviction for a drug offense;

(b) is in the custody of or under the supervision of the department of corrections or a youth court;

(c) has been convicted of a violation under [section 16];

(d) has failed to:

(i) pay any taxes, interest, penalties, or judgments due to a government agency;

(ii) stay out of default on a government-issued student loan;

(iii) pay child support; or

(iv) remedy an outstanding delinquency for child support or for taxes or judgments owed to a government agency; or

(e) is a registered cardholder who has designated a provider or marijuana-infused products provider in the person's application for a card issued under [section 4].

(3) (a) (i) A provider or marijuana-infused products provider may assist a maximum of three registered cardholders.

(ii) A person who is registered as both a provider and a marijuana-infused products provider may assist no more than three registered cardholders.

(b) If the provider or marijuana-infused products provider is a registered cardholder, the provider or marijuana-infused products provider may assist a maximum of two registered cardholders other than the provider or marijuana-infused products provider.

(4) A provider or marijuana-infused products provider may accept reimbursement from a cardholder only for the provider's application or renewal fee for a registry identification card issued under this section.

(5) Marijuana for use pursuant to [sections 1 through 23] must be cultivated and manufactured in Montana.

(6) A provider or marijuana-infused products provider may not:

(a) accept anything of value, including monetary remuneration, for any services or products provided to a registered cardholder;

(b) buy or sell mature marijuana plants, seedlings, cuttings, clones, usable marijuana, or marijuana-infused products; or

(c) use marijuana unless the person is also a registered cardholder.

(7) (a) A person registered under this section may cultivate and manufacture marijuana for use by a registered cardholder only at one of the following locations:

(i) a property that is owned by the provider or marijuana-infused products provider;

(ii) with written permission of the landlord, a property that is rented or leased by the provider or marijuana-infused products provider; or

(iii) a property owned, leased, or rented by the registered cardholder pursuant to the provisions of [section 4].

(b) No portion of the property used for cultivation and manufacture of marijuana may be shared with or rented or leased to another provider or marijuana-infused products provider or another registered cardholder.

**Section 6. Marijuana-infused products provider — requirements — allowable activities.** (1) An individual registered as a marijuana-infused products provider shall:

(a) prepare marijuana-infused products at a premises registered with the department that is used for the manufacture and preparation of marijuana-infused products; and

(b) use equipment that is used exclusively for the manufacture and preparation of marijuana-infused products.

(2) A marijuana-infused products provider:

(a) may cultivate marijuana only for the purpose of making marijuana-infused products; and

(b) may not provide a cardholder with marijuana in a form that may be used for smoking unless the marijuana-infused products provider is also a registered provider and is providing the marijuana to a registered cardholder who has selected the person as the person's registered provider.

(3) All registered premises on which marijuana-infused products are manufactured must meet any applicable standards set by a local board of health for a food service establishment as defined in 50-50-102.

(4) Marijuana-infused products may not be considered a food or drug for the purposes of Title 50, chapter 31.

**Section 7. Written certification — accompanying statements.** (1) The written certification provided by a physician must be made on a form prescribed by the department and signed and dated by the physician. The written certification must:

(a) include the physician's name, license number, and office address and telephone number on file with the board of medical examiners and the physician's business e-mail address, if any; and

(b) the name, date of birth, and debilitating medical condition of the person for whom the physician is providing written certification.

(2) A treating physician or referral physician who is providing written certification for a patient shall provide a statement initialed by the physician that must:

(a) confirm that the physician is:

(i) the person's treating physician and that the person has been under the physician's ongoing medical care as part of a bona fide professional relationship with the person; or

(ii) the person's referral physician;

(b) confirm that the person suffers from a debilitating medical condition;

(c) describe the debilitating medical condition, why the condition is debilitating, and the extent to which it is debilitating;

(d) confirm that the physician has assumed primary responsibility for providing management and routine care of the person's debilitating medical condition after obtaining a comprehensive medical history and conducting a physical examination that included a personal review of any medical records maintained by other physicians and that may have included the person's reaction and response to conventional medical therapies;

(e) describe the medications, procedures, and other medical options used to treat the condition;

(f) state that the medications, procedures, or other medical options have not been effective;

(g) confirm that the physician has reviewed all prescription and nonprescription medications and supplements used by the person and has considered the potential drug interaction with marijuana;

(h) state that the physician has a reasonable degree of certainty that the person's debilitating medical condition would be alleviated by the use of marijuana and that, as a result, the patient would be likely to benefit from the use of marijuana;

(i) confirm that the physician has explained the potential risks and benefits of the use of marijuana to the person;

(j) list restrictions on the person's activities due to the use of marijuana;

(k) specify the time period for which the use of marijuana would be appropriate, up to a maximum of 1 year;

(l) state that the physician will:

(i) continue to serve as the person's treating physician or referral physician; and

(ii) monitor the person's response to the use of marijuana and evaluate the efficacy of the treatment; and

(m) contain an attestation that the information provided in the written certification and accompanying statements is true and correct.

(3) A physician who is the second physician recommending marijuana for use by a minor shall submit:

(a) a statement initialed by the physician that the physician conducted a comprehensive review of the minor's medical records as maintained by the treating physician or referral physician;

(b) a statement that in the physician's professional opinion, the potential benefits of the use of marijuana would likely outweigh the health risks for the minor; and

(c) an attestation that the information provided in the written certification and accompanying statements is true and correct.

(4) If the written certification states that marijuana should be used for less than 1 year, the department shall issue a registry identification card that is valid for the period specified in the written certification.

**Section 8. Registry card to be carried and exhibited on demand — photo identification required.** A registered cardholder, provider, or marijuana-infused products provider shall keep the person's registry identification card in the person's immediate possession at all times. The person shall display the registry identification card and a valid photo identification upon demand of a law enforcement officer, justice of the peace, or city or municipal judge.

**Section 9. Health care facility procedures for patients with marijuana for use.** (1) (a) Except for hospices and residential care facilities that allow the use of marijuana as provided in [section 11], a health care facility as defined in 50-5-101 shall take the following measures when a patient who is a registered cardholder has marijuana in the patient's possession upon admission to the health care facility:

(i) require the patient to remove the marijuana from the premises before the patient is admitted if the patient is able to do so; or

(ii) make a reasonable effort to contact the patient's provider, marijuana-infused products provider, court-appointed guardian, or person with a power of attorney, if any.

(b) If a patient is unable to remove the marijuana or the health care facility is unable to contact an individual as provided in subsection (1)(a), the facility shall contact the local law enforcement agency having jurisdiction in the area where the facility is located.

(2) A provider, marijuana-infused products provider, court-appointed guardian, or person with a power of attorney, if any, contacted by a health care facility shall remove the marijuana and deliver it to the patient's residence.

(3) A law enforcement agency contacted by a health care facility shall respond by removing and destroying the marijuana.



(4) A health care facility may not be charged for costs related to removal of the marijuana from the facility's premises.

**Section 10. Legal protections — allowable amounts.** (1) (a) A registered cardholder may possess up to 4 mature plants, 12 seedlings, and 1 ounce of usable marijuana.

(b) A provider or marijuana-infused products provider may possess 4 mature plants, 12 seedlings, and 1 ounce of usable marijuana for each registered cardholder who has named the person as the registered cardholder's provider.

(2) Except as provided in [section 11] and subject to the provisions of subsection (7), an individual who possesses a registry identification card issued pursuant to [sections 1 through 23] may not be arrested, prosecuted, or penalized in any manner or be denied any right or privilege, including but not limited to civil penalty or disciplinary action by a professional licensing board or the department of labor and industry, solely because:

(a) the individual cultivates, manufactures, possesses, or transports marijuana in the amounts allowed under this section; or

(b) the registered cardholder acquires or uses marijuana.

(3) A physician may not be arrested, prosecuted, or penalized in any manner or be denied any right or privilege, including but not limited to civil penalty or disciplinary action by the board of medical examiners or the department of labor and industry, solely for providing written certification for a patient with a debilitating medical condition.

(4) Nothing in this section prevents the imposition of a civil penalty or a disciplinary action by a professional licensing board or the department of labor and industry if:

(a) a registered cardholder's use of marijuana impairs the cardholder's job-related performance; or

(b) a physician violates the standard of care or other requirements of [sections 1 through 23].

(5) (a) An individual may not be arrested or prosecuted for constructive possession, conspiracy as provided in 45-4-102, or other provisions of law or any other offense solely for being in the presence or vicinity of the use of marijuana as permitted under [sections 1 through 23].

(b) This subsection (5) does not prevent the arrest or prosecution of an individual who is in the vicinity of a registered cardholder's use of marijuana if the individual is in possession of or is using marijuana and is not a registered cardholder.

(6) Except as provided in [section 14], possession of or application for a registry identification card does not alone constitute probable cause to search the individual or the property of the individual possessing or applying for the registry identification card or otherwise subject the individual or property of the individual possessing or applying for the card to inspection by any governmental agency, including a law enforcement agency.

(7) The provisions of this section relating to protection from arrest or prosecution do not apply to an individual unless the individual has obtained a registry identification card prior to an arrest or the filing of a criminal charge. It is not a defense to a criminal charge that an individual obtains a registry identification card after an arrest or the filing of a criminal charge.

(8) (a) A registered cardholder, a provider, or a marijuana-infused products provider is presumed to be engaged in the use of marijuana as allowed by [sections 1 through 23] if the person:

(i) is in possession of a valid registry identification card; and

(ii) is in possession of an amount of marijuana that does not exceed the amount permitted under [sections 1 through 23].

(b) The presumption may be rebutted by evidence that the possession of marijuana was not for the purpose of alleviating the symptoms or effects of a registered cardholder's debilitating medical condition.

**Section 11. Limitations of the act.** (1) [Sections 1 through 23] do not permit:

(a) any person, including a registered cardholder, to operate, navigate, or be in actual physical control of a motor vehicle, aircraft, or motorboat while under the influence of marijuana; or

(b) except as provided in subsection (3), the use of marijuana by a registered cardholder:

(i) in a health care facility as defined in 50-5-101;

(ii) in a school or a postsecondary school as defined in 20-5-402;

(iii) on or in any property owned by a school district or a postsecondary school;

(iv) on or in any property leased by a school district or a postsecondary school when the property is being used for school-related purposes;

(v) in a school bus or other form of public transportation;

(vi) when ordered by any court of competent jurisdiction into a correctional facility or program;

(vii) if a court has imposed restrictions on the cardholder's use pursuant to 46-18-202;

(viii) at a public park, public beach, public recreation center, or youth center;

(ix) in or on the property of any church, synagogue, or other place of worship;

(x) in plain view of or in a place open to the general public; or

(xi) where exposure to the marijuana smoke significantly adversely affects the health, safety, or welfare of children.

(2) A registered cardholder, provider, or marijuana-infused products provider may not cultivate or manufacture marijuana for use by a registered cardholder in a manner that is visible from the street or other public area.

(3) A hospice or residential care facility licensed under Title 50, chapter 5, may adopt a policy that allows use of marijuana by a registered cardholder.

(4) Nothing in [sections 1 through 23] may be construed to require:

(a) a government medical assistance program, a group benefit plan that is covered by the provisions of Title 2, chapter 18, an insurer covered by the provisions of Title 33, or an insurer as defined in 39-71-116 to reimburse a person for costs associated with the use of marijuana by a registered cardholder;

(b) an employer to accommodate the use of marijuana by a registered cardholder;

(c) a school or postsecondary school to allow a registered cardholder to participate in extracurricular activities; or

(d) a landlord to allow a tenant who is a registered cardholder, provider, or marijuana-infused products provider to cultivate or manufacture marijuana or to allow a registered cardholder to use marijuana.

(5) Nothing in [sections 1 through 23] may be construed to:

(a) prohibit an employer from including in any contract a provision prohibiting the use of marijuana for a debilitating medical condition; or

(b) permit a cause of action against an employer for wrongful discharge pursuant to 39-2-904 or discrimination pursuant to 49-1-102.

(6) Nothing in [sections 1 through 23] may be construed to allow a provider or marijuana-infused products provider to use marijuana or to prevent criminal prosecution of a provider or marijuana-infused products provider who uses marijuana or paraphernalia for personal use.

(7) (a) A law enforcement officer who has reasonable cause to believe that a person with a valid registry identification card is driving under the influence of marijuana may apply for a search warrant to require the person to provide a sample of the person's blood for testing pursuant to the provisions of 61-8-405. A person with a tetrahydrocannabinol (THC) level of 5 ng/ml may be charged with a violation of 61-8-401.

(b) A registered cardholder, provider, or marijuana-infused products provider who violates subsection (1)(a) is subject to revocation of the person's registry identification card if the individual is convicted of or pleads guilty to any offense related to driving under the influence of alcohol or drugs when the initial offense with which the individual was charged was a violation of 61-8-401, 61-8-406, or 61-8-410. A revocation under this section must be for the period of suspension or revocation set forth:

(i) in 61-5-208 for a violation of 61-8-401 or 61-8-406; or

(ii) in 61-8-410 for a violation of 61-8-410.

(c) If a person's registry identification card is subject to renewal during the revocation period, the person may not renew the card until the full revocation period has elapsed. The card may be renewed only if the person submits all materials required for renewal.

**Section 12. Prohibitions on physician affiliation with providers and marijuana-infused products providers — sanctions.** (1) (a) A physician who provides written certifications may not:

(i) accept or solicit anything of value, including monetary remuneration, from a provider or marijuana-infused products provider;

(ii) offer a discount or any other thing of value to a person who uses or agrees to use a particular provider or marijuana-infused products provider; or

(iii) examine a patient for the purposes of diagnosing a debilitating medical condition at a location where medical marijuana is cultivated or manufactured or where marijuana-infused products are made.

(b) Subsection (1)(a) does not prevent a physician from accepting a fee for providing medical care to a provider or marijuana-infused products provider if the physician charges the person the same fee that the physician charges other patients for providing a similar level of medical care.

(2) If the department has cause to believe that a physician has violated this section, has violated a provision of rules adopted pursuant to this chapter, or has not met the standard of care required under this chapter, the department may refer the matter to the board of medical examiners provided for in 2-15-1731 for review pursuant to 37-1-308.

(3) A violation of this section constitutes unprofessional conduct under 37-1-316. If the board of medical examiners finds that a physician has violated this section, the board shall restrict the physician's authority to provide written certification for the use of marijuana. The board of medical examiners shall notify the department of the sanction.

(4) If the board of medical examiners believes a physician's practices may harm the public health, safety, or welfare, the board may summarily restrict a physician's authority to provide written certification for the medical use of marijuana.

**Section 13. Local government authority to regulate.** (1) To protect the public health, safety, or welfare, a local government may by ordinance or resolution regulate a provider or marijuana-infused products provider that operates within the local government's jurisdictional area. The regulations may include but are not limited to inspections of locations where marijuana is cultivated or manufactured in order to ensure compliance with any public health, safety, and welfare requirements established by the department or the local government.

(2) A local government may adopt an ordinance or resolution prohibiting providers and marijuana-infused products providers from operating as storefront businesses.

**Section 14. Inspection procedures.** (1) The department and state or local law enforcement agencies may conduct unannounced inspections of registered premises.

(2) (a) Each provider and marijuana-infused products provider shall keep a complete set of records necessary to show all transactions with registered cardholders. The records must be open for inspection by the department and state or local law enforcement agencies during normal business hours.

(b) The department may require a provider or marijuana-infused products provider to furnish information that the department considers necessary for the proper administration of [sections 1 through 23].

(3) (a) A registered premises, including any places of storage, where marijuana is cultivated, manufactured, or stored is subject to entry by the department or state or local law enforcement agencies for the purpose of inspection or investigation during normal business hours.

(b) If any part of the registered premises consists of a locked area, the provider or marijuana-infused products provider shall make the area available for inspection without delay upon request of the department or state or local law enforcement officials.

(4) A provider or marijuana-infused products provider shall maintain records showing the names and registry identification numbers of registered cardholders to whom mature plants, seedlings, usable marijuana, or marijuana-infused products were transferred and the quantities transferred to each cardholder.

**Section 15. Unlawful conduct by cardholders — penalties.** (1) The department shall revoke and may not reissue the registry identification card of a person who:

- (a) is convicted of a drug offense;
- (b) allows another person to be in possession of the person's:
  - (i) registry identification card; or

(ii) mature marijuana plants, seedlings, usable marijuana, or marijuana-infused products; or

(c) fails to cooperate with the department concerning an investigation or inspection if the person is registered and cultivating or manufacturing marijuana.

(2) A registered cardholder, provider, or marijuana-infused products provider who violates [sections 1 through 23] is punishable by a fine not to exceed \$500 or by imprisonment in a county jail for a term not to exceed 6 months, or both, unless otherwise provided in [sections 1 through 23] or unless the violation would constitute a violation of Title 45. An offense constituting a violation of Title 45 must be charged and prosecuted pursuant to the provisions of Title 45.

**Section 16. Fraudulent representation — penalties.** (1) In addition to any other penalties provided by law, a person who fraudulently represents to a law enforcement official that the person is a registered cardholder, provider, or marijuana-infused products provider is guilty of a misdemeanor punishable by imprisonment in a county jail for a term not to exceed 1 year or a fine not to exceed \$1,000, or both.

(2) A physician who purposely and knowingly misrepresents any information required under [section 7] is guilty of a misdemeanor punishable by imprisonment in a county jail for a term not to exceed 1 year or a fine not to exceed \$1,000, or both.

(3) A person convicted under this section may not be registered as a provider or marijuana-infused products provider under [section 5].

**Section 17. Confidentiality of registry information — penalty.** (1) Except as provided in 37-3-203, a person, including an employee or official of the department of public health and human services, commits the offense of disclosure of confidential information related to registry information if the person knowingly or purposely discloses confidential information in violation of [sections 1 through 23].

(2) A person convicted of a violation of this section shall be fined not to exceed \$1,000 or imprisoned in the county jail for a term not to exceed 6 months, or both.

**Section 18. Law enforcement authority.** Nothing in this chapter may be construed to limit a law enforcement agency's ability to investigate unlawful activity in relation to a person with a registry identification card.

**Section 19. Forfeiture.** (1) Marijuana, paraphernalia relating to marijuana, or other property seized by a law enforcement official from a person claiming the protections of [sections 1 through 23] in connection with the cultivation, manufacture, possession, transportation, distribution, or use of marijuana must be returned to the person immediately upon a determination that the person is in compliance with the provisions of [sections 1 through 23].

(2) A law enforcement agency in possession of mature marijuana plants or seedlings seized as evidence is not responsible for the care and maintenance of the plants or seedlings.

**Section 20. Advertising prohibited.** Persons with valid registry identification cards may not advertise marijuana or marijuana-related products in any medium, including electronic media.

**Section 21. Hotline.** (1) The department shall create and maintain a hotline to receive reports of suspected abuse of the provisions of [sections 1 through 23].

(2) The department may:

(a) investigate reports of suspected abuse of the provisions of [sections 1 through 23]; or

(b) refer reports of suspected abuse to the law enforcement agency having jurisdiction in the area where the suspected abuse is occurring.

**Section 22. Legislative monitoring.** (1) The children, families, health, and human services interim committee shall provide oversight of the department's activities related to registering individuals pursuant to [sections 1 through 23] and of issues related to the cultivation, manufacture, and use of marijuana pursuant to [sections 1 through 23].

(2) The committee shall identify issues likely to require future legislative attention and develop legislation to present to the next regular session of the legislature.

**Section 23. Rulemaking authority — fees.** (1) The department shall adopt rules necessary for the implementation and administration of [sections 1 through 23]. The rules must include but are not limited to:

(a) the manner in which the department will consider applications for registry identification cards for providers and marijuana-infused products providers and for persons with debilitating medical conditions and renewal of registry identification cards;

(b) the acceptable forms of proof of Montana residency;

(c) the procedures for obtaining fingerprints for the fingerprint and background check required under [sections 4 and 5];

(d) other rules necessary to implement the purposes of [sections 1 through 23].

(2) The department's rules must establish application and renewal fees that generate revenue sufficient to offset all expenses of implementing and administering [sections 1 through 23].

**Section 24.** Section 37-1-316, MCA, is amended to read:

**“37-1-316. Unprofessional conduct.** The following is unprofessional conduct for a licensee or license applicant governed by this part:

(1) conviction, including conviction following a plea of nolo contendere, of a crime relating to or committed during the course of the person's practice or involving violence, use or sale of drugs, fraud, deceit, or theft, whether or not an appeal is pending;

(2) permitting, aiding, abetting, or conspiring with a person to violate or circumvent a law relating to licensure or certification;

(3) fraud, misrepresentation, deception, or concealment of a material fact in applying for or assisting in securing a license or license renewal or in taking an examination required for licensure;

(4) signing or issuing, in the licensee's professional capacity, a document or statement that the licensee knows or reasonably ought to know contains a false or misleading statement;

(5) a misleading, deceptive, false, or fraudulent advertisement or other representation in the conduct of the profession or occupation;

(6) offering, giving, or promising anything of value or benefit to a federal, state, or local government employee or official for the purpose of influencing the employee or official to circumvent a federal, state, or local law, rule, or ordinance governing the licensee's profession or occupation;

(7) denial, suspension, revocation, probation, fine, or other license restriction or discipline against a licensee by a state, province, territory, or

Indian tribal government or the federal government if the action is not on appeal, under judicial review, or has been satisfied;

(8) failure to comply with a term, condition, or limitation of a license by final order of a board;

(9) revealing confidential information obtained as the result of a professional relationship without the prior consent of the recipient of services, except as authorized or required by law;

(10) use of alcohol, a habit-forming drug, or a controlled substance as defined in Title 50, chapter 32, to the extent that the use impairs the user physically or mentally in the performance of licensed professional duties;

(11) having a physical or mental disability that renders the licensee or license applicant unable to practice the profession or occupation with reasonable skill and safety;

(12) engaging in conduct in the course of one's practice while suffering from a contagious or infectious disease involving serious risk to public health or without taking adequate precautions, including but not limited to informed consent, protective gear, or cessation of practice;

(13) misappropriating property or funds from a client or workplace or failing to comply with a board rule regarding the accounting and distribution of a client's property or funds;

(14) interference with an investigation or disciplinary proceeding by willful misrepresentation of facts, by the use of threats or harassment against or inducement to a client or witness to prevent them from providing evidence in a disciplinary proceeding or other legal action, or by use of threats or harassment against or inducement to a person to prevent or attempt to prevent a disciplinary proceeding or other legal action from being filed, prosecuted, or completed;

(15) assisting in the unlicensed practice of a profession or occupation or allowing another person or organization to practice or offer to practice by use of the licensee's license;

(16) failing to report the institution of or final action on a malpractice action, including a final decision on appeal, against the licensee or of an action against the licensee by a:

(a) peer review committee;

(b) professional association; or

(c) local, state, federal, territorial, provincial, or Indian tribal government;

(17) failure of a health care provider, as defined in 27-6-103, to comply with a policy or practice implementing 28-10-103(3)(a);

(18) conduct that does not meet the generally accepted standards of practice. A certified copy of a malpractice judgment against the licensee or license applicant or of a tort judgment in an action involving an act or omission occurring during the scope and course of the practice is conclusive evidence of but is not needed to prove conduct that does not meet generally accepted standards;

(19) *the sole use of any electronic means, including teleconferencing, to obtain the information required for the written certification and accompanying statements used to apply for a registry identification card pursuant to [sections 1 through 23].*"

**Section 25.** Section 37-3-343, MCA, is amended to read:



**“37-3-343. Practice of telemedicine prohibited without license — scope of practice limitations — violations and penalty.** (1) A physician may not practice telemedicine in this state without a telemedicine license issued pursuant to 37-3-301, 37-3-341 through 37-3-345, and 37-3-347 through 37-3-349.

(2) A telemedicine license authorizes an out-of-state physician to practice telemedicine only with respect to the specialty in which the physician is board-certified or meets the current requirements to take the examination to become board-certified and on which the physician bases the physician’s application for a telemedicine license pursuant to 37-3-345(2).

(3) A telemedicine license authorizes an out-of-state physician to practice only telemedicine. A telemedicine license does not authorize the physician to engage in the practice of medicine while physically present within the state.

(4) *A telemedicine license may not be used by a physician as a means to obtain the information required for the written certification and accompanying statements used to apply for a registry identification card pursuant to [sections 1 through 23].*

(4)(5) A physician who practices telemedicine in this state without a telemedicine license issued pursuant to 37-3-301, 37-3-341 through 37-3-345, and 37-3-347 through 37-3-349, in violation of the terms or conditions of that license, in violation of the scope of practice allowed by the license, or without a physician’s license issued pursuant to 37-3-301, is guilty of a misdemeanor and on conviction shall be sentenced as provided in 37-3-325.”

**Section 26.** Section 37-3-347, MCA, is amended to read:

**“37-3-347. Reasons for denial of license — alternative route to licensed practice.** (1) The board may deny an application for a telemedicine license if the applicant:

(a) fails to demonstrate that the applicant possesses the qualifications for a license required by 37-3-341 through 37-3-345 and 37-3-347 through 37-3-349 and the rules of the board;

(b) *plans to use telemedicine as a means to obtain the information required for the written certification and accompanying statements used to apply for a registry identification card pursuant to [sections 1 through 23];*

(b)(c) fails to pay a required fee;

(e)(d) does not possess the qualifications or character required by this chapter; or

(d)(e) has committed unprofessional conduct.

(2) A physician who does not meet the qualifications for a telemedicine license provided in 37-3-345 may apply for a physician’s license in order to practice medicine in Montana.”

**Section 27.** Section 41-5-216, MCA, is amended to read:

**“41-5-216. Disposition of youth court, law enforcement, and department records — sharing and access to records.** (1) Formal youth court records, law enforcement records, and department records that are not exempt from sealing under subsections (4) and (6) and that pertain to a youth covered by this chapter must be physically sealed on the youth’s 18th birthday. In those cases in which jurisdiction of the court or any agency is extended beyond the youth’s 18th birthday, the records must be physically sealed upon termination of the extended jurisdiction.

(2) Except as provided in subsection (6), when the records pertaining to a youth pursuant to this section are sealed, an agency, other than the department, that has in its possession copies of the sealed records shall destroy the copies of the records. Anyone violating the provisions of this subsection is subject to contempt of court.

(3) Except as provided in subsection (6), this section does not prohibit the destruction of records with the consent of the youth court judge or county attorney after 10 years from the date of sealing.

(4) The requirements for sealed records in this section do not apply to medical records, fingerprints, DNA records, photographs, youth traffic records, records in any case in which the youth did not fulfill all requirements of the court's judgment or disposition, records referred to in 42-3-203, reports referred to in 45-5-624(7), or the information referred to in 46-23-508, in any instance in which the youth was required to register as a sexual offender pursuant to Title 46, chapter 23, part 5.

(5) After formal youth court records, law enforcement records, and department records are sealed, they are not open to inspection except, upon order of the youth court, for good cause, including when a youth commits a new offense, to:

(a) those persons and agencies listed in 41-5-215(2); and

(b) adult probation professional staff preparing a presentence report on a youth who has reached the age of majority.

(6) (a) When formal youth court records, law enforcement records, and department records are sealed under subsection (1), the electronic records of the management information system maintained by the department of public health and human services and by the department relating to the youth whose records are being sealed must be preserved for the express purpose of research and program evaluation as provided in subsection (6)(b).

(b) The department of public health and human services and the department shall disassociate the offense and disposition information from the name of the youth in the respective management information system. The offense and disposition information must be maintained separately and may be used only:

(i) for research and program evaluation authorized by the department of public health and human services or by the department and subject to any applicable laws; and

(ii) as provided in Title 5, chapter 13.

(7) (a) Informal youth court records for a youth for whom formal proceedings have been filed must be physically sealed on the youth's 18th birthday or, in those cases in which jurisdiction of the court or any agency is extended beyond the youth's 18th birthday, upon termination of the extended jurisdiction and may be inspected only pursuant to subsection (5).

(b) The informal youth court records may be maintained and inspected only by youth court personnel upon a new offense prior to the youth's 18th birthday.

(c) Except as provided in subsection (7)(a), when a youth becomes 18 years of age or when extended supervision ends and the youth was involved only in informal proceedings, informal youth court records that are in hard-copy form must be destroyed and any electronic records in the youth court management information system must disassociate the offense and disposition information from the name of the youth and may be used only for the following purposes:

(i) for research and program evaluation authorized by the office of the court administrator and subject to any applicable laws; and

(ii) as provided in Title 5, chapter 13.

(8) Nothing in this section prohibits the intra-agency use or information sharing of formal or informal youth court records within the juvenile probation management information system. Electronic records of the youth court may not be shared except as provided in 41-5-1524. If a person authorized under 41-5-215 is in need of a copy of a record that is in electronic form, the juvenile probation officer shall make only a physical copy of the record that is authorized and the person receiving the record shall destroy the record after it has fulfilled its purpose or as provided in subsection (2) of this section.

(9) This section does not prohibit the intra-agency use or information sharing of formal or informal youth court records within the department's youth management information system. Electronic records of the department's youth management information system may not be shared except as provided in subsection (5). If a person authorized under 41-5-215 is in need of a copy of a record that is in electronic form, the department shall make only a physical copy of the record that is authorized and the person receiving the record shall destroy the record after it has fulfilled its purpose or as provided in subsection (2) of this section.

(10) This section does not prohibit the sharing of formal or informal youth court records with a short-term detention center, a youth care facility, a youth assessment center, or a youth detention facility upon placement of a youth within the facility.

(11) This section does not prohibit access to formal or informal youth court records, including electronic records, for purposes of conducting evaluations as required by 41-5-2003.

*(12) This section does not prohibit the office of court administrator, upon written request from the department of public health and human services, from confirming whether a person applying for a registry identification card pursuant to [section 4 or 5] is currently under youth court supervision."*

**Section 28.** Section 45-9-203, MCA, is amended to read:

**"45-9-203. Surrender of license.** (1) If a court suspends or revokes a driver's license under 45-9-202(2)(e), the defendant shall, at the time of sentencing, surrender the license to the court. The court shall forward the license and a copy of the sentencing order to the department of justice. The defendant may apply to the department for issuance of a probationary license under 61-2-302.

*(2) If a person with a registry identification card issued pursuant to [section 4 or 5] is convicted of an offense under this chapter, the court shall:*

*(a) at the time of sentencing, require the person to surrender the registry identification card; and*

*(b) notify the department of public health and human services of the conviction in order for the department to carry out its duties under [section 15]."*

**Section 29.** Section 46-18-202, MCA, is amended to read:

**"46-18-202. Additional restrictions on sentence.** (1) The sentencing judge may also impose any of the following restrictions or conditions on the sentence provided for in 46-18-201 that the judge considers necessary to obtain the objectives of rehabilitation and the protection of the victim and society:

(a) prohibition of the offender's holding public office;

- (b) prohibition of the offender's owning or carrying a dangerous weapon;
- (c) restrictions on the offender's freedom of association;
- (d) restrictions on the offender's freedom of movement;
- (e) a requirement that the defendant provide a biological sample for DNA testing for purposes of Title 44, chapter 6, part 1, if an agreement to do so is part of the plea bargain;
- (f) *a requirement that the offender surrender any registry identification card issued under [section 3];*
- (~~f~~)(g) any other limitation reasonably related to the objectives of rehabilitation and the protection of the victim and society.

(2) Whenever the sentencing judge imposes a sentence of imprisonment in a state prison for a term exceeding 1 year, the sentencing judge may also impose the restriction that the offender is ineligible for parole and participation in the supervised release program while serving that term. If the restriction is to be imposed, the sentencing judge shall state the reasons for it in writing. If the sentencing judge finds that the restriction is necessary for the protection of society, the judge shall impose the restriction as part of the sentence and the judgment must contain a statement of the reasons for the restriction.

(3) *If a sentencing judge requires an offender to surrender a registry identification card issued under [section 3], the court shall return the card to the department of public health and human services and provide the department with information on the offender's sentence. The department shall revoke the card for the duration of the sentence and shall return the card if the offender successfully completes the terms of the sentence before the expiration date listed on the card."*

**Section 30.** Section 50-46-201, MCA, is amended to read:

**"50-46-201. Medical use of marijuana — legal protections — limits on amount — presumption of medical use.** (1) A person who possesses a registry identification card issued pursuant to ~~50-46-103~~ before *[the effective date of this section]* may not be arrested, prosecuted, or penalized in any manner or be denied any right or privilege, including but not limited to civil penalty or disciplinary action by a professional licensing board or the department of labor and industry, if:

(a) the qualifying patient or caregiver acquires, possesses, cultivates, manufactures, delivers, transfers, or transports marijuana not in excess of the amounts allowed in subsection (2); or

(b) the qualifying patient uses marijuana for medical use.

(2) A qualifying patient and that qualifying patient's caregiver may not possess more than six marijuana plants and 1 ounce of usable marijuana each.

(3) (a) A qualifying patient or caregiver is presumed to be engaged in the medical use of marijuana if the qualifying patient or caregiver:

(i) is in possession of a registry identification card; and

(ii) is in possession of an amount of marijuana that does not exceed the amount permitted under subsection (2).

(b) The presumption may be rebutted by evidence that the possession of marijuana was not for the purpose of alleviating the symptoms or effects of a qualifying patient's debilitating medical condition.

(4) A physician may not be arrested, prosecuted, or penalized in any manner or be denied any right or privilege, including but not limited to civil penalty or disciplinary action by the board of medical examiners or the department of labor

and industry, for providing written certification for the medical use of marijuana to qualifying patients.

(5) An interest in or right to property that is possessed, owned, or used in connection with the medical use of marijuana or acts incidental to medical use may not be forfeited under any provision of law providing for the forfeiture of property other than as a sentence imposed after conviction of a criminal offense.

(6) A person may not be subject to arrest or prosecution for constructive possession, conspiracy, as provided in 45-4-102, or other provisions of law or any other offense for simply being in the presence or vicinity of the medical use of marijuana as permitted under this chapter.

(7) Possession of or application for a registry identification card does not alone constitute probable cause to search the person or property of the person possessing or applying for the registry identification card or otherwise subject the person or property of the person possessing or applying for the card to inspection by any governmental agency, including a law enforcement agency.

(8) A registry identification card or its equivalent issued by another state government to permit the medical use of marijuana by a qualifying patient or to permit a person to assist with a qualifying patient's medical use of marijuana has the same force and effect as a registry identification card issued by the department."

**Section 31.** Section 50-46-202, MCA, is amended to read:

**"50-46-202. Disclosure of confidential information relating to medical use of marijuana — penalty.** (1) *The department shall maintain a confidential list of the persons to whom the department has issued registry identification cards. Individual names and other identifying information on the list must be confidential and are not subject to disclosure except to:*

(a) *authorized employees of the department as necessary to perform official duties of the department; or*

(b) *state or local law enforcement agencies only as necessary to verify that a person is a lawful possessor of a registry identification card.*

(1)(2) A person, including an employee or official of the department or other state or local government agency, commits the offense of disclosure of confidential information relating to medical use of marijuana if the person knowingly or purposely discloses confidential information in violation of ~~50-46-103~~ *this section.*

(2)(3) A person convicted of disclosure of confidential information relating to medical use of marijuana shall be fined not to exceed \$1,000 or be imprisoned in the county jail for a term not to exceed 6 months, or both."

**Section 32.** Section 61-11-101, MCA, is amended to read:

**"61-11-101. Report of convictions and suspension or revocation of driver's licenses — surrender of licenses.** (1) If a person is convicted of an offense for which chapter 5 or chapter 8, part 8, makes mandatory the suspension or revocation of the driver's license or commercial driver's license of the person by the department, the court in which the conviction occurs shall require the surrender to it of all driver's licenses then held by the convicted person. The court shall, within 5 days after the conviction becomes final, forward the license and a record of the conviction to the department. If the person does not possess a driver's license, the court shall indicate that fact in its report to the department.

(2) A court having jurisdiction over offenses committed under a statute of this state or a municipal ordinance regulating the operation of motor vehicles on

highways, except for standing or parking statutes or ordinances, shall forward a record of the conviction, as defined in 61-5-213, to the department within 5 days after the conviction becomes final. The court may recommend that the department issue a restricted probationary license on the condition that the individual comply with the requirement that the person attend and complete a chemical dependency education course, treatment, or both, as ordered by the court under 61-8-732.

(3) A court or other agency of this state or of a subdivision of the state that has jurisdiction to take any action suspending, revoking, or otherwise limiting a license to drive shall report an action and the adjudication upon which it is based to the department within 5 days on forms furnished by the department.

(4) A conviction becomes final for the purposes of this part upon the later of:

(a) expiration of the time for appeal of the court's judgment or sentence to the next highest court;

(b) forfeiture of bail that is not vacated; or

(c) imposition of a fine or court cost as a condition of a deferred imposition of a sentence or a suspended execution of a sentence.

(5) (a) On a conviction referred to in subsection (1) of a person who holds a commercial driver's license or who is required to hold a commercial driver's license, a court may not take any action, including deferring imposition of judgment, that would prevent a conviction for any violation of a state or local traffic control law or ordinance, except a parking law or ordinance, in any type of motor vehicle, from appearing on the person's driving record. The provisions of this subsection (5)(a) apply only to the conviction of a person who holds a commercial driver's license or who is required to hold a commercial driver's license and do not apply to the conviction of a person who holds any other type of driver's license.

(b) For purposes of this subsection (5), "who is required to hold a commercial driver's license" refers to a person who did not have a commercial driver's license but who was operating a commercial motor vehicle at the time of a violation of a state or local traffic control law or ordinance resulting in a conviction referred to in subsection (1).

(6) (a) *If a person who holds a valid registry identification card issued pursuant to [section 4 or 5] is convicted of or pleads guilty to any offense related to driving under the influence of alcohol or drugs when the initial offense with which the person was charged was a violation of 61-8-401, 61-8-406, or 61-8-410, the court in which the conviction occurs shall require the person to surrender the registry identification card.*

(b) *Within 5 days after the conviction becomes final, the court shall forward the registry identification card and a copy of the conviction to the department of public health and human services."*

**Section 33. Emergency rulemaking.** The department of public health and human services shall adopt emergency rules as provided in 2-4-303 to allow for issuance of registry identification cards in accordance with the provisions of [sections 1 through 23] beginning June 1, 2011.

**Section 34. Repealer.** The following sections of the Montana Code Annotated are repealed:

50-46-101. Short title.

50-46-102. Definitions.

50-46-103. Procedures — minors — confidentiality — report to legislature.



- 50-46-201. Medical use of marijuana — legal protections — limits on amount — presumption of medical use.
- 50-46-202. Disclosure of confidential information relating to medical use of marijuana — penalty.
- 50-46-205. Limitations of Medical Marijuana Act.
- 50-46-206. Affirmative defense.
- 50-46-207. Fraudulent representation of medical use of marijuana — penalty.
- 50-46-210. Rulemaking — fees.

**Section 35. Transition.** (1) Registry identification cards issued to persons with debilitating medical conditions prior to [the effective date of this section] are valid until the expiration date listed on the card.

(2) (a) The department of public health and human services may issue registry identification cards to persons with debilitating medical conditions and to the persons named as providers or marijuana-infused products providers beginning June 1, 2011, under emergency rules adopted pursuant to [section 33].

(b) Until October 1, 2011, the department may issue cards to persons applying as providers or marijuana-infused products providers before the department has obtained the results of the fingerprint and background check required under [sections 4 and 5].

(c) A person who obtains a registry identification card as a provider or marijuana-infused products provider before October 1, 2011, shall submit fingerprints as required by [sections 4 and 5] no later than October 1, 2011.

(3) (a) The department shall revoke the registry identification card issued to a provider or marijuana-infused products provider under subsection (2) if:

(i) the person fails to submit fingerprints by October 1, 2011; or

(ii) the results of a fingerprint and background check conducted after issuance of the card shows that the person is ineligible for the card.

(b) The department shall notify the provider or marijuana-infused products provider and the registered cardholder who named the provider or marijuana-infused products provider that the person may no longer assist the registered cardholder with the use of marijuana to alleviate the symptoms of the cardholder's debilitating medical condition.

(4) A person who obtained a registry identification card as a caregiver pursuant to 50-46-103 before [the effective date of this section] may not be in possession of mature marijuana plants, seedlings, cuttings, clones, usable marijuana, or marijuana-related products on July 1, 2011, if the person has not obtained a registry identification card pursuant to the provisions of [sections 1 through 23] as provided for in subsection (2). Before July 1, 2011, a caregiver who has not obtained a registry identification card pursuant to [sections 1 through 23] shall take any mature marijuana plants, seedlings, cuttings, clones, usable marijuana, or marijuana-related products still in the caregiver's possession to the law enforcement agency having jurisdiction in the caregiver's area. The law enforcement agency shall destroy the items.

**Section 36. Codification instruction.** [Sections 1 through 23] are intended to be codified as an integral part of Title 50, chapter 46, and the provisions of Title 50, chapter 46, apply to [sections 1 through 23].

**Section 37. Coordination instruction.** If both House Bill No. 175 and [this act] are passed and approved and [this act] repeals 50-46-101, 50-46-102,



50-46-103, 50-46-201, 50-46-202, 50-46-205, 50-46-206, 50-46-207, and 50-46-210, then House Bill No. 175 is void.

**Section 38. Instructions to code commissioner.** (1) Wherever a reference to “medical use of marijuana” or “medical marijuana” appears in legislation enacted by the 2011 legislature, the code commissioner is directed to change the reference to “use of marijuana for a debilitating medical condition”.

(2) Wherever a reference to 50-46-102 appears in legislation enacted by the 2011 legislature, the reference must be replaced with a reference to [section 2 of Senate Bill No. 423], if appropriate.

(3) Wherever a reference to 50-46-205 appears in legislation enacted by the 2011 legislature, the reference must be replaced with a reference to [section 11 of Senate Bill No. 423].

**Section 39. 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 40. Effective dates.** (1) Except as provided in subsection (2), [this act] is effective July 1, 2011.

(2) [Sections 20, 30, 31, 33, the repeal of 50-46-103 provided for in section 34, and sections 35 and 38], and this section are effective on passage and approval.

Initiative Referendum No. 124 was approved by the following vote at the General Election held November 6, 2012:

For:	268,790
Against:	200,730

## INITIATIVE NO. 166

### A LAW PROPOSED BY INITIATIVE PETITION

Ballot initiative I-166 establishes a state policy that corporations are not entitled to constitutional rights because they are not human beings, and charges Montana elected and appointed officials, state and federal, to implement that policy. With this policy, the people of Montana establish that there should be a level playing field in campaign spending, in part by prohibiting corporate campaign contributions and expenditures and by limiting political spending in elections. Further, Montana’s congressional delegation is charged with proposing a joint resolution offering an amendment to the United States Constitution establishing that corporations are not human beings entitled to constitutional rights.

### THE COMPLETE TEXT OF INITIATIVE NO. 166

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

**NEW SECTION. Section 1. Short title.** [Sections 1 through 4] may be cited as the “Prohibition on Corporate Contributions and Expenditures in Montana Elections Act.”

**NEW SECTION. Section 2. Preamble.** The people of the state of Montana find that:

(1) since 1912, through passage of the Corrupt Practices Act by initiative, Montana has prohibited corporate contributions to and expenditures on candidate elections;

(2) in 1996, by passage of Initiative No. 125, Montana prohibited corporations from using corporate funds to make contributions to or expenditures on ballot issue campaigns;

(3) Montana's 1996 prohibition on corporate contributions to ballot issue campaigns was invalidated by *Montana Chamber of Commerce v. Argenbright*, 226 F.3d 1049 (2000). Montana's 1912 prohibition on corporate contributions to and expenditures on candidate elections is also being challenged under the holding of *Citizens United v. FEC*, 558 U.S. \_\_\_\_, 130 S.Ct. 876 (2010). This decision equated the political speech rights of corporations with those of human beings.

(4) in 2011 the Montana Supreme Court, in its decision, *Western Tradition Partnership, Inc. v. Attorney General*, 2011 MT 328, upheld Montana's 1912 prohibition on corporate contributions to and expenditures on candidate campaigns, stating in its opinion as follows:

(a) examples of well-financed corruption involving corporate money abound in Montana;

(b) the corporate power that can be exerted with unlimited corporate political spending is still a vital interest to the people of Montana;

(c) corporate independent spending on Montana ballot issues has far exceeded spending from other sources;

(d) unlimited corporate money into candidate elections would irrevocably change the dynamic of local Montana political office races;

(e) with the infusion of unlimited corporate money in support of or opposition to a targeted candidate, the average citizen candidate in Montana would be unable to compete against the corporate-sponsored candidate, and Montana citizens, who for over 100 years have made their modest election contributions meaningfully count, would be effectively shut out of the process; and

(f) clearly the impact of unlimited corporate donations creates a dominating impact on the Montana political process and inevitably minimizes the impact of individual Montana citizens.

**NEW SECTION. Section 3. Policy.** (1) It is policy of the state of Montana that each elected and appointed official in Montana, whether acting on a state or federal level, advance the philosophy that corporations are not human beings with constitutional rights and that each such elected and appointed official is charged to act to prohibit, whenever possible, corporations from making contributions to or expenditures on the campaigns of candidates or ballot issues. As part of this policy, each such elected and appointed official in Montana is charged to promote actions that accomplish a level playing field in election spending.

(2) When carrying out the policy under subsection (1), Montana's elected and appointed officials are generally directed as follows:

(a) that the people of Montana regard money as property, not speech;

(b) that the people of Montana regard the rights under the United States Constitution as rights of human beings, not rights of corporations;

(c) that the people of Montana regard the immense aggregation of wealth that is accumulated by corporations using advantages provided by the

government to be corrosive and distorting when used to advance the political interests of corporations;

(d) that the people of Montana intend that there should be a level playing field in campaign spending that allows all individuals, regardless of wealth, to express their views to one another and their government; and

(e) that the people of Montana intend that a level playing field in campaign spending includes limits on overall campaign expenditures and limits on large contributions to or expenditures for the benefit of any campaign by any source, including corporations, individuals, or political committees.

**NEW SECTION. Section 4. Promotion of policy by elected or appointed officials.** (1) Montana's congressional delegation is charged with proposing a joint resolution offering an amendment to the United States constitution that accomplishes the following:

(a) overturns the U.S. Supreme Court's ruling in Citizens United v. Federal Election Commission;

(b) establishes that corporations are not human beings with constitutional rights;

(c) establishes that campaign contributions or expenditures by corporations, whether to candidates or ballot issues, may be prohibited by a political body at any level of government; and

(d) accomplishes the goals of Montanans in achieving a level playing field in election spending.

(2) Montana's congressional delegation is charged to work diligently to bring such a joint resolution to a vote and passage, including use of discharge petitions, cloture, and every other procedural method to secure a vote and passage.

(3) The members of the Montana legislature, if given the opportunity, are charged with ratifying any amendment to the United States constitution that is consistent with the policy of the state of Montana.

**NEW SECTION. Section 5. Saving clause.** [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act.]

**NEW SECTION. Section 6. 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.

**NEW SECTION. Section 7. Effective date.** [This act] is effective upon approval by the electorate.

**NEW SECTION. Section 8. Codification instruction.** Sections [1 through 4] are intended to be codified as an integral part of Title 13 and the provisions of Title 13 apply to sections [1 through 4].

Initiative No. 166 was approved by the following vote at the General Election held November 6, 2012:

For: 343,549

Against: 116,554

## **TABLES**

**Code Sections Affected**  
**Session Laws Affected**  
**Senate Bill to Chapter Number**  
**House Bill to Chapter Number**  
**Chapter Number to Bill Number**  
**Effective Dates by Chapter Number**  
**Effective Dates by Date**  
**Session Law to Code**  
**2012 Ballot Issues to Code**



**CODE SECTIONS AFFECTED**

This table was compiled before the codification process was completed. It does not reflect certain sections affected by name change amendments. All other substantive changes are reflected. Those sections for which renumbering is not attributed to a particular chapter and bill number were renumbered by the Code Commissioner under the authority of 1-11-204(3)(a)(ii).

<u>Title-Chapter-Section</u>	<u>Action</u>	<u>Chapter</u>	<u>Bill Number</u>
1-1-216	amended	Ch. 131	HB 325
1-1-520	renumbered 1-1-540	Ch. 91	HB 351
1-1-521	enacted	Ch. 91	HB 351
1-1-522	enacted	Ch. 290	SB 242
1-1-540	formerly 1-1-520	Ch. 91	HB 351
1-5-419	amended	Ch. 76	HB 252
1-5-420	amended	Ch. 76	HB 252
2-2-121	amended	Ch. 14	HB 132
2-2-136	amended	Ch. 234	HB 23
2-4-102	amended	Ch. 318	SB 139
2-4-111	enacted	Ch. 318	SB 139
2-6-102	amended	Ch. 364	SB 348
2-15-142	amended	Ch. 146	HB 110
2-15-247	enacted	Ch. 413	SB 410
2-15-1021	amended	Ch. 284	HB 560
2-15-1028	amended	Ch. 123	SB 71
2-15-1520	repealed	Ch. 39	SB 87
2-15-1747	amended	Ch. 102	SB 343
2-15-1758	amended	Ch. 87	HB 308
2-15-1809	formerly 2-15-3106	Ch. 402	SB 215
2-15-2005	amended	Ch. 28	HB 17
2-15-2012	amended	Ch. 237	HB 71
2-15-2013	amended	Ch. 237	HB 71
2-15-2017	amended	Ch. 28	HB 17
2-15-2106	repealed	Ch. 417	SB 44
2-15-2302	amended	Ch. 209	SB 11
2-15-3106	renumbered 2-15-1809	Ch. 402	SB 215
2-15-3110	amended	Ch. 172	HB 323
	amended	Ch. 235	HB 24
	amended	Ch. 369	HB 395
2-15-3111	amended	Ch. 172	HB 323
2-15-3112	amended	Ch. 172	HB 323
2-15-3113	amended	Ch. 123	SB 71
	amended	Ch. 172	HB 323
	amended	Ch. 235	HB 24
2-15-3308	amended	Ch. 84	HB 59
2-15-3401	amended	Ch. 235	HB 24
2-15-3402	amended	Ch. 235	HB 24
2-15-3404	amended	Ch. 235	HB 24
2-15-3406	enacted	Ch. 235	HB 24
2-16-615	amended (not codified — referendum)	Ch. 269	SB 408
2-17-101	amended	Ch. 120	SB 49
2-17-505	amended	Ch. 166	SB 312
2-17-518	amended	Ch. 284	HB 560
2-17-803	amended	Ch. 42	SB 36
2-17-804	amended	Ch. 155	SB 67
2-17-807	amended	Ch. 221	SB 258
2-17-808	amended	Ch. 221	SB 258
2-17-818	enacted	Ch. 221	SB 258
2-18-301	amended	Ch. 385	HB 13
2-18-303	amended	Ch. 385	HB 13
2-18-703	amended	Ch. 385	HB 13

MONTANA SESSION LAWS 2013

2002

2-18-704	amended	Ch. 97	SB 55
2-18-705	enacted	Ch. 363	SB 84
2-18-1103	amended	Ch. 155	SB 67
3-6-204	amended	Ch. 105	HB 172
3-10-201	amended	Ch. 143	SB 132
3-10-206	amended	Ch. 143	SB 132
3-10-231	amended	Ch. 248	HB 352
3-10-302	amended	Ch. 253	HB 485
5-2-302	amended	Ch. 392	HB 554
5-2-303	amended	Ch. 392	HB 554
5-2-402	amended (not codified — referendum)	Ch. 269	SB 408
	amended	Ch. 336	HB 120
5-2-403	amended (not codified — referendum)	Ch. 269	SB 408
5-2-404	amended (not codified — referendum)	Ch. 269	SB 408
5-2-406	amended	Ch. 126	SB 142
	amended (not codified — referendum)	Ch. 269	SB 408
5-4-104	amended	Ch. 268	SB 361
5-5-223	amended	Ch. 19	HB 41
5-5-228	amended	Ch. 19	HB 41
	amended	Ch. 20	HB 53
5-6-101	repealed	Ch. 133	SB 3
5-6-102	repealed	Ch. 133	SB 3
5-6-103	repealed	Ch. 133	SB 3
5-6-104	repealed	Ch. 133	SB 3
5-6-105	repealed	Ch. 133	SB 3
5-6-106	repealed	Ch. 133	SB 3
5-6-107	repealed	Ch. 133	SB 3
5-6-108	repealed	Ch. 133	SB 3
5-6-109	repealed	Ch. 133	SB 3
5-6-110	repealed	Ch. 133	SB 3
5-6-111	repealed	Ch. 133	SB 3
5-11-401	amended	Ch. 284	HB 560
5-11-402	amended	Ch. 284	HB 560
5-11-403	amended	Ch. 284	HB 560
5-11-404	amended	Ch. 284	HB 560
5-11-405	amended	Ch. 284	HB 560
5-11-406	amended	Ch. 284	HB 560
5-11-407	amended	Ch. 284	HB 560
5-11-1101	amended	Ch. 257	HB 552
5-11-1102	amended	Ch. 257	HB 552
5-11-1111	amended	Ch. 257	HB 552
5-12-302	amended	Ch. 120	SB 49
7-1-111	amended	Ch. 56	HB 148
7-1-2121	amended	Ch. 279	HB 258
7-1-4121	amended	Ch. 123	SB 71
7-1-4127	amended	Ch. 279	HB 258
7-2-2219	amended (not codified — referendum)	Ch. 269	SB 408
7-3-176	amended (not codified — referendum)	Ch. 269	SB 408
7-3-218	amended (not codified — referendum)	Ch. 269	SB 408
7-3-313	amended (not codified — referendum)	Ch. 269	SB 408
7-3-412	amended (not codified — referendum)	Ch. 269	SB 408
7-3-512	amended (not codified — referendum)	Ch. 269	SB 408
7-3-704	amended (not codified — referendum)	Ch. 269	SB 408
7-3-1256	amended (not codified — referendum)	Ch. 269	SB 408
7-4-2102	amended	Ch. 40	HB 164
7-4-2106	amended	Ch. 143	SB 132
	amended (not codified — referendum)	Ch. 269	SB 408
7-4-2206	amended	Ch. 51	HB 193
	amended	Ch. 143	SB 132
	amended (not codified — referendum)	Ch. 269	SB 408
7-4-2302	amended (not codified — referendum)	Ch. 269	SB 408
7-4-2310	amended (not codified — referendum)	Ch. 269	SB 408
7-4-2504	amended	Ch. 62	HB 47



7-4-2516	amended	Ch. 344	HB 403
7-4-2631	amended	Ch. 207	HB 465
7-4-4112	amended (not codified — referendum)	Ch. 269	SB 408
7-5-109	amended	Ch. 415	HB 497
7-5-2131	amended	Ch. 41	SB 5
7-5-2133	amended	Ch. 41	SB 5
7-5-2301	amended	Ch. 110	SB 77
7-5-2303	amended	Ch. 136	HB 371
7-5-2316	repealed	Ch. 188	SB 116
7-5-4207	amended	Ch. 415	HB 497
7-5-4209	enacted	Ch. 415	HB 497
7-5-4302	amended	Ch. 110	SB 77
7-5-4316	repealed	Ch. 188	SB 116
7-6-206	amended	Ch. 52	HB 202
7-6-621	amended	Ch. 412	SB 386
7-6-1506	amended	Ch. 232	SB 209
7-6-1541	amended	Ch. 232	SB 209
7-6-1542	amended	Ch. 232	SB 209
7-6-1551	enacted	Ch. 285	HB 605
7-6-4024	amended	Ch. 62	HB 47
7-6-4036	amended	Ch. 62	HB 47
7-8-2210	enacted	Ch. 130	HB 245
7-11-1003	amended	Ch. 171	HB 314
7-11-1006	amended	Ch. 171	HB 314
7-11-1007	amended	Ch. 171	HB 314
7-11-1008	amended	Ch. 171	HB 314
7-11-1011	amended	Ch. 171	HB 314
7-11-1013	amended	Ch. 171	HB 314
7-11-1014	amended	Ch. 175	HB 38
7-11-1021	amended	Ch. 171	HB 314
7-11-1023	amended	Ch. 171	HB 314
7-11-1025	amended	Ch. 62	HB 47
	amended	Ch. 171	HB 314
7-11-1029	amended	Ch. 175	HB 38
7-13-2275	amended	Ch. 187	SB 48
7-13-2301	amended	Ch. 187	SB 48
7-13-2351	amended	Ch. 233	SB 271
7-13-2352	enacted	Ch. 233	SB 271
7-13-4307	amended	Ch. 187	SB 48
7-14-2124	amended	Ch. 198	SB 332
7-14-2826	amended	Ch. 123	SB 71
7-15-4277	enacted	Ch. 214	SB 239
7-15-4278	enacted	Ch. 214	SB 239
7-15-4279	enacted	Ch. 214	SB 239
7-15-4280	enacted	Ch. 214	SB 239
7-15-4282	amended	Ch. 214	SB 239
7-15-4283	amended	Ch. 214	SB 239
7-15-4284	amended	Ch. 214	SB 239
7-15-4285	amended	Ch. 214	SB 239
7-15-4286	amended	Ch. 214	SB 239
7-15-4287	amended	Ch. 214	SB 239
7-15-4288	amended	Ch. 214	SB 239
7-15-4289	amended	Ch. 214	SB 239
7-15-4290	amended	Ch. 214	SB 239
7-15-4291	amended	Ch. 214	SB 239
7-15-4292	amended	Ch. 214	SB 239
7-15-4293	amended	Ch. 214	SB 239
7-15-4294	amended	Ch. 214	SB 239
7-15-4295	repealed	Ch. 214	SB 239
7-15-4296	repealed	Ch. 214	SB 239
7-15-4297	repealed	Ch. 214	SB 239
7-15-4298	repealed	Ch. 214	SB 239
7-15-4299	repealed	Ch. 214	SB 239

## MONTANA SESSION LAWS 2013

2004

7-15-4301	amended	Ch. 214	SB 239
7-15-4302	amended	Ch. 214	SB 239
7-15-4304	amended	Ch. 214	SB 239
7-15-4305	amended	Ch. 214	SB 239
7-15-4306	amended	Ch. 214	SB 239
7-15-4322	amended	Ch. 214	SB 239
7-15-4324	amended	Ch. 214	SB 239
7-22-2117	amended	Ch. 301	SB 301
7-22-2123	repealed	Ch. 301	SB 301
7-22-2124	repealed	Ch. 301	SB 301
7-22-2131	enacted	Ch. 301	SB 301
7-22-2132	enacted	Ch. 301	SB 301
7-22-2133	enacted	Ch. 301	SB 301
7-22-2134	enacted	Ch. 301	SB 301
7-22-2144	amended	Ch. 301	SB 301
7-22-2146	amended	Ch. 301	SB 301
7-22-2148	amended	Ch. 301	SB 301
7-31-301	enacted	Ch. 56	HB 148
7-33-2215	enacted	Ch. 206	HB 451
7-33-4510	enacted	Ch. 412	SB 386
10-1-104	amended	Ch. 8	HB 51
10-1-1201	amended	Ch. 140	SB 63
10-2-102	amended	Ch. 155	SB 67
10-2-118	enacted	Ch. 372	HB 447
10-2-603	amended	Ch. 17	HB 21
10-2-1301	enacted	Ch. 322	SB 275
10-3-312	amended	Ch. 138	SB 33
	amended	Ch. 368	HB 354
10-4-101	amended	Ch. 316	HB 575
10-4-313	amended	Ch. 316	HB 575
13-1-101	amended (not codified — referendum)	Ch. 269	SB 408
	amended	Ch. 336	HB 120
	amended	Ch. 347	HB 457
13-1-103	amended (not codified — referendum)	Ch. 269	SB 408
13-1-210	amended	Ch. 255	HB 510
	amended	Ch. 336	HB 120
13-2-107	amended	Ch. 336	HB 120
13-2-108	amended	Ch. 336	HB 120
13-2-110	amended	Ch. 139	SB 57
13-2-112	amended	Ch. 336	HB 120
13-2-115	amended	Ch. 336	HB 120
13-2-122	amended	Ch. 336	HB 120
13-2-207	amended	Ch. 336	HB 120
13-2-220	amended	Ch. 336	HB 120
13-2-301	amended (not codified — referendum)	Ch. 270	SB 405
	amended	Ch. 336	HB 120
13-2-304	amended (not codified — referendum)	Ch. 270	SB 405
	amended	Ch. 336	HB 120
13-4-102	amended (not codified — referendum)	Ch. 269	SB 408
13-10-201	amended (not codified — referendum)	Ch. 269	SB 408
	amended	Ch. 336	HB 120
13-10-203	amended (not codified — referendum)	Ch. 269	SB 408
	amended	Ch. 336	HB 120
13-10-204	amended (not codified — referendum)	Ch. 269	SB 408
13-10-209	amended (not codified — referendum)	Ch. 269	SB 408
	amended	Ch. 336	HB 120
13-10-211	amended (not codified — referendum)	Ch. 269	SB 408
	amended	Ch. 336	HB 120
13-10-301	amended (not codified — referendum)	Ch. 269	SB 408
13-10-302	repealed (not codified — referendum)	Ch. 269	SB 408
	amended	Ch. 336	HB 120
13-10-303	repealed (not codified — referendum)	Ch. 269	SB 408
13-10-305	repealed (not codified — referendum)	Ch. 269	SB 408

13-10-311 . . . . .	repealed (not codified — referendum) . . . . .	Ch. 269 . . . . .	SB 408
13-10-325 . . . . .	amended (not codified — referendum) . . . . .	Ch. 269 . . . . .	SB 408
13-10-326 . . . . .	amended (not codified — referendum) . . . . .	Ch. 269 . . . . .	SB 408
13-10-327 . . . . .	amended (not codified — referendum) . . . . .	Ch. 269 . . . . .	SB 408
13-10-402 . . . . .	amended (not codified — referendum) . . . . .	Ch. 269 . . . . .	SB 408
13-10-403 . . . . .	amended (not codified — referendum) . . . . .	Ch. 269 . . . . .	SB 408
13-10-404 . . . . .	amended (not codified — referendum) . . . . .	Ch. 269 . . . . .	SB 408
	amended . . . . .	Ch. 336 . . . . .	HB 120
13-10-405 . . . . .	amended (not codified — referendum) . . . . .	Ch. 269 . . . . .	SB 408
	amended . . . . .	Ch. 336 . . . . .	HB 120
13-10-501 . . . . .	amended (not codified — referendum) . . . . .	Ch. 269 . . . . .	SB 408
13-10-502 . . . . .	repealed (not codified — referendum) . . . . .	Ch. 269 . . . . .	SB 408
13-10-503 . . . . .	repealed (not codified — referendum) . . . . .	Ch. 269 . . . . .	SB 408
	amended . . . . .	Ch. 336 . . . . .	HB 120
13-10-504 . . . . .	amended (not codified — referendum) . . . . .	Ch. 269 . . . . .	SB 408
13-10-505 . . . . .	amended (not codified — referendum) . . . . .	Ch. 269 . . . . .	SB 408
13-10-507 . . . . .	repealed (not codified — referendum) . . . . .	Ch. 269 . . . . .	SB 408
	amended . . . . .	Ch. 336 . . . . .	HB 120
13-10-601 . . . . .	repealed (not codified — referendum) . . . . .	Ch. 269 . . . . .	SB 408
13-10-602 . . . . .	repealed (not codified — referendum) . . . . .	Ch. 269 . . . . .	SB 408
13-10-604 . . . . .	repealed (not codified — referendum) . . . . .	Ch. 269 . . . . .	SB 408
13-12-201 . . . . .	amended (not codified — referendum) . . . . .	Ch. 269 . . . . .	SB 408
13-12-202 . . . . .	amended (not codified — referendum) . . . . .	Ch. 269 . . . . .	SB 408
13-12-203 . . . . .	amended (not codified — referendum) . . . . .	Ch. 269 . . . . .	SB 408
13-12-205 . . . . .	amended (not codified — referendum) . . . . .	Ch. 269 . . . . .	SB 408
13-12-207 . . . . .	amended (not codified — referendum) . . . . .	Ch. 269 . . . . .	SB 408
13-13-112 . . . . .	amended . . . . .	Ch. 336 . . . . .	HB 120
13-13-118 . . . . .	amended . . . . .	Ch. 336 . . . . .	HB 120
13-13-201 . . . . .	amended . . . . .	Ch. 139 . . . . .	SB 57
	amended . . . . .	Ch. 336 . . . . .	HB 120
13-13-204 . . . . .	amended . . . . .	Ch. 336 . . . . .	HB 120
13-13-211 . . . . .	amended . . . . .	Ch. 139 . . . . .	SB 57
	amended . . . . .	Ch. 336 . . . . .	HB 120
13-13-212 . . . . .	amended . . . . .	Ch. 255 . . . . .	HB 510
	amended . . . . .	Ch. 336 . . . . .	HB 120
13-13-213 . . . . .	amended . . . . .	Ch. 336 . . . . .	HB 120
13-13-214 . . . . .	amended (not codified — referendum) . . . . .	Ch. 269 . . . . .	SB 408
	amended . . . . .	Ch. 336 . . . . .	HB 120
13-13-225 . . . . .	amended (not codified — referendum) . . . . .	Ch. 269 . . . . .	SB 408
	amended . . . . .	Ch. 336 . . . . .	HB 120
13-13-226 . . . . .	amended . . . . .	Ch. 336 . . . . .	HB 120
13-13-227 . . . . .	amended . . . . .	Ch. 336 . . . . .	HB 120
13-13-228 . . . . .	amended . . . . .	Ch. 336 . . . . .	HB 120
13-13-229 . . . . .	amended . . . . .	Ch. 336 . . . . .	HB 120
13-13-230 . . . . .	amended . . . . .	Ch. 336 . . . . .	HB 120
13-13-233 . . . . .	amended . . . . .	Ch. 139 . . . . .	SB 57
13-13-241 . . . . .	amended (not codified — referendum) . . . . .	Ch. 269 . . . . .	SB 408
	amended . . . . .	Ch. 336 . . . . .	HB 120
13-13-244 . . . . .	amended . . . . .	Ch. 336 . . . . .	HB 120
13-13-245 . . . . .	amended . . . . .	Ch. 336 . . . . .	HB 120
13-13-301 . . . . .	amended . . . . .	Ch. 336 . . . . .	HB 120
13-13-602 . . . . .	amended . . . . .	Ch. 336 . . . . .	HB 120
13-13-603 . . . . .	amended . . . . .	Ch. 336 . . . . .	HB 120
13-14-111 . . . . .	amended (not codified — referendum) . . . . .	Ch. 269 . . . . .	SB 408
13-14-112 . . . . .	amended (not codified — referendum) . . . . .	Ch. 269 . . . . .	SB 408
	amended . . . . .	Ch. 336 . . . . .	HB 120
13-14-113 . . . . .	amended (not codified — referendum) . . . . .	Ch. 269 . . . . .	SB 408
	amended . . . . .	Ch. 336 . . . . .	HB 120
13-14-114 . . . . .	amended (not codified — referendum) . . . . .	Ch. 269 . . . . .	SB 408
13-14-115 . . . . .	amended . . . . .	Ch. 212 . . . . .	SB 122
	amended (not codified — referendum) . . . . .	Ch. 269 . . . . .	SB 408
13-14-117 . . . . .	amended (not codified — referendum) . . . . .	Ch. 269 . . . . .	SB 408
13-14-118 . . . . .	amended (not codified — referendum) . . . . .	Ch. 269 . . . . .	SB 408

MONTANA SESSION LAWS 2013

2006

13-15-107	amended	Ch. 336	HB 120
13-15-108	amended	Ch. 336	HB 120
13-15-201	amended	Ch. 139	SB 57
	amended (not codified — referendum)	Ch. 269	SB 408
	amended	Ch. 336	HB 120
13-15-205	amended (not codified — referendum)	Ch. 269	SB 408
13-15-206	amended (not codified — referendum)	Ch. 269	SB 408
	amended	Ch. 336	HB 120
13-15-208	amended (not codified — referendum)	Ch. 269	SB 408
13-15-401	amended	Ch. 336	HB 120
13-15-405	amended (not codified — referendum)	Ch. 269	SB 408
13-15-406	amended (not codified — referendum)	Ch. 269	SB 408
13-15-507	amended (not codified — referendum)	Ch. 269	SB 408
13-16-101	amended (not codified — referendum)	Ch. 269	SB 408
	amended	Ch. 347	HB 457
13-16-201	amended (not codified — referendum)	Ch. 269	SB 408
	amended	Ch. 336	HB 120
	amended	Ch. 347	HB 457
13-16-203	amended	Ch. 347	HB 457
13-16-204	amended	Ch. 347	HB 457
13-16-205	amended	Ch. 347	HB 457
13-16-211	amended (not codified — referendum)	Ch. 269	SB 408
	amended	Ch. 336	HB 120
13-16-301	amended	Ch. 347	HB 457
13-16-412	amended (not codified — referendum)	Ch. 269	SB 408
13-16-417	amended	Ch. 336	HB 120
	amended	Ch. 347	HB 457
13-16-418	amended (not codified — referendum)	Ch. 269	SB 408
	amended	Ch. 347	HB 457
13-16-419	amended (not codified — referendum)	Ch. 269	SB 408
13-16-420	amended	Ch. 347	HB 457
13-16-501	amended (not codified — referendum)	Ch. 269	SB 408
13-17-103	amended (not codified — referendum)	Ch. 269	SB 408
13-17-203	amended	Ch. 336	HB 120
13-17-211	amended	Ch. 336	HB 120
13-19-102	amended	Ch. 336	HB 120
13-19-106	amended	Ch. 139	SB 57
	amended	Ch. 336	HB 120
13-19-205	amended (not codified — referendum)	Ch. 269	SB 408
13-19-207	amended (not codified — referendum)	Ch. 270	SB 405
13-19-304	amended	Ch. 336	HB 120
13-19-306	amended	Ch. 139	SB 57
13-21-101	amended	Ch. 139	SB 57
13-21-102	amended	Ch. 139	SB 57
13-21-103	repealed 1/1/2014	Ch. 139	SB 57
13-21-104	amended	Ch. 139	SB 57
13-21-105	enacted	Ch. 139	SB 57
13-21-106	enacted	Ch. 139	SB 57
13-21-201	repealed 1/1/2014	Ch. 139	SB 57
13-21-202	repealed 1/1/2014	Ch. 139	SB 57
13-21-203	repealed 1/1/2014	Ch. 139	SB 57
13-21-205	repealed 1/1/2014	Ch. 139	SB 57
	amended (not codified — referendum)	Ch. 269	SB 408
13-21-207	repealed 1/1/2014	Ch. 139	SB 57
13-21-210	repealed 1/1/2014	Ch. 139	SB 57
	amended	Ch. 255	HB 510
	amended	Ch. 336	HB 120
13-21-212	amended	Ch. 336	HB 120
13-21-213	amended	Ch. 139	SB 57
13-21-220	enacted	Ch. 139	SB 57
13-21-221	enacted	Ch. 139	SB 57
13-21-222	enacted	Ch. 139	SB 57
13-21-223	enacted	Ch. 139	SB 57

13-21-224	enacted	Ch. 139	SB 57
13-21-225	enacted	Ch. 139	SB 57
13-21-226	enacted	Ch. 139	SB 57
13-21-227	enacted	Ch. 139	SB 57
13-21-228	enacted	Ch. 139	SB 57
13-25-101	amended (not codified — referendum)	Ch. 269	SB 408
13-25-201	amended (not codified — referendum)	Ch. 269	SB 408
13-25-205	amended (not codified — referendum)	Ch. 269	SB 408
13-25-303	amended (not codified — referendum)	Ch. 269	SB 408
13-35-106	amended (not codified — referendum)	Ch. 269	SB 408
13-35-205	amended (not codified — referendum)	Ch. 269	SB 408
13-35-206	amended (not codified — referendum)	Ch. 269	SB 408
13-35-207	amended (not codified — referendum)	Ch. 269	SB 408
13-35-214	amended	Ch. 95	SB 21
	amended (not codified — referendum)	Ch. 269	SB 408
13-35-218	amended (not codified — referendum)	Ch. 269	SB 408
	amended	Ch. 336	HB 120
13-35-221	amended (not codified — referendum)	Ch. 269	SB 408
13-35-225	amended (not codified — referendum)	Ch. 269	SB 408
	amended	Ch. 367	HB 129
	amended	Ch. 423	SB 392
13-35-226	amended (not codified — referendum)	Ch. 269	SB 408
13-35-237	enacted	Ch. 340	HB 254
13-35-601	enacted	Ch. 249	HB 410
13-35-602	enacted	Ch. 249	HB 410
13-35-603	enacted	Ch. 249	HB 410
13-35-604	enacted	Ch. 249	HB 410
13-36-101	amended (not codified — referendum)	Ch. 269	SB 408
13-36-102	amended (not codified — referendum)	Ch. 269	SB 408
13-36-103	amended (not codified — referendum)	Ch. 269	SB 408
13-36-104	amended (not codified — referendum)	Ch. 269	SB 408
13-36-201	amended (not codified — referendum)	Ch. 269	SB 408
13-36-202	amended (not codified — referendum)	Ch. 269	SB 408
13-36-203	amended (not codified — referendum)	Ch. 269	SB 408
13-36-206	amended (not codified — referendum)	Ch. 269	SB 408
13-36-207	amended (not codified — referendum)	Ch. 269	SB 408
13-36-209	amended (not codified — referendum)	Ch. 269	SB 408
13-36-210	amended (not codified — referendum)	Ch. 269	SB 408
13-36-211	amended (not codified — referendum)	Ch. 269	SB 408
13-36-212	amended (not codified — referendum)	Ch. 269	SB 408
13-37-108	amended	Ch. 234	HB 23
13-37-111	amended	Ch. 234	HB 23
13-37-126	amended	Ch. 147	HB 125
	amended	Ch. 336	HB 120
13-37-127	amended (not codified — referendum)	Ch. 269	SB 408
13-37-131	amended	Ch. 367	HB 129
13-37-206	amended	Ch. 202	HB 124
13-37-216	amended (not codified — referendum)	Ch. 269	SB 408
	amended	Ch. 330	HB 46
13-37-218	amended (not codified — referendum)	Ch. 269	SB 408
13-37-219	enacted	Ch. 330	HB 46
13-37-226	amended	Ch. 295	HB 64
13-38-101	amended (not codified — referendum)	Ch. 269	SB 408
13-38-201	amended (not codified — referendum)	Ch. 269	SB 408
	amended	Ch. 336	HB 120
13-38-204	repealed (not codified — referendum)	Ch. 269	SB 408
15-1-121	amended	Ch. 22	SB 16
	amended	Ch. 268	SB 361
15-1-122	amended	Ch. 123	SB 71
	amended	Ch. 376	HB 626
15-1-123	amended	Ch. 396	SB 96
15-1-205	amended	Ch. 268	SB 361
15-1-211	amended	Ch. 419	SB 280

## MONTANA SESSION LAWS 2013

2008

15-1-212	enacted	Ch. 419	SB 280
15-1-213	enacted	Ch. 419	SB 280
15-1-216	amended	Ch. 123	SB 71
15-1-402	amended	Ch. 419	SB 280
15-1-706	amended	Ch. 200	HB 66
15-6-138	amended (voided by sec. 38, Ch. 268)	Ch. 11	HB 35
	amended	Ch. 268	SB 361
	amended	Ch. 396	SB 96
15-6-141	amended	Ch. 396	SB 96
15-6-143	amended	Ch. 243	HB 195
15-6-201	amended	Ch. 405	SB 231
15-7-103	amended	Ch. 357	HB 593
15-7-201	amended	Ch. 357	HB 593
15-8-601	amended	Ch. 419	SB 280
15-16-603	amended	Ch. 46	HB 36
15-23-101	amended	Ch. 396	SB 96
15-23-102	amended	Ch. 419	SB 280
15-23-104	amended	Ch. 419	SB 280
15-24-202	amended	Ch. 50	HB 192
15-24-211	enacted	Ch. 50	HB 192
15-24-212	enacted	Ch. 50	HB 192
15-24-1402	amended	Ch. 57	HB 152
15-24-1501	amended	Ch. 57	HB 152
15-24-1502	amended	Ch. 57	HB 152
15-24-1603	amended	Ch. 57	HB 152
15-24-1605	amended	Ch. 57	HB 152
15-24-1802	amended	Ch. 57	HB 152
15-24-1902	amended	Ch. 57	HB 152
15-24-2002	amended	Ch. 57	HB 152
15-24-2401	repealed	Ch. 37	HB 111
15-24-2402	repealed	Ch. 37	HB 111
15-24-2403	repealed	Ch. 37	HB 111
15-24-2404	repealed	Ch. 37	HB 111
15-24-2405	repealed	Ch. 37	HB 111
15-24-3112	amended	Ch. 419	SB 280
15-30-2110	amended	Ch. 268	SB 361
	amended	Ch. 349	HB 545
	amended	Ch. 398	SB 117
15-30-2327	amended	Ch. 317	SB 108
15-30-2328	amended	Ch. 268	SB 361
15-30-2380	enacted	Ch. 346	HB 444
15-30-2388	amended	Ch. 34	HB 52
15-30-2389	amended	Ch. 34	HB 52
15-30-2604	amended	Ch. 123	SB 71
15-30-2618	amended	Ch. 21	SB 15
15-30-3301	amended	Ch. 268	SB 361
15-30-3312	amended	Ch. 268	SB 361
15-30-3313	amended	Ch. 268	SB 361
15-30-3315	enacted	Ch. 289	SB 179
15-31-101	amended	Ch. 268	SB 361
15-31-102	amended	Ch. 268	SB 361
15-31-111	amended	Ch. 268	SB 361
15-31-112	amended	Ch. 268	SB 361
15-31-113	amended	Ch. 268	SB 361
15-31-114	amended	Ch. 268	SB 361
15-31-115	amended	Ch. 268	SB 361
15-31-117	amended	Ch. 268	SB 361
15-31-125	amended	Ch. 268	SB 361
15-31-143	amended	Ch. 268	SB 361
15-31-161	amended	Ch. 268	SB 361
15-31-401	amended	Ch. 268	SB 361
15-31-402	amended	Ch. 268	SB 361
15-31-404	amended	Ch. 268	SB 361

15-31-406	amended	Ch. 268	SB 361
15-31-511	amended	Ch. 268	SB 361
15-31-522	amended	Ch. 268	SB 361
15-31-523	amended	Ch. 268	SB 361
15-31-531	amended	Ch. 268	SB 361
15-31-543	amended	Ch. 268	SB 361
15-31-551	amended	Ch. 268	SB 361
15-32-107	amended	Ch. 268	SB 361
15-35-108	amended	Ch. 390	HB 454
15-36-315	amended	Ch. 46	HB 36
15-50-207	amended	Ch. 268	SB 361
15-65-121	amended	Ch. 32	HB 32
15-65-131	amended	Ch. 32	HB 32
15-67-101	amended	Ch. 68	HB 123
15-68-815	amended	Ch. 268	SB 361
15-70-101	amended	Ch. 170	HB 194
15-70-301	amended	Ch. 188	SB 116
15-70-302	repealed	Ch. 188	SB 116
15-70-303	repealed	Ch. 188	SB 116
15-70-304	repealed	Ch. 188	SB 116
15-70-305	repealed	Ch. 188	SB 116
15-70-306	repealed	Ch. 188	SB 116
15-70-307	repealed	Ch. 188	SB 116
15-70-311	amended	Ch. 188	SB 116
15-70-314	amended	Ch. 188	SB 116
15-70-317	repealed	Ch. 188	SB 116
15-70-321	amended	Ch. 188	SB 116
	amended	Ch. 418	SB 226
15-70-323	repealed	Ch. 188	SB 116
15-70-325	repealed	Ch. 188	SB 116
15-70-327	repealed	Ch. 188	SB 116
15-70-328	repealed	Ch. 188	SB 116
15-70-329	repealed	Ch. 188	SB 116
15-70-330	amended	Ch. 188	SB 116
	amended	Ch. 418	SB 226
15-70-331	repealed	Ch. 188	SB 116
15-70-332	repealed	Ch. 188	SB 116
15-70-333	repealed	Ch. 188	SB 116
15-70-334	repealed	Ch. 188	SB 116
15-70-335	repealed	Ch. 188	SB 116
15-70-336	repealed	Ch. 188	SB 116
15-70-356	amended	Ch. 188	SB 116
15-70-372	amended	Ch. 188	SB 116
16-1-106	amended	Ch. 115	SB 266
16-1-411	amended	Ch. 115	SB 266
	amended	Ch. 184	HB 402
16-2-201	amended	Ch. 12	HB 56
16-3-218	amended	Ch. 115	SB 266
16-3-307	amended	Ch. 12	HB 56
16-3-402	amended	Ch. 115	SB 266
	amended	Ch. 184	HB 402
16-3-411	amended	Ch. 184	HB 402
16-4-107	amended	Ch. 184	HB 402
16-4-108	amended	Ch. 115	SB 266
16-4-115	amended	Ch. 375	HB 524
16-4-205	amended	Ch. 211	SB 120
16-4-313	amended	Ch. 115	SB 266
16-4-401	amended	Ch. 211	SB 120
16-4-406	amended	Ch. 327	SB 294
16-4-901	amended	Ch. 184	HB 402
16-4-902	amended	Ch. 184	HB 402
16-4-903	amended	Ch. 184	HB 402
16-4-906	amended	Ch. 184	HB 402



MONTANA SESSION LAWS 2013

2010

16-4-1101	enacted	Ch. 184	HB 402
16-4-1102	enacted	Ch. 184	HB 402
16-4-1103	enacted	Ch. 184	HB 402
16-6-301	amended	Ch. 184	HB 402
17-1-102	amended	Ch. 120	SB 49
17-1-505	amended	Ch. 120	SB 49
17-1-508	amended	Ch. 17	HB 21
17-2-107	amended	Ch. 120	SB 49
17-2-111	repealed	Ch. 120	SB 49
17-2-304	amended	Ch. 120	SB 49
17-3-112	repealed contingently	Ch. 17	HB 21
17-5-205	amended	Ch. 18	HB 34
17-5-703	amended	Ch. 390	HB 454
17-5-820	amended	Ch. 120	SB 49
	repealed	Ch. 214	SB 239
17-6-230	amended	Ch. 155	SB 67
17-6-308	amended	Ch. 213	SB 136
17-6-340	repealed	Ch. 17	HB 21
17-7-140	amended	Ch. 120	SB 49
	amended	Ch. 368	HB 354
17-7-502	amended	Ch. 17	HB 21
	amended	Ch. 244	HB 203
	amended	Ch. 368	HB 354
	amended	Ch. 413	SB 410
17-8-101	amended	Ch. 120	SB 49
17-8-402	amended	Ch. 388	HB 345
17-8-403	amended	Ch. 388	HB 345
17-8-404	amended	Ch. 388	HB 345
17-8-410	amended	Ch. 388	HB 345
17-8-411	amended	Ch. 388	HB 345
17-8-412	amended	Ch. 388	HB 345
17-8-416	enacted	Ch. 388	HB 345
18-2-402	amended	Ch. 373	HB 464
18-2-411	amended	Ch. 373	HB 464
18-2-413	amended	Ch. 373	HB 464
18-2-414	amended	Ch. 373	HB 464
18-2-418	enacted	Ch. 373	HB 464
18-2-419	enacted	Ch. 373	HB 464
19-2-303	amended	Ch. 178	HB 105
	amended	Ch. 240	HB 122
	amended	Ch. 272	HB 336
	amended	Ch. 386	HB 97
19-2-403	amended	Ch. 178	HB 105
19-2-405	amended	Ch. 155	SB 67
	amended	Ch. 240	HB 122
19-2-406	amended	Ch. 178	HB 105
19-2-505	amended	Ch. 178	HB 105
19-2-511	amended	Ch. 282	HB 320
19-2-706	amended	Ch. 178	HB 105
19-2-801	amended	Ch. 178	HB 105
19-2-907	amended	Ch. 178	HB 105
19-2-1001	amended	Ch. 240	HB 122
19-2-1005	amended	Ch. 386	HB 97
19-2-1011	amended	Ch. 240	HB 122
19-2-1014	amended	Ch. 240	HB 122
19-3-108	amended	Ch. 386	HB 97
19-3-112	amended	Ch. 282	HB 320
19-3-117	enacted	Ch. 390	HB 454
19-3-315	amended	Ch. 390	HB 454
19-3-316	amended	Ch. 390	HB 454
19-3-412	amended	Ch. 178	HB 105
19-3-512	amended	Ch. 178	HB 105
19-3-901	amended	Ch. 240	HB 122

19-3-908	amended	Ch. 178	HB 105
19-3-1005	repealed	Ch. 178	HB 105
19-3-1103	amended	Ch. 178	HB 105
19-3-1106	amended	Ch. 178	HB 105
19-3-1113	enacted	Ch. 239	HB 95
19-3-1210	amended	Ch. 178	HB 105
19-3-1501	amended	Ch. 178	HB 105
19-3-1605	amended	Ch. 390	HB 454
19-3-2101	amended	Ch. 282	HB 320
19-3-2106	amended	Ch. 282	HB 320
19-3-2112	amended	Ch. 282	HB 320
19-3-2113	amended	Ch. 282	HB 320
19-3-2117	amended	Ch. 390	HB 454
19-3-2133	amended	Ch. 178	HB 105
19-3-2141	amended	Ch. 178	HB 105
19-5-101	amended	Ch. 386	HB 97
19-5-501	amended	Ch. 240	HB 122
19-5-601	amended	Ch. 178	HB 105
19-5-701	amended	Ch. 178	HB 105
19-5-801	amended	Ch. 178	HB 105
19-5-802	amended	Ch. 178	HB 105
19-6-101	amended	Ch. 386	HB 97
19-6-301	amended	Ch. 272	HB 336
19-6-402	amended	Ch. 272	HB 336
19-6-404	amended	Ch. 272	HB 336
19-6-501	amended	Ch. 240	HB 122
19-6-502	amended	Ch. 272	HB 336
19-6-503	amended	Ch. 272	HB 336
19-6-601	amended	Ch. 178	HB 105
	amended	Ch. 272	HB 336
19-6-707	amended	Ch. 272	HB 336
19-6-710	amended	Ch. 272	HB 336
19-6-711	amended	Ch. 272	HB 336
19-6-712	enacted	Ch. 272	HB 336
19-6-801	amended	Ch. 272	HB 336
19-6-803	amended	Ch. 272	HB 336
19-6-804	amended	Ch. 272	HB 336
19-7-101	amended	Ch. 386	HB 97
19-7-501	amended	Ch. 240	HB 122
19-7-503	amended	Ch. 178	HB 105
19-7-601	amended	Ch. 178	HB 105
19-7-901	amended	Ch. 178	HB 105
19-7-1001	amended	Ch. 178	HB 105
19-7-1101	amended	Ch. 239	HB 95
19-8-101	amended	Ch. 386	HB 97
19-8-302	amended	Ch. 178	HB 105
19-8-601	amended	Ch. 240	HB 122
19-8-701	amended	Ch. 178	HB 105
19-8-801	amended	Ch. 178	HB 105
19-8-1002	amended	Ch. 178	HB 105
19-9-104	amended	Ch. 386	HB 97
19-9-710	amended	Ch. 178	HB 105
19-9-801	amended	Ch. 240	HB 122
19-9-1007	amended	Ch. 178	HB 105
19-13-104	amended	Ch. 178	HB 105
	amended	Ch. 386	HB 97
19-13-701	amended	Ch. 240	HB 122
19-13-803	amended	Ch. 178	HB 105
19-13-1101	amended	Ch. 239	HB 95
19-17-112	amended	Ch. 96	SB 35
19-17-605	amended	Ch. 178	HB 105
19-18-402	amended	Ch. 226	SB 245
19-18-602	amended	Ch. 252	HB 461

MONTANA SESSION LAWS 2013

2012

19-20-101	amended	Ch. 366	HB 54
	amended	Ch. 389	HB 377
19-20-201	amended	Ch. 155	SB 67
	amended	Ch. 366	HB 54
19-20-208	amended	Ch. 282	HB 320
	amended	Ch. 389	HB 377
19-20-216	enacted	Ch. 389	HB 377
19-20-302	amended	Ch. 282	HB 320
19-20-409	amended	Ch. 366	HB 54
	amended	Ch. 389	HB 377
19-20-426	amended	Ch. 282	HB 320
19-20-427	amended	Ch. 389	HB 377
19-20-602	amended	Ch. 389	HB 377
19-20-605	amended	Ch. 389	HB 377
19-20-607	amended	Ch. 389	HB 377
19-20-608	enacted	Ch. 389	HB 377
19-20-609	enacted	Ch. 389	HB 377
19-20-621	amended	Ch. 282	HB 320
19-20-716	amended	Ch. 366	HB 54
	amended	Ch. 389	HB 377
19-20-719	amended	Ch. 389	HB 377
19-20-731	amended	Ch. 238	HB 78
	amended	Ch. 282	HB 320
19-20-732	amended	Ch. 389	HB 377
19-20-733	amended (voided by sec. 12, Ch. 366)	Ch. 238	HB 78
	amended	Ch. 366	HB 54
19-20-734	enacted	Ch. 238	HB 78
19-20-801	amended	Ch. 366	HB 54
	amended (voided by sec. 13, Ch. 366)	Ch. 389	HB 377
19-20-802	amended (voided by sec. 14, Ch. 366)	Ch. 366	HB 54
	amended	Ch. 389	HB 377
19-20-804	amended	Ch. 389	HB 377
19-20-805	amended	Ch. 366	HB 54
	amended	Ch. 389	HB 377
19-20-810	enacted	Ch. 366	HB 54
19-20-901	amended	Ch. 389	HB 377
19-20-1001	amended	Ch. 389	HB 377
19-20-1101	amended	Ch. 366	HB 54
19-21-101	amended	Ch. 282	HB 320
19-21-102	amended	Ch. 282	HB 320
19-21-211	amended	Ch. 282	HB 320
19-21-212	amended	Ch. 282	HB 320
19-50-101	amended	Ch. 145	HB 91
19-50-103	amended	Ch. 145	HB 91
19-50-104	amended	Ch. 240	HB 122
20-1-102	amended	Ch. 222	HB 182
20-1-212	amended	Ch. 33	HB 40
20-1-230	enacted	Ch. 321	SB 203
20-1-231	enacted	Ch. 321	SB 203
20-1-401	amended	Ch. 364	SB 348
20-1-402	amended	Ch. 364	SB 348
20-3-105	amended	Ch. 118	SB 2
20-3-324	amended	Ch. 266	SB 340
20-3-363	amended	Ch. 127	SB 291
	amended	Ch. 329	HB 39
20-5-101	amended	Ch. 128	SB 356
20-5-104	amended	Ch. 281	HB 313
20-5-105	amended	Ch. 281	HB 313
20-5-106	amended	Ch. 281	HB 313
20-5-202	amended	Ch. 364	SB 348
20-5-324	amended	Ch. 305	SB 191
20-5-420	amended	Ch. 189	SB 165
20-5-421	enacted	Ch. 189	SB 165

20-6-630	repealed	Ch. 188	SB 116
20-7-102	amended	Ch. 400	SB 175
20-7-104	amended	Ch. 400	SB 175
20-7-105	enacted	Ch. 400	SB 175
20-7-320	enacted	Ch. 276	HB 86
20-7-1301	enacted	Ch. 260	SB 112
20-7-1302	enacted	Ch. 260	SB 112
20-7-1303	enacted	Ch. 260	SB 112
20-7-1304	enacted	Ch. 260	SB 112
20-9-104	amended	Ch. 329	HB 39
20-9-141	amended	Ch. 400	SB 175
20-9-152	amended	Ch. 62	HB 47
20-9-204	amended	Ch. 110	SB 77
20-9-208	amended	Ch. 329	HB 39
20-9-235	amended	Ch. 329	HB 39
20-9-306	amended	Ch. 400	SB 175
20-9-308	amended	Ch. 400	SB 175
20-9-310	amended	Ch. 400	SB 175
20-9-311	amended	Ch. 400	SB 175
20-9-314	amended	Ch. 400	SB 175
20-9-323	amended	Ch. 400	SB 175
20-9-325	enacted	Ch. 400	SB 175
20-9-326	amended	Ch. 400	SB 175
20-9-328	amended	Ch. 118	SB 2
20-9-330	amended	Ch. 118	SB 2
20-9-342	amended	Ch. 400	SB 175
20-9-343	amended (line-item vetoed)	Ch. 325	HB 15
20-9-344	amended	Ch. 400	SB 175
20-9-376	enacted	Ch. 400	SB 175
20-9-403	amended	Ch. 400	SB 175
20-9-406	amended	Ch. 400	SB 175
20-9-408	amended	Ch. 400	SB 175
20-9-422	amended	Ch. 400	SB 175
20-9-423	amended	Ch. 400	SB 175
20-9-426	amended	Ch. 400	SB 175
20-9-427	amended	Ch. 400	SB 175
20-9-430	amended	Ch. 400	SB 175
20-9-437	amended	Ch. 400	SB 175
20-9-438	amended	Ch. 400	SB 175
20-9-440	amended	Ch. 400	SB 175
20-9-473	enacted	Ch. 400	SB 175
20-9-474	enacted	Ch. 400	SB 175
20-9-501	amended	Ch. 389	HB 377
20-9-504	amended	Ch. 38	SB 32
20-9-507	amended	Ch. 46	HB 36
20-9-516	amended	Ch. 17	HB 21
	amended (line-item vetoed)	Ch. 325	HB 15
20-9-517	amended	Ch. 329	HB 39
	amended	Ch. 400	SB 175
20-9-518	amended	Ch. 329	HB 39
	amended (voided by sec. 8, Ch. 329)	Ch. 400	SB 175
20-9-520	enacted	Ch. 400	SB 175
20-9-521	enacted	Ch. 400	SB 175
20-9-533	amended	Ch. 262	SB 199
20-9-534	amended	Ch. 329	HB 39
20-9-537	enacted	Ch. 410	SB 342
20-9-620	amended (line-item vetoed)	Ch. 325	HB 15
20-9-622	amended	Ch. 17	HB 21
	amended	Ch. 400	SB 175
20-9-630	amended	Ch. 268	SB 361
20-10-144	amended	Ch. 46	HB 36
20-10-145	amended	Ch. 389	HB 377
20-10-146	amended	Ch. 46	HB 36

## MONTANA SESSION LAWS 2013

2014

20-15-219	amended	Ch. 251	HB 448
20-15-221	amended	Ch. 251	HB 448
20-15-310	amended	Ch. 3	HB 25
20-15-313	amended	Ch. 62	HB 47
20-20-420	enacted	Ch. 347	HB 457
20-25-301	amended	Ch. 78	HB 318
20-25-303	repealed	Ch. 78	HB 318
20-25-304	repealed	Ch. 78	HB 318
20-25-421	amended	Ch. 280	HB 286
20-25-424	amended	Ch. 78	HB 318
20-25-517	enacted	Ch. 77	HB 317
20-25-1403	amended	Ch. 363	SB 84
20-26-103	amended	Ch. 39	SB 87
20-26-104	amended	Ch. 39	SB 87
20-26-201	amended	Ch. 39	SB 87
20-26-1101	amended	Ch. 39	SB 87
20-26-1104	repealed	Ch. 39	SB 87
22-1-327	amended	Ch. 244	HB 203
23-1-101	amended	Ch. 235	HB 24
23-1-102	amended	Ch. 235	HB 24
23-1-106	amended	Ch. 235	HB 24
23-1-108	amended	Ch. 235	HB 24
23-1-110	amended	Ch. 235	HB 24
23-1-111	enacted	Ch. 235	HB 24
23-1-121	amended	Ch. 235	HB 24
23-1-122	amended	Ch. 235	HB 24
23-2-301	amended	Ch. 235	HB 24
23-2-403	amended	Ch. 235	HB 24
23-2-404	amended	Ch. 235	HB 24
23-2-408	amended	Ch. 235	HB 24
23-2-410	amended	Ch. 235	HB 24
23-2-601	amended	Ch. 123	SB 71
23-2-614	amended	Ch. 123	SB 71
23-2-631	amended	Ch. 123	SB 71
23-2-634	amended	Ch. 123	SB 71
23-2-641	amended	Ch. 123	SB 71
23-2-642	amended	Ch. 123	SB 71
23-2-644	amended	Ch. 123	SB 71
23-4-101	amended	Ch. 402	SB 215
23-5-177	amended	Ch. 82	HB 264
23-5-310	amended	Ch. 82	HB 264
23-5-312	amended	Ch. 64	HB 141
23-5-317	amended	Ch. 64	HB 141
23-5-318	amended	Ch. 64	HB 141
23-5-410	amended	Ch. 82	HB 264
23-5-503	amended	Ch. 80	HB 199
23-5-612	amended	Ch. 64	HB 141
23-7-402	amended	Ch. 2	HB 20
25-1-201	amended	Ch. 344	HB 403
25-10-404	amended	Ch. 344	HB 403
25-10-405	amended	Ch. 344	HB 403
25-12-103	enacted	Ch. 154	HB 224
25-13-402	amended	Ch. 200	HB 66
25-31-112	amended	Ch. 339	HB 206
25-35-608	amended	Ch. 339	HB 206
27-1-747	enacted	Ch. 311	HB 310
27-2-216	amended	Ch. 225	SB 107
28-3-206	amended	Ch. 31	SB 121
30-2A-103	amended	Ch. 75	HB 212
30-4A-108	amended	Ch. 71	HB 190
30-9A-102	amended	Ch. 75	HB 212
30-9A-105	amended	Ch. 75	HB 212
30-9A-307	amended	Ch. 75	HB 212

30-9A-311	amended	Ch. 75	HB 212
30-9A-316	amended	Ch. 75	HB 212
30-9A-317	amended	Ch. 75	HB 212
30-9A-326	amended	Ch. 75	HB 212
30-9A-406	amended	Ch. 75	HB 212
30-9A-408	amended	Ch. 75	HB 212
30-9A-502	amended	Ch. 75	HB 212
30-9A-503	amended	Ch. 75	HB 212
30-9A-507	amended	Ch. 75	HB 212
30-9A-515	amended	Ch. 75	HB 212
30-9A-516	amended	Ch. 75	HB 212
30-9A-518	amended	Ch. 75	HB 212
30-9A-521	amended	Ch. 75	HB 212
30-9A-527	amended	Ch. 155	SB 67
30-9A-607	amended	Ch. 75	HB 212
30-9A-803	enacted	Ch. 75	HB 212
30-9A-804	enacted	Ch. 75	HB 212
30-9A-805	enacted	Ch. 75	HB 212
30-9A-806	enacted	Ch. 75	HB 212
30-9A-807	enacted	Ch. 75	HB 212
30-9A-808	enacted	Ch. 75	HB 212
30-9A-809	enacted	Ch. 75	HB 212
30-10-115	amended	Ch. 66	HB 81
30-10-209	amended	Ch. 66	HB 81
30-10-216	enacted	Ch. 286	SB 20
30-10-301	amended	Ch. 286	SB 20
30-10-303	amended	Ch. 286	SB 20
30-10-324	amended	Ch. 286	SB 20
30-10-326	repealed	Ch. 286	SB 20
30-10-1004	amended	Ch. 66	HB 81
	amended	Ch. 286	SB 20
30-12-107	enacted	Ch. 296	HB 157
30-12-203	amended	Ch. 356	HB 591
30-12-306	amended	Ch. 296	HB 157
30-12-406	amended	Ch. 296	HB 157
30-14-143	amended	Ch. 217	HB 287
30-14-144	enacted	Ch. 217	HB 287
30-14-151	enacted	Ch. 313	HB 415
30-14-152	enacted	Ch. 313	HB 415
30-14-153	enacted	Ch. 313	HB 415
30-14-154	enacted	Ch. 313	HB 415
30-14-155	enacted	Ch. 313	HB 415
30-14-156	enacted	Ch. 313	HB 415
30-14-157	enacted	Ch. 313	HB 415
30-18-117	amended	Ch. 123	SB 71
30-22-101	amended	Ch. 174	HB 463
31-1-106	amended	Ch. 278	HB 118
31-1-111	amended	Ch. 278	HB 118
31-1-112	amended	Ch. 278	HB 118
31-1-202	amended	Ch. 63	HB 63
	amended	Ch. 123	SB 71
31-1-203	amended	Ch. 63	HB 63
31-1-211	amended	Ch. 63	HB 63
31-1-221	amended	Ch. 63	HB 63
31-1-222	amended	Ch. 63	HB 63
31-1-223	enacted	Ch. 63	HB 63
31-1-231	amended	Ch. 63	HB 63
31-1-232	amended	Ch. 63	HB 63
31-1-235	amended	Ch. 63	HB 63
31-1-236	amended	Ch. 63	HB 63
31-1-241	amended	Ch. 63	HB 63
31-1-242	amended	Ch. 63	HB 63
31-1-401	amended	Ch. 278	HB 118

## MONTANA SESSION LAWS 2013

2016

31-1-705	amended	Ch. 96	SB 35
	amended	Ch. 277	HB 116
31-1-706	amended	Ch. 277	HB 116
31-1-707	amended	Ch. 96	SB 35
	amended	Ch. 277	HB 116
31-1-710	enacted	Ch. 277	HB 116
31-1-712	amended	Ch. 277	HB 116
31-1-713	amended	Ch. 277	HB 116
31-1-714	amended	Ch. 96	SB 35
	amended	Ch. 277	HB 116
31-1-801	repealed 12/31/2013	Ch. 278	HB 118
31-1-802	repealed 12/31/2013	Ch. 278	HB 118
31-1-803	repealed 12/31/2013	Ch. 278	HB 118
31-1-804	repealed 12/31/2013	Ch. 278	HB 118
31-1-805	repealed 12/31/2013	Ch. 278	HB 118
31-1-810	repealed 12/31/2013	Ch. 278	HB 118
31-1-811	repealed 12/31/2013	Ch. 278	HB 118
31-1-812	repealed 12/31/2013	Ch. 278	HB 118
31-1-813	repealed 12/31/2013	Ch. 278	HB 118
31-1-815	repealed 12/31/2013	Ch. 278	HB 118
31-1-816	repealed 12/31/2013	Ch. 278	HB 118
31-1-817	repealed 12/31/2013	Ch. 278	HB 118
31-1-818	repealed 12/31/2013	Ch. 278	HB 118
31-1-819	repealed 12/31/2013	Ch. 278	HB 118
31-1-820	repealed 12/31/2013	Ch. 278	HB 118
31-1-821	repealed 12/31/2013	Ch. 278	HB 118
31-1-822	repealed 12/31/2013	Ch. 278	HB 118
31-1-825	repealed 12/31/2013	Ch. 278	HB 118
31-1-826	repealed 12/31/2013	Ch. 278	HB 118
31-1-827	repealed 12/31/2013	Ch. 278	HB 118
31-1-828	repealed 12/31/2013	Ch. 278	HB 118
31-1-829	repealed 12/31/2013	Ch. 278	HB 118
31-1-841	repealed 12/31/2013	Ch. 278	HB 118
31-1-842	repealed 12/31/2013	Ch. 278	HB 118
31-2-209	amended	Ch. 264	SB 251
32-1-102	amended	Ch. 264	SB 251
32-1-109	amended	Ch. 49	HB 138
32-1-212	amended	Ch. 49	HB 138
32-1-370	amended	Ch. 49	HB 138
32-1-371	amended	Ch. 49	HB 138
32-1-376	amended	Ch. 49	HB 138
32-1-381	amended	Ch. 49	HB 138
32-1-382	repealed	Ch. 49	HB 138
32-1-383	amended	Ch. 49	HB 138
32-1-384	amended	Ch. 49	HB 138
32-1-402	amended	Ch. 123	SB 71
32-1-425	amended	Ch. 123	SB 71
32-1-432	amended	Ch. 121	SB 61
32-1-433	amended	Ch. 121	SB 61
32-1-506	amended	Ch. 49	HB 138
32-1-516	amended	Ch. 49	HB 138
32-1-904	amended	Ch. 49	HB 138
32-1-907	amended	Ch. 49	HB 138
32-1-908	amended	Ch. 49	HB 138
32-1-1005	amended	Ch. 122	SB 62
32-3-506	amended	Ch. 264	SB 251
32-5-102	amended	Ch. 173	HB 65
	amended	Ch. 278	HB 118
32-5-103	amended	Ch. 173	HB 65
	amended	Ch. 278	HB 118
32-5-201	amended	Ch. 173	HB 65
32-5-202	amended	Ch. 173	HB 65
32-5-204	repealed 12/31/2013	Ch. 173	HB 65



2017

CODE SECTIONS AFFECTED

32-5-205	amended	Ch. 173	HB 65
32-5-207	amended	Ch. 173	HB 65
32-5-209	enacted	Ch. 173	HB 65
32-5-301	amended	Ch. 173	HB 65
32-5-302	amended	Ch. 173	HB 65
32-5-303	amended	Ch. 173	HB 65
32-5-304	amended	Ch. 173	HB 65
32-5-305	amended	Ch. 173	HB 65
32-5-308	amended	Ch. 96	SB 35
	amended	Ch. 173	HB 65
32-5-310	amended	Ch. 96	SB 35
32-5-311	enacted	Ch. 173	HB 65
32-7-102	amended	Ch. 216	HB 117
32-7-103	amended	Ch. 216	HB 117
32-7-108	amended	Ch. 216	HB 117
32-7-109	amended	Ch. 96	SB 35
	amended	Ch. 216	HB 117
32-7-110	amended	Ch. 216	HB 117
32-7-111	amended	Ch. 216	HB 117
32-7-112	enacted	Ch. 216	HB 117
32-7-115	amended	Ch. 216	HB 117
32-7-121	amended	Ch. 216	HB 117
32-7-122	amended	Ch. 216	HB 117
32-7-123	amended	Ch. 216	HB 117
32-7-124	amended	Ch. 216	HB 117
32-9-101	amended	Ch. 125	SB 93
32-9-102	amended	Ch. 125	SB 93
32-9-103	amended	Ch. 123	SB 71
	amended	Ch. 125	SB 93
32-9-104	amended	Ch. 123	SB 71
	amended	Ch. 125	SB 93
32-9-105	amended	Ch. 125	SB 93
32-9-107	amended	Ch. 125	SB 93
32-9-109	amended	Ch. 125	SB 93
32-9-110	amended	Ch. 125	SB 93
32-9-112	amended	Ch. 125	SB 93
32-9-116	amended	Ch. 125	SB 93
32-9-117	amended	Ch. 125	SB 93
32-9-118	amended	Ch. 125	SB 93
32-9-120	amended	Ch. 125	SB 93
32-9-121	amended	Ch. 125	SB 93
32-9-122	amended	Ch. 125	SB 93
32-9-123	amended	Ch. 125	SB 93
32-9-124	amended	Ch. 125	SB 93
32-9-125	repealed	Ch. 125	SB 93
32-9-126	amended	Ch. 125	SB 93
32-9-129	amended	Ch. 125	SB 93
32-9-130	amended	Ch. 125	SB 93
32-9-133	amended	Ch. 125	SB 93
32-9-134	enacted	Ch. 125	SB 93
32-9-149	enacted	Ch. 125	SB 93
32-9-150	amended	Ch. 125	SB 93
32-9-151	amended	Ch. 125	SB 93
32-9-152	enacted	Ch. 125	SB 93
32-9-155	amended	Ch. 125	SB 93
32-9-160	amended	Ch. 125	SB 93
32-9-165	amended	Ch. 125	SB 93
32-9-167	amended	Ch. 125	SB 93
32-9-170	amended	Ch. 125	SB 93
33-1-102	amended	Ch. 313	HB 415
	amended	Ch. 363	SB 84
33-1-110	enacted	Ch. 420	SB 297
33-1-311	amended	Ch. 360	SB 28

MONTANA SESSION LAWS 2013

2018

33-1-409	amended	Ch. 169	HB 22
33-1-501	amended	Ch. 360	SB 28
33-1-1202	amended	Ch. 169	HB 22
33-2-604	amended	Ch. 169	HB 22
33-2-606	amended	Ch. 169	HB 22
33-2-611	amended	Ch. 169	HB 22
33-2-612	amended	Ch. 169	HB 22
33-2-708	amended	Ch. 245	HB 250
33-2-1303	amended	Ch. 169	HB 22
33-2-1401	enacted	Ch. 303	SB 158
33-2-1402	enacted	Ch. 303	SB 158
33-2-1403	enacted	Ch. 303	SB 158
33-2-1404	enacted	Ch. 303	SB 158
33-2-1405	enacted	Ch. 303	SB 158
33-2-1406	enacted	Ch. 303	SB 158
33-2-1407	enacted	Ch. 303	SB 158
33-2-1501	amended	Ch. 208	HB 502
33-2-2001	enacted	Ch. 114	SB 235
33-2-2002	enacted	Ch. 114	SB 235
33-2-2003	enacted	Ch. 114	SB 235
33-2-2004	enacted	Ch. 114	SB 235
33-2-2005	enacted	Ch. 114	SB 235
33-2-2006	enacted	Ch. 114	SB 235
33-3-401	amended	Ch. 169	HB 22
33-4-302	amended	Ch. 169	HB 22
33-4-320	enacted	Ch. 208	HB 502
33-4-502	amended	Ch. 208	HB 502
33-10-104	amended	Ch. 169	HB 22
33-17-102	amended	Ch. 169	HB 22
	amended	Ch. 245	HB 250
33-17-212	amended	Ch. 324	SB 357
	amended	Ch. 359	HB 614
33-17-214	amended	Ch. 169	HB 22
33-17-220	amended	Ch. 245	HB 250
33-17-231	amended	Ch. 245	HB 250
33-17-241	enacted	Ch. 245	HB 250
33-17-242	enacted	Ch. 245	HB 250
33-17-243	enacted	Ch. 245	HB 250
33-17-244	enacted	Ch. 245	HB 250
33-17-301	amended	Ch. 169	HB 22
	amended	Ch. 406	SB 264
33-17-407	amended	Ch. 268	SB 361
33-17-503	amended	Ch. 169	HB 22
33-17-505	amended	Ch. 169	HB 22
33-17-1101	amended	Ch. 169	HB 22
33-17-1203	amended	Ch. 324	SB 357
33-17-1401	enacted	Ch. 359	HB 614
33-17-1402	enacted	Ch. 359	HB 614
33-17-1403	enacted	Ch. 359	HB 614
33-17-1404	enacted	Ch. 359	HB 614
33-20-1601	enacted	Ch. 119	SB 34
33-20-1602	enacted	Ch. 119	SB 34
33-20-1603	enacted	Ch. 119	SB 34
33-20-1604	enacted	Ch. 119	SB 34
33-20-1605	enacted	Ch. 119	SB 34
33-20-1606	enacted	Ch. 119	SB 34
33-22-101	amended	Ch. 97	SB 55
	amended	Ch. 164	SB 270
33-22-115	enacted	Ch. 160	SB 172
33-22-138	enacted	Ch. 164	SB 270
33-22-153	enacted	Ch. 97	SB 55
33-22-156	enacted	Ch. 334	HB 87
33-22-157	enacted	Ch. 334	HB 87

33-22-158	enacted	Ch. 334	HB 87
33-22-159	enacted	Ch. 334	HB 87
33-22-166	enacted	Ch. 349	HB 545
33-22-304	amended	Ch. 68	HB 123
33-22-506	amended	Ch. 68	HB 123
33-22-522	repealed	Ch. 169	HB 22
33-22-1501	amended	Ch. 404	SB 223
33-22-1502	amended	Ch. 404	SB 223
33-22-1504	amended	Ch. 404	SB 223
33-22-1514	amended	Ch. 120	SB 49
33-22-1706	amended	Ch. 306	HB 544
33-22-1804	amended	Ch. 349	HB 545
33-22-1811	amended	Ch. 169	HB 22
33-22-2002	amended	Ch. 169	HB 22
33-22-2004	amended	Ch. 331	HB 48
33-22-2006	amended	Ch. 331	HB 48
33-22-2007	amended	Ch. 331	HB 48
33-22-2008	amended	Ch. 331	HB 48
33-24-201	enacted	Ch. 406	SB 264
33-24-202	enacted	Ch. 406	SB 264
33-24-203	enacted	Ch. 406	SB 264
33-24-204	enacted	Ch. 406	SB 264
33-24-205	enacted	Ch. 406	SB 264
33-24-206	enacted	Ch. 406	SB 264
33-24-207	enacted	Ch. 406	SB 264
33-24-208	enacted	Ch. 406	SB 264
33-24-209	enacted	Ch. 406	SB 264
33-27-103	amended	Ch. 268	SB 361
33-28-104	amended	Ch. 169	HB 22
33-28-202	amended	Ch. 169	HB 22
33-28-301	amended	Ch. 169	HB 22
33-30-1003	amended	Ch. 68	HB 123
33-30-1004	amended	Ch. 68	HB 123
33-31-111	amended	Ch. 97	SB 55
	amended	Ch. 164	SB 270
	amended	Ch. 334	HB 87
	amended	Ch. 363	SB 84
33-35-306	amended	Ch. 97	SB 55
	amended	Ch. 164	SB 270
	amended	Ch. 363	SB 84
33-39-101	enacted	Ch. 360	SB 28
33-39-102	enacted	Ch. 360	SB 28
33-39-103	enacted	Ch. 360	SB 28
33-40-101	enacted	Ch. 363	SB 84
33-40-102	enacted	Ch. 363	SB 84
33-40-103	enacted	Ch. 363	SB 84
33-40-104	enacted	Ch. 363	SB 84
33-40-105	enacted	Ch. 363	SB 84
35-2-114	amended	Ch. 190	SB 176
35-2-115	amended	Ch. 190	SB 176
35-2-118	amended	Ch. 264	SB 251
35-2-119	amended	Ch. 190	SB 176
35-2-233	amended	Ch. 190	SB 176
35-2-520	amended	Ch. 190	SB 176
35-2-526	amended	Ch. 190	SB 176
35-2-527	amended	Ch. 190	SB 176
35-2-533	amended	Ch. 190	SB 176
35-2-535	amended	Ch. 190	SB 176
35-2-539	amended	Ch. 190	SB 176
35-2-542	amended	Ch. 190	SB 176
35-2-911	amended	Ch. 190	SB 176
35-4-301	amended	Ch. 99	SB 104
35-8-102	amended	Ch. 183	HB 362

## MONTANA SESSION LAWS 2013

2020

35-8-107	amended	Ch. 183	HB 362
35-8-108	amended	Ch. 183	HB 362
35-8-202	amended	Ch. 183	HB 362
35-8-205	amended	Ch. 183	HB 362
35-8-208	amended	Ch. 183	HB 362
35-8-304	amended	Ch. 183	HB 362
35-8-307	amended	Ch. 183	HB 362
35-8-503	amended	Ch. 183	HB 362
35-8-803	amended	Ch. 183	HB 362
35-8-804	amended	Ch. 183	HB 362
35-8-901	amended	Ch. 183	HB 362
35-8-902	amended	Ch. 183	HB 362
35-18-317	amended	Ch. 55	SB 90
35-18-318	amended	Ch. 55	SB 90
37-1-145	enacted	Ch. 310	HB 259
	enacted	Ch. 320	SB 183
37-2-401	amended	Ch. 265	SB 292
37-7-101	amended	Ch. 220	SB 149
37-7-105	amended	Ch. 220	SB 149
37-15-102	amended	Ch. 162	SB 230
37-15-202	amended	Ch. 162	SB 230
37-15-314	enacted	Ch. 162	SB 230
37-15-315	enacted	Ch. 162	SB 230
37-22-412	enacted	Ch. 16	SB 64
37-23-312	enacted	Ch. 16	SB 64
37-31-305	amended	Ch. 102	SB 343
37-35-102	amended	Ch. 275	HB 61
37-37-302	enacted	Ch. 16	SB 64
37-47-101	amended	Ch. 241	HB 187
	amended	Ch. 341	HB 274
37-47-103	repealed	Ch. 341	HB 274
37-47-201	amended	Ch. 241	HB 187
	amended	Ch. 341	HB 274
37-47-301	amended	Ch. 341	HB 274
37-47-302	amended	Ch. 341	HB 274
37-47-303	amended	Ch. 341	HB 274
37-47-304	amended	Ch. 341	HB 274
37-47-305	amended	Ch. 341	HB 274
37-47-306	amended	Ch. 341	HB 274
37-47-307	amended	Ch. 341	HB 274
37-47-310	amended	Ch. 235	HB 24
	amended	Ch. 341	HB 274
37-47-311	amended	Ch. 341	HB 274
37-47-316	repealed	Ch. 341	HB 274
37-47-318	repealed	Ch. 341	HB 274
37-47-325	enacted	Ch. 241	HB 187
37-47-341	amended	Ch. 341	HB 274
37-47-343	amended	Ch. 341	HB 274
37-47-401	amended	Ch. 241	HB 187
	amended	Ch. 341	HB 274
37-47-402	amended	Ch. 341	HB 274
37-47-403	amended	Ch. 241	HB 187
	amended	Ch. 341	HB 274
37-47-404	amended	Ch. 241	HB 187
	amended	Ch. 341	HB 274
37-47-405	enacted	Ch. 241	HB 187
37-51-309	amended	Ch. 414	HB 184
37-61-211	amended	Ch. 7	SB 50
37-67-306	amended	Ch. 72	HB 243
37-67-307	amended	Ch. 72	HB 243
37-67-311	amended	Ch. 72	HB 243
39-1-105	enacted	Ch. 413	SB 410

39-3-406	amended	Ch. 150	HB 226
	amended	Ch. 241	HB 187
39-6-101	amended	Ch. 15	SB 46
39-6-102	amended	Ch. 15	SB 46
39-6-104	amended	Ch. 15	SB 46
39-6-106	amended	Ch. 15	SB 46
39-6-107	amended	Ch. 15	SB 46
39-6-108	amended	Ch. 15	SB 46
39-11-103	amended	Ch. 10	SB 29
39-11-202	amended	Ch. 10	SB 29
39-29-102	amended	Ch. 191	SB 185
39-29-103	amended	Ch. 191	SB 185
39-29-112	amended	Ch. 191	SB 185
39-30-103	amended	Ch. 68	HB 123
	amended	Ch. 191	SB 185
39-30-107	amended	Ch. 191	SB 185
39-30-201	amended	Ch. 191	SB 185
39-51-201	amended	Ch. 287	SB 127
39-51-301	amended	Ch. 81	HB 261
39-51-401	amended	Ch. 203	HB 127
39-51-605	enacted	Ch. 203	HB 127
39-51-1125	amended	Ch. 203	HB 127
39-51-1212	amended	Ch. 203	HB 127
39-51-1213	amended	Ch. 81	HB 261
39-51-1214	amended	Ch. 81	HB 261
	amended	Ch. 167	SB 128
	amended	Ch. 203	HB 127
39-51-3106	amended	Ch. 203	HB 127
39-51-3201	amended	Ch. 203	HB 127
39-71-118	amended	Ch. 412	SB 386
39-71-123	amended	Ch. 412	SB 386
39-71-401	amended	Ch. 412	SB 386
39-71-402	amended	Ch. 74	HB 82
39-71-413	amended	Ch. 148	HB 232
39-71-745	enacted	Ch. 412	SB 386
39-71-1110	enacted	Ch. 407	SB 323
39-71-2363	amended	Ch. 120	SB 49
40-4-105	amended	Ch. 88	HB 330
40-4-121	amended	Ch. 88	HB 330
40-4-201	amended	Ch. 88	HB 330
40-4-202	amended	Ch. 88	HB 330
40-4-203	amended	Ch. 88	HB 330
40-4-204	amended	Ch. 88	HB 330
40-4-205	amended	Ch. 88	HB 330
40-4-215	amended	Ch. 88	HB 330
40-4-219	amended	Ch. 88	HB 330
	amended	Ch. 350	HB 555
40-4-220	amended	Ch. 88	HB 330
40-4-301	amended	Ch. 350	HB 555
40-4-302	amended	Ch. 350	HB 555
40-4-307	amended	Ch. 350	HB 555
40-5-901	amended	Ch. 203	HB 127
40-6-237	amended	Ch. 4	HB 42
40-6-238	amended	Ch. 4	HB 42
41-1-405	amended (voided by sec. 16, Ch. 292)	Ch. 292	HB 521
	amended	Ch. 307	HB 391
41-3-102	amended	Ch. 225	SB 107
41-3-201	amended	Ch. 337	HB 131
41-3-202	amended	Ch. 61	SB 65
41-3-205	amended	Ch. 61	SB 65
	amended	Ch. 332	HB 74
	amended	Ch. 333	HB 76
	amended	Ch. 337	HB 131
	amended	Ch. 364	SB 348

## MONTANA SESSION LAWS 2013

2022

41-3-208	amended	Ch. 332	HB 74
41-3-304	enacted	Ch. 267	SB 351
41-3-425	amended	Ch. 29	HB 107
41-3-1201	enacted	Ch. 333	HB 76
41-3-1202	enacted	Ch. 333	HB 76
41-3-1203	enacted	Ch. 333	HB 76
41-3-1204	enacted	Ch. 333	HB 76
41-3-1205	enacted	Ch. 333	HB 76
41-3-1206	enacted	Ch. 333	HB 76
41-3-1207	enacted	Ch. 333	HB 76
41-5-103	amended	Ch. 281	HB 313
41-5-215	amended	Ch. 364	SB 348
44-1-504	amended	Ch. 272	HB 336
44-2-117	amended	Ch. 6	SB 8
44-2-301	amended	Ch. 5	HB 139
44-2-302	amended	Ch. 5	HB 139
44-2-303	amended	Ch. 5	HB 139
44-2-304	amended	Ch. 5	HB 139
44-2-311	amended	Ch. 5	HB 139
44-2-312	amended	Ch. 5	HB 139
44-2-313	amended	Ch. 5	HB 139
44-2-314	amended	Ch. 5	HB 139
44-2-315	amended	Ch. 5	HB 139
44-2-316	repealed	Ch. 5	HB 139
44-2-701	repealed	Ch. 53	SB 73
44-2-702	repealed	Ch. 53	SB 73
44-2-703	repealed	Ch. 53	SB 73
44-2-704	repealed	Ch. 53	SB 73
44-2-705	repealed	Ch. 53	SB 73
44-4-1201	amended	Ch. 309	HB 233
44-4-1202	amended	Ch. 309	HB 233
44-4-1203	amended	Ch. 309	HB 233
44-4-1204	amended	Ch. 309	HB 233
44-4-1205	amended	Ch. 309	HB 233
44-4-1206	amended	Ch. 309	HB 233
44-4-1501	enacted	Ch. 223	HB 488
44-6-103	amended	Ch. 101	SB 213
45-1-205	amended	Ch. 225	SB 107
45-2-101	amended	Ch. 225	SB 107
45-5-102	amended	Ch. 271	HB 104
45-5-103	amended	Ch. 271	HB 104
45-5-106	amended	Ch. 153	HB 168
45-5-116	enacted	Ch. 271	HB 104
45-5-206	amended	Ch. 161	SB 189
	amended	Ch. 228	SB 306
45-5-212	amended	Ch. 378	SB 198
45-5-305	amended	Ch. 374	HB 478
45-5-306	amended	Ch. 374	HB 478
45-5-310	enacted	Ch. 374	HB 478
45-5-311	enacted	Ch. 374	HB 478
45-5-503	amended	Ch. 149	SB 326
45-5-505	amended and renumbered	45-8-218, Ch. 225	SB 107
45-5-601	amended	Ch. 374	HB 478
45-5-602	amended	Ch. 374	HB 478
45-5-603	amended	Ch. 374	HB 478
45-5-628	enacted	Ch. 304	SB 160
45-6-320	enacted	Ch. 174	HB 463
45-8-101	amended	Ch. 250	HB 446
45-8-218	formerly 45-5-505	Ch. 225	SB 107
45-8-322	amended	Ch. 111	SB 145
45-9-101	amended	Ch. 135	HB 140
45-9-102	amended	Ch. 135	HB 140
45-9-103	amended	Ch. 135	HB 140

45-9-110	amended	Ch. 135	HB 140
46-1-502	amended	Ch. 225	SB 107
46-1-1103	amended	Ch. 9	HB 92
46-1-1203	amended	Ch. 9	HB 92
46-5-105	enacted	Ch. 192	SB 194
46-5-109	enacted	Ch. 377	SB 196
46-5-110	enacted	Ch. 394	HB 603
46-9-108	amended	Ch. 209	SB 11
46-9-301	amended	Ch. 209	SB 11
46-14-101	amended	Ch. 209	SB 11
46-15-411	amended	Ch. 237	HB 71
46-16-105	amended	Ch. 144	SB 267
46-16-130	amended	Ch. 153	HB 168
46-17-203	amended	Ch. 144	SB 267
46-18-104	amended	Ch. 177	HB 72
46-18-111	amended	Ch. 374	HB 478
46-18-201	amended	Ch. 378	SB 198
	amended	Ch. 153	HB 168
	amended	Ch. 177	HB 72
	amended	Ch. 309	HB 233
46-18-203	amended	Ch. 374	HB 478
	amended	Ch. 374	HB 478
	amended	Ch. 374	HB 478
	amended	Ch. 374	HB 478
46-18-205	amended	Ch. 374	HB 478
46-18-207	amended	Ch. 374	HB 478
46-18-222	amended	Ch. 30	HB 137
	amended	Ch. 374	HB 478
46-18-231	amended	Ch. 374	HB 478
46-18-236	amended	Ch. 153	HB 168
46-18-608	enacted	Ch. 193	SB 259
46-23-201	amended	Ch. 209	SB 11
46-23-210	amended	Ch. 43	SB 51
46-23-502	amended	Ch. 374	HB 478
46-23-504	amended	Ch. 101	SB 213
46-23-505	amended	Ch. 283	HB 433
46-23-509	amended	Ch. 182	HB 335
46-23-901	enacted	Ch. 176	HB 68
46-23-902	enacted	Ch. 176	HB 68
46-23-903	enacted	Ch. 176	HB 68
46-23-1003	amended	Ch. 209	SB 11
46-23-1011	amended	Ch. 374	HB 478
47-1-104	amended (voided by sec. 16, Ch. 292)	Ch. 292	HB 521
	amended	Ch. 307	HB 391
47-1-201	amended	Ch. 120	SB 49
50-2-116	amended	Ch. 195	SB 316
50-4-105	enacted	Ch. 420	SB 297
50-4-623	repealed	Ch. 17	HB 21
50-4-805	amended	Ch. 120	SB 49
50-5-101	amended	Ch. 157	SB 103
50-5-103	amended	Ch. 157	SB 103
50-8-101	amended	Ch. 68	HB 123
50-16-108	enacted	Ch. 231	HB 459
50-16-201	amended	Ch. 265	SB 292
50-16-522	amended	Ch. 67	HB 28
	amended	Ch. 353	HB 583
50-16-525	amended	Ch. 353	HB 583
	amended	Ch. 67	HB 28
50-16-804	amended	Ch. 67	HB 28
	amended	Ch. 353	HB 583
50-16-805	amended	Ch. 67	HB 28
	amended	Ch. 353	HB 583
50-19-401	amended	Ch. 67	HB 28
50-19-402	amended	Ch. 67	HB 28
50-19-403	amended	Ch. 67	HB 28
50-19-404	amended	Ch. 67	HB 28



MONTANA SESSION LAWS 2013

2024

50-20-221 . . . . .	repealed (voided by sec. 16, Ch. 292) . . . . .	Ch. 292 . . . . .	HB 521
	repealed . . . . .	Ch. 307 . . . . .	HB 391
50-20-222 . . . . .	repealed (voided by sec. 16, Ch. 292) . . . . .	Ch. 292 . . . . .	HB 521
	repealed . . . . .	Ch. 307 . . . . .	HB 391
50-20-223 . . . . .	repealed (voided by sec. 16, Ch. 292) . . . . .	Ch. 292 . . . . .	HB 521
	repealed . . . . .	Ch. 307 . . . . .	HB 391
50-20-224 . . . . .	repealed (voided by sec. 16, Ch. 292) . . . . .	Ch. 292 . . . . .	HB 521
	repealed . . . . .	Ch. 307 . . . . .	HB 391
50-20-225 . . . . .	repealed (voided by sec. 16, Ch. 292) . . . . .	Ch. 292 . . . . .	HB 521
	repealed . . . . .	Ch. 307 . . . . .	HB 391
50-20-228 . . . . .	repealed (voided by sec. 16, Ch. 292) . . . . .	Ch. 292 . . . . .	HB 521
	repealed . . . . .	Ch. 307 . . . . .	HB 391
50-20-229 . . . . .	repealed (voided by sec. 16, Ch. 292) . . . . .	Ch. 292 . . . . .	HB 521
	repealed . . . . .	Ch. 307 . . . . .	HB 391
50-20-232 . . . . .	repealed (voided by sec. 16, Ch. 292) . . . . .	Ch. 292 . . . . .	HB 521
	repealed . . . . .	Ch. 307 . . . . .	HB 391
50-20-235 . . . . .	repealed (voided by sec. 16, Ch. 292) . . . . .	Ch. 292 . . . . .	HB 521
	repealed . . . . .	Ch. 307 . . . . .	HB 391
50-20-501 . . . . .	enacted . . . . .	Ch. 307 . . . . .	HB 391
50-20-502 . . . . .	enacted . . . . .	Ch. 307 . . . . .	HB 391
50-20-503 . . . . .	enacted . . . . .	Ch. 307 . . . . .	HB 391
50-20-504 . . . . .	enacted . . . . .	Ch. 307 . . . . .	HB 391
50-20-505 . . . . .	enacted . . . . .	Ch. 307 . . . . .	HB 391
50-20-506 . . . . .	enacted . . . . .	Ch. 307 . . . . .	HB 391
50-20-507 . . . . .	enacted . . . . .	Ch. 307 . . . . .	HB 391
50-20-508 . . . . .	enacted . . . . .	Ch. 307 . . . . .	HB 391
50-20-509 . . . . .	enacted . . . . .	Ch. 307 . . . . .	HB 391
50-20-510 . . . . .	enacted . . . . .	Ch. 307 . . . . .	HB 391
50-20-511 . . . . .	enacted . . . . .	Ch. 307 . . . . .	HB 391
50-32-101 . . . . .	amended . . . . .	Ch. 135 . . . . .	HB 140
50-32-222 . . . . .	amended . . . . .	Ch. 135 . . . . .	HB 140
50-32-224 . . . . .	amended . . . . .	Ch. 135 . . . . .	HB 140
50-32-226 . . . . .	amended . . . . .	Ch. 135 . . . . .	HB 140
50-32-229 . . . . .	amended . . . . .	Ch. 135 . . . . .	HB 140
50-32-232 . . . . .	amended . . . . .	Ch. 135 . . . . .	HB 140
50-32-314 . . . . .	amended . . . . .	Ch. 135 . . . . .	HB 140
50-40-103 . . . . .	amended . . . . .	Ch. 123 . . . . .	SB 71
50-46-320 . . . . .	amended . . . . .	Ch. 153 . . . . .	HB 168
50-46-327 . . . . .	amended . . . . .	Ch. 123 . . . . .	SB 71
50-50-102 . . . . .	amended . . . . .	Ch. 302 . . . . .	SB 94
50-50-202 . . . . .	amended . . . . .	Ch. 89 . . . . .	HB 333
	amended . . . . .	Ch. 94 . . . . .	HB 399
50-63-103 . . . . .	amended . . . . .	Ch. 291 . . . . .	SB 345
50-63-104 . . . . .	enacted . . . . .	Ch. 291 . . . . .	SB 345
50-65-102 . . . . .	amended . . . . .	Ch. 28 . . . . .	HB 17
50-72-105 . . . . .	enacted . . . . .	Ch. 60 . . . . .	SB 47
50-72-106 . . . . .	enacted . . . . .	Ch. 60 . . . . .	SB 47
50-73-106 . . . . .	enacted . . . . .	Ch. 60 . . . . .	SB 47
50-73-107 . . . . .	enacted . . . . .	Ch. 60 . . . . .	SB 47
50-73-406 . . . . .	amended . . . . .	Ch. 60 . . . . .	SB 47
52-2-211 . . . . .	amended . . . . .	Ch. 364 . . . . .	SB 348
52-2-304 . . . . .	amended . . . . .	Ch. 364 . . . . .	SB 348
52-3-803 . . . . .	amended . . . . .	Ch. 158 . . . . .	SB 134
	amended . . . . .	Ch. 225 . . . . .	SB 107
52-3-825 . . . . .	amended . . . . .	Ch. 158 . . . . .	SB 134
53-1-215 . . . . .	enacted . . . . .	Ch. 413 . . . . .	SB 410
53-2-208 . . . . .	enacted . . . . .	Ch. 413 . . . . .	SB 410
53-2-211 . . . . .	amended . . . . .	Ch. 21 . . . . .	SB 15
53-2-301 . . . . .	amended . . . . .	Ch. 59 . . . . .	HB 77
53-2-304 . . . . .	amended . . . . .	Ch. 59 . . . . .	HB 77
53-2-305 . . . . .	amended . . . . .	Ch. 59 . . . . .	HB 77
53-4-1005 . . . . .	amended . . . . .	Ch. 97 . . . . .	SB 55
53-6-101 . . . . .	amended . . . . .	Ch. 97 . . . . .	SB 55

53-6-110	amended	Ch. 120	SB 49
53-6-113	amended	Ch. 363	SB 84
53-6-131	amended	Ch. 387	HB 262
53-6-190	enacted	Ch. 362	SB 69
53-6-401	amended	Ch. 68	HB 123
53-6-402	amended	Ch. 68	HB 123
53-20-102	amended	Ch. 68	HB 123
53-20-127	amended	Ch. 68	HB 123
53-20-128	amended	Ch. 68	HB 123
53-20-141	amended	Ch. 68	HB 123
53-20-142	amended	Ch. 68	HB 123
53-20-146	amended	Ch. 68	HB 123
53-20-148	amended	Ch. 68	HB 123
53-20-161	amended	Ch. 68	HB 123
53-20-163	amended	Ch. 258	SB 43
53-20-164	amended	Ch. 68	HB 123
53-20-202	amended	Ch. 68	HB 123
53-21-102	amended	Ch. 68	HB 123
	amended	Ch. 308	HB 16
53-21-119	amended	Ch. 308	HB 16
53-21-129	amended	Ch. 308	HB 16
53-21-702	amended	Ch. 120	SB 49
53-21-1102	amended	Ch. 353	HB 583
53-21-1105	enacted	Ch. 353	HB 583
53-21-1106	enacted	Ch. 353	HB 583
53-21-1107	enacted	Ch. 353	HB 583
53-21-1108	enacted	Ch. 353	HB 583
53-21-1109	enacted	Ch. 353	HB 583
53-21-1110	enacted	Ch. 353	HB 583
53-21-1401	enacted	Ch. 201	HB 84
53-21-1402	enacted	Ch. 201	HB 84
53-21-1403	enacted	Ch. 201	HB 84
53-21-1404	enacted	Ch. 201	HB 84
53-21-1405	enacted	Ch. 201	HB 84
60-1-220	enacted	Ch. 246	HB 299
60-1-221	enacted	Ch. 246	HB 299
60-2-115	amended	Ch. 348	HB 494
60-2-118	repealed	Ch. 188	SB 116
60-2-244	enacted	Ch. 223	HB 488
60-3-211	amended	Ch. 45	SB 111
61-2-109	amended	Ch. 120	SB 49
61-2-302	amended	Ch. 153	HB 168
61-3-109	amended	Ch. 358	HB 607
61-3-116	amended	Ch. 196	SB 319
61-3-201	amended	Ch. 370	HB 414
61-3-205	amended	Ch. 196	SB 319
61-3-211	amended	Ch. 116	HB 367
	amended	Ch. 196	SB 319
61-3-225	amended	Ch. 196	SB 319
61-3-303	amended	Ch. 142	SB 99
	amended	Ch. 196	SB 319
	amended	Ch. 370	HB 414
61-3-311	amended	Ch. 196	SB 319
61-3-312	amended	Ch. 142	SB 99
61-3-321	amended	Ch. 393	HB 559
61-3-331	amended	Ch. 196	SB 319
61-3-332	amended	Ch. 393	HB 559
61-3-337	amended	Ch. 393	HB 559
61-3-338	amended	Ch. 196	SB 319
61-3-412	amended	Ch. 106	HB 270
61-3-414	amended	Ch. 196	SB 319
61-3-415	amended	Ch. 196	SB 319
61-3-424	repealed	Ch. 393	HB 559

## MONTANA SESSION LAWS 2013

2026

61-3-458	amended	Ch. 219	HB 566
61-3-465	amended	Ch. 196	SB 319
61-3-467	amended	Ch. 196	SB 319
61-3-480	amended	Ch. 196	SB 319
61-3-562	amended	Ch. 393	HB 559
61-4-111	amended	Ch. 196	SB 319
61-4-112	amended	Ch. 196	SB 319
61-4-129	amended	Ch. 86	HB 305
61-4-206	amended	Ch. 273	SB 182
61-4-207	amended	Ch. 273	SB 182
61-4-208	amended	Ch. 273	SB 182
61-5-107	amended (not codified — referendum)	Ch. 270	SB 405
61-5-110	amended	Ch. 194	SB 314
	amended	Ch. 254	HB 508
61-5-111	amended	Ch. 322	SB 275
61-5-114	amended	Ch. 322	SB 275
61-5-123	enacted	Ch. 254	HB 508
61-5-205	amended	Ch. 153	HB 168
61-5-208	amended	Ch. 153	HB 168
61-5-212	amended	Ch. 153	HB 168
61-5-231	amended	Ch. 153	HB 168
61-5-301	amended	Ch. 194	SB 314
61-6-105	amended	Ch. 142	SB 99
61-6-202	enacted	Ch. 108	HB 347
61-7-108	amended	Ch. 314	HB 442
61-8-303	amended	Ch. 393	HB 559
61-8-309	amended	Ch. 261	SB 161
	amended	Ch. 393	HB 559
61-8-310	amended	Ch. 393	HB 559
61-8-351	amended	Ch. 58	HB 155
61-8-401	amended	Ch. 153	HB 168
61-8-402	amended	Ch. 153	HB 168
61-8-404	amended	Ch. 153	HB 168
61-8-405	amended	Ch. 153	HB 168
61-8-408	amended	Ch. 153	HB 168
61-8-411	enacted	Ch. 153	HB 168
61-8-421	amended	Ch. 153	HB 168
61-8-442	amended	Ch. 153	HB 168
	amended	Ch. 309	HB 233
61-8-465	amended	Ch. 153	HB 168
	amended	Ch. 312	HB 355
61-8-722	amended	Ch. 153	HB 168
61-8-725	amended	Ch. 393	HB 559
61-8-731	amended	Ch. 153	HB 168
61-8-732	amended	Ch. 153	HB 168
61-8-733	amended	Ch. 153	HB 168
	amended	Ch. 309	HB 233
61-8-734	amended	Ch. 153	HB 168
	amended	Ch. 312	HB 355
61-8-741	amended	Ch. 153	HB 168
61-8-913	amended	Ch. 185	HB 455
61-9-431	amended	Ch. 113	SB 225
61-10-121	amended	Ch. 218	HB 513
61-11-101	amended	Ch. 153	HB 168
	amended	Ch. 194	SB 314
61-11-102	amended	Ch. 123	SB 71
61-11-105	amended	Ch. 196	SB 319
61-12-401	amended	Ch. 117	HB 422
61-12-502	amended	Ch. 322	SB 275
61-12-504	amended	Ch. 315	HB 498
67-1-214	enacted	Ch. 256	HB 546
69-3-222	enacted	Ch. 391	HB 477
69-3-223	enacted	Ch. 391	HB 477

69-3-2003	amended	Ch. 259	SB 106
	amended	Ch. 328	SB 325
	amended	Ch. 361	SB 45
69-3-2004	amended	Ch. 73	SB 164
	amended	Ch. 197	SB 327
69-3-2006	amended	Ch. 361	SB 45
69-3-2009	amended	Ch. 25	SB 52
69-3-2010	amended	Ch. 25	SB 52
69-7-111	amended	Ch. 187	SB 48
69-12-311	amended	Ch. 35	HB 55
69-12-312	amended	Ch. 35	HB 55
69-12-331	repealed	Ch. 35	HB 55
69-12-407	amended	Ch. 35	HB 55
69-12-408	amended	Ch. 35	HB 55
69-12-612	repealed	Ch. 35	HB 55
69-13-101	amended	Ch. 44	SB 141
69-13-102	amended	Ch. 44	SB 141
69-13-201	amended	Ch. 44	SB 141
69-13-301	amended	Ch. 44	SB 141
69-13-302	amended	Ch. 44	SB 141
69-13-303	amended	Ch. 44	SB 141
70-17-112	amended	Ch. 180	HB 291
70-18-202	repealed	Ch. 210	SB 18
70-18-206	enacted	Ch. 210	SB 18
70-24-303	amended	Ch. 343	HB 385
70-24-321	amended	Ch. 343	HB 385
70-24-422	amended	Ch. 343	HB 385
70-24-427	amended	Ch. 343	HB 385
70-24-430	amended	Ch. 93	HB 368
	amended	Ch. 123	SB 71
70-29-401	enacted	Ch. 263	SB 207
70-29-402	enacted	Ch. 263	SB 207
70-29-403	enacted	Ch. 263	SB 207
70-29-404	enacted	Ch. 263	SB 207
70-29-405	enacted	Ch. 263	SB 207
70-29-410	enacted	Ch. 263	SB 207
70-29-411	enacted	Ch. 263	SB 207
70-29-412	enacted	Ch. 263	SB 207
70-29-413	enacted	Ch. 263	SB 207
70-29-414	enacted	Ch. 263	SB 207
70-29-415	enacted	Ch. 263	SB 207
70-29-419	enacted	Ch. 263	SB 207
70-29-420	enacted	Ch. 263	SB 207
70-30-110	amended	Ch. 371	HB 417
70-30-111	amended	Ch. 371	HB 417
70-30-203	amended	Ch. 103	HB 45
	amended	Ch. 371	HB 417
70-30-206	amended	Ch. 371	HB 417
70-30-305	amended	Ch. 371	HB 417
71-3-564	enacted	Ch. 152	HB 469
71-3-1201	amended	Ch. 124	SB 86
71-3-1203	amended	Ch. 186	HB 462
71-3-1211	enacted	Ch. 124	SB 86
71-3-1212	enacted	Ch. 124	SB 86
71-3-1213	enacted	Ch. 124	SB 86
71-3-1214	enacted	Ch. 124	SB 86
72-1-103	amended	Ch. 264	SB 251
72-1-310	amended	Ch. 264	SB 251
72-1-311	amended	Ch. 264	SB 251
72-1-312	amended	Ch. 264	SB 251
72-3-1101	amended	Ch. 85	HB 89
72-5-444	enacted	Ch. 264	SB 251
72-5-445	enacted	Ch. 264	SB 251

## MONTANA SESSION LAWS 2013

2028

72-5-446	enacted	Ch. 264	SB 251
72-5-447	enacted	Ch. 264	SB 251
72-5-448	enacted	Ch. 264	SB 251
72-5-449	enacted	Ch. 264	SB 251
72-5-450	enacted	Ch. 264	SB 251
72-6-122	repealed	Ch. 264	SB 251
72-6-123	enacted	Ch. 264	SB 251
72-6-206	amended	Ch. 264	SB 251
72-6-214	amended	Ch. 264	SB 251
72-6-215	repealed	Ch. 264	SB 251
72-6-228	enacted	Ch. 264	SB 251
72-16-1001	amended	Ch. 264	SB 251
72-33-101	repealed	Ch. 264	SB 251
72-33-102	repealed	Ch. 264	SB 251
72-33-103	repealed	Ch. 264	SB 251
72-33-104	repealed	Ch. 264	SB 251
72-33-105	repealed	Ch. 264	SB 251
72-33-106	repealed	Ch. 264	SB 251
72-33-107	repealed	Ch. 264	SB 251
72-33-108	repealed	Ch. 264	SB 251
72-33-201	repealed	Ch. 264	SB 251
72-33-202	repealed	Ch. 264	SB 251
72-33-203	repealed	Ch. 264	SB 251
72-33-204	repealed	Ch. 264	SB 251
72-33-205	repealed	Ch. 264	SB 251
72-33-206	repealed	Ch. 264	SB 251
72-33-207	repealed	Ch. 264	SB 251
72-33-208	repealed	Ch. 264	SB 251
72-33-209	repealed	Ch. 264	SB 251
72-33-210	repealed	Ch. 264	SB 251
72-33-211	repealed	Ch. 264	SB 251
72-33-216	repealed	Ch. 264	SB 251
72-33-217	repealed	Ch. 264	SB 251
72-33-218	repealed	Ch. 264	SB 251
72-33-219	repealed	Ch. 264	SB 251
72-33-220	repealed	Ch. 264	SB 251
72-33-301	repealed	Ch. 264	SB 251
72-33-302	repealed	Ch. 264	SB 251
72-33-303	repealed	Ch. 264	SB 251
72-33-304	repealed	Ch. 264	SB 251
72-33-305	repealed	Ch. 264	SB 251
72-33-306	repealed	Ch. 264	SB 251
72-33-401	repealed	Ch. 264	SB 251
72-33-402	repealed	Ch. 264	SB 251
72-33-403	repealed	Ch. 264	SB 251
72-33-406	repealed	Ch. 264	SB 251
72-33-407	repealed	Ch. 264	SB 251
72-33-408	repealed	Ch. 264	SB 251
72-33-409	repealed	Ch. 264	SB 251
72-33-411	repealed	Ch. 264	SB 251
72-33-412	repealed	Ch. 264	SB 251
72-33-413	repealed	Ch. 264	SB 251
72-33-414	repealed	Ch. 264	SB 251
72-33-415	repealed	Ch. 264	SB 251
72-33-416	repealed	Ch. 264	SB 251
72-33-501	repealed	Ch. 264	SB 251
72-33-502	repealed	Ch. 264	SB 251
72-33-503	repealed	Ch. 264	SB 251
72-33-504	repealed	Ch. 264	SB 251
72-33-601	repealed	Ch. 264	SB 251
72-33-602	repealed	Ch. 264	SB 251
72-33-603	repealed	Ch. 264	SB 251
72-33-604	repealed	Ch. 264	SB 251

72-33-611	repealed	Ch. 264	SB 251
72-33-612	repealed	Ch. 264	SB 251
72-33-613	repealed	Ch. 264	SB 251
72-33-616	repealed	Ch. 264	SB 251
72-33-617	repealed	Ch. 264	SB 251
72-33-618	repealed	Ch. 264	SB 251
72-33-619	repealed	Ch. 264	SB 251
72-33-620	repealed	Ch. 264	SB 251
72-33-621	repealed	Ch. 264	SB 251
72-33-622	repealed	Ch. 264	SB 251
72-33-626	repealed	Ch. 264	SB 251
72-33-627	repealed	Ch. 264	SB 251
72-33-628	repealed	Ch. 264	SB 251
72-33-629	repealed	Ch. 264	SB 251
72-33-630	repealed	Ch. 264	SB 251
72-33-631	repealed	Ch. 264	SB 251
72-33-632	repealed	Ch. 264	SB 251
72-33-701	repealed	Ch. 264	SB 251
72-33-702	repealed	Ch. 264	SB 251
72-33-703	repealed	Ch. 264	SB 251
72-33-704	repealed	Ch. 264	SB 251
72-33-705	repealed	Ch. 264	SB 251
72-34-101	repealed	Ch. 264	SB 251
72-34-102	repealed	Ch. 264	SB 251
72-34-103	repealed	Ch. 264	SB 251
72-34-105	repealed	Ch. 264	SB 251
72-34-106	repealed	Ch. 264	SB 251
72-34-107	repealed	Ch. 264	SB 251
72-34-108	repealed	Ch. 264	SB 251
72-34-109	repealed	Ch. 264	SB 251
72-34-110	repealed	Ch. 264	SB 251
72-34-111	repealed	Ch. 264	SB 251
72-34-112	repealed	Ch. 264	SB 251
72-34-113	repealed	Ch. 264	SB 251
72-34-114	repealed	Ch. 264	SB 251
72-34-115	repealed	Ch. 264	SB 251
72-34-116	repealed	Ch. 264	SB 251
72-34-117	repealed	Ch. 264	SB 251
72-34-118	repealed	Ch. 264	SB 251
72-34-124	repealed	Ch. 264	SB 251
72-34-125	repealed	Ch. 264	SB 251
72-34-126	repealed	Ch. 264	SB 251
72-34-127	repealed	Ch. 264	SB 251
72-34-128	repealed	Ch. 264	SB 251
72-34-129	repealed	Ch. 264	SB 251
72-34-130	repealed	Ch. 264	SB 251
72-34-201	repealed	Ch. 264	SB 251
72-34-202	repealed	Ch. 264	SB 251
72-34-203	repealed	Ch. 264	SB 251
72-34-204	repealed	Ch. 264	SB 251
72-34-205	repealed	Ch. 264	SB 251
72-34-206	repealed	Ch. 264	SB 251
72-34-207	repealed	Ch. 264	SB 251
72-34-301	repealed	Ch. 264	SB 251
72-34-302	repealed	Ch. 264	SB 251
72-34-303	repealed	Ch. 264	SB 251
72-34-304	repealed	Ch. 264	SB 251
72-34-306	repealed	Ch. 264	SB 251
72-34-307	repealed	Ch. 264	SB 251
72-34-308	repealed	Ch. 264	SB 251
72-34-309	repealed	Ch. 264	SB 251
72-34-310	repealed	Ch. 264	SB 251
72-34-311	repealed	Ch. 264	SB 251

MONTANA SESSION LAWS 2013

2030

72-34-316	repealed	Ch. 264	SB 251
72-34-317	repealed	Ch. 264	SB 251
72-34-318	repealed	Ch. 264	SB 251
72-34-319	repealed	Ch. 264	SB 251
72-34-320	repealed	Ch. 264	SB 251
72-34-321	repealed	Ch. 264	SB 251
72-34-322	repealed	Ch. 264	SB 251
72-34-323	repealed	Ch. 264	SB 251
72-34-326	repealed	Ch. 264	SB 251
72-34-327	repealed	Ch. 264	SB 251
72-34-328	repealed	Ch. 264	SB 251
72-34-329	repealed	Ch. 264	SB 251
72-34-330	repealed	Ch. 264	SB 251
72-34-331	repealed	Ch. 264	SB 251
72-34-332	repealed	Ch. 264	SB 251
72-34-336	repealed	Ch. 264	SB 251
72-34-337	repealed	Ch. 264	SB 251
72-34-338	repealed	Ch. 264	SB 251
72-34-339	repealed	Ch. 264	SB 251
72-34-340	repealed	Ch. 264	SB 251
72-34-341	repealed	Ch. 264	SB 251
72-34-342	repealed	Ch. 264	SB 251
72-34-343	repealed	Ch. 264	SB 251
72-34-424	amended	Ch. 264	SB 251
72-34-446	amended	Ch. 264	SB 251
72-34-501	repealed	Ch. 264	SB 251
72-34-502	repealed	Ch. 264	SB 251
72-34-503	repealed	Ch. 264	SB 251
72-34-504	repealed	Ch. 264	SB 251
72-34-506	repealed	Ch. 264	SB 251
72-34-507	repealed	Ch. 264	SB 251
72-34-508	repealed	Ch. 264	SB 251
72-34-509	repealed	Ch. 264	SB 251
72-34-511	repealed	Ch. 264	SB 251
72-34-512	repealed	Ch. 264	SB 251
72-34-513	repealed	Ch. 264	SB 251
72-34-514	repealed	Ch. 264	SB 251
72-34-515	repealed	Ch. 264	SB 251
72-34-516	repealed	Ch. 264	SB 251
72-34-517	repealed	Ch. 264	SB 251
72-34-601	repealed	Ch. 264	SB 251
72-34-602	repealed	Ch. 264	SB 251
72-34-603	repealed	Ch. 264	SB 251
72-34-604	repealed	Ch. 264	SB 251
72-34-605	repealed	Ch. 264	SB 251
72-34-606	repealed	Ch. 264	SB 251
72-34-607	repealed	Ch. 264	SB 251
72-34-608	repealed	Ch. 264	SB 251
72-34-609	repealed	Ch. 264	SB 251
72-34-610	repealed	Ch. 264	SB 251
72-35-101	repealed	Ch. 264	SB 251
72-35-102	repealed	Ch. 264	SB 251
72-35-103	repealed	Ch. 264	SB 251
72-35-104	repealed	Ch. 264	SB 251
72-35-105	repealed	Ch. 264	SB 251
72-35-106	repealed	Ch. 264	SB 251
72-35-107	repealed	Ch. 264	SB 251
72-35-201	repealed	Ch. 264	SB 251
72-35-202	repealed	Ch. 264	SB 251
72-35-203	repealed	Ch. 264	SB 251
72-35-206	repealed	Ch. 264	SB 251
72-35-207	repealed	Ch. 264	SB 251
72-35-208	repealed	Ch. 264	SB 251



## CODE SECTIONS AFFECTED

72-35-209	repealed	Ch. 264	SB 251
72-35-301	repealed	Ch. 264	SB 251
72-35-302	repealed	Ch. 264	SB 251
72-35-303	repealed	Ch. 264	SB 251
72-35-306	repealed	Ch. 264	SB 251
72-35-307	repealed	Ch. 264	SB 251
72-35-308	repealed	Ch. 264	SB 251
72-35-311	repealed	Ch. 264	SB 251
72-35-312	repealed	Ch. 264	SB 251
72-35-313	repealed	Ch. 264	SB 251
72-35-314	repealed	Ch. 264	SB 251
72-35-315	repealed	Ch. 264	SB 251
72-35-401	repealed	Ch. 264	SB 251
72-35-402	repealed	Ch. 264	SB 251
72-35-403	repealed	Ch. 264	SB 251
72-35-404	repealed	Ch. 264	SB 251
72-35-405	repealed	Ch. 264	SB 251
72-35-406	repealed	Ch. 264	SB 251
72-35-501	repealed	Ch. 264	SB 251
72-35-502	repealed	Ch. 264	SB 251
72-35-503	repealed	Ch. 264	SB 251
72-35-504	repealed	Ch. 264	SB 251
72-35-505	repealed	Ch. 264	SB 251
72-35-506	repealed	Ch. 264	SB 251
72-35-507	repealed	Ch. 264	SB 251
72-35-508	repealed	Ch. 264	SB 251
72-36-101	repealed	Ch. 264	SB 251
72-36-102	repealed	Ch. 264	SB 251
72-36-103	repealed	Ch. 264	SB 251
72-36-104	repealed	Ch. 264	SB 251
72-36-105	repealed	Ch. 264	SB 251
72-36-106	repealed	Ch. 264	SB 251
72-36-201	repealed	Ch. 264	SB 251
72-36-202	repealed	Ch. 264	SB 251
72-36-203	repealed	Ch. 264	SB 251
72-36-206	amended and renumbered 72-38-1111	Ch. 264	SB 251
72-36-301	repealed	Ch. 264	SB 251
72-36-302	repealed	Ch. 264	SB 251
72-38-101	enacted	Ch. 264	SB 251
72-38-102	enacted	Ch. 264	SB 251
72-38-103	enacted	Ch. 264	SB 251
72-38-104	enacted	Ch. 264	SB 251
72-38-105	enacted	Ch. 264	SB 251
72-38-106	enacted	Ch. 264	SB 251
72-38-107	enacted	Ch. 264	SB 251
72-38-108	enacted	Ch. 264	SB 251
72-38-109	enacted	Ch. 264	SB 251
72-38-110	enacted	Ch. 264	SB 251
72-38-111	enacted	Ch. 264	SB 251
72-38-112	enacted	Ch. 264	SB 251
72-38-113	enacted	Ch. 264	SB 251
72-38-120	enacted	Ch. 264	SB 251
72-38-121	enacted	Ch. 264	SB 251
72-38-122	enacted	Ch. 264	SB 251
72-38-123	enacted	Ch. 264	SB 251
72-38-124	enacted	Ch. 264	SB 251
72-38-130	enacted	Ch. 264	SB 251
72-38-131	enacted	Ch. 264	SB 251
72-38-132	enacted	Ch. 264	SB 251
72-38-133	enacted	Ch. 264	SB 251
72-38-134	enacted	Ch. 264	SB 251
72-38-201	enacted	Ch. 264	SB 251
72-38-202	enacted	Ch. 264	SB 251

72-38-203	enacted	Ch. 264	SB 251
72-38-204	enacted	Ch. 264	SB 251
72-38-205	enacted	Ch. 264	SB 251
72-38-206	enacted	Ch. 264	SB 251
72-38-207	enacted	Ch. 264	SB 251
72-38-208	enacted	Ch. 264	SB 251
72-38-209	enacted	Ch. 264	SB 251
72-38-210	enacted	Ch. 264	SB 251
72-38-211	enacted	Ch. 264	SB 251
72-38-212	enacted	Ch. 264	SB 251
72-38-213	enacted	Ch. 264	SB 251
72-38-214	enacted	Ch. 264	SB 251
72-38-215	enacted	Ch. 264	SB 251
72-38-216	enacted	Ch. 264	SB 251
72-38-217	enacted	Ch. 264	SB 251
72-38-218	enacted	Ch. 264	SB 251
72-38-219	enacted	Ch. 264	SB 251
72-38-220	enacted	Ch. 264	SB 251
72-38-221	enacted	Ch. 264	SB 251
72-38-301	enacted	Ch. 264	SB 251
72-38-302	enacted	Ch. 264	SB 251
72-38-303	enacted	Ch. 264	SB 251
72-38-304	enacted	Ch. 264	SB 251
72-38-305	enacted	Ch. 264	SB 251
72-38-401	enacted	Ch. 264	SB 251
72-38-402	enacted	Ch. 264	SB 251
72-38-403	enacted	Ch. 264	SB 251
72-38-404	enacted	Ch. 264	SB 251
72-38-405	enacted	Ch. 264	SB 251
72-38-406	enacted	Ch. 264	SB 251
72-38-407	enacted	Ch. 264	SB 251
72-38-408	enacted	Ch. 264	SB 251
72-38-409	enacted	Ch. 264	SB 251
72-38-410	enacted	Ch. 264	SB 251
72-38-411	enacted	Ch. 264	SB 251
72-38-412	enacted	Ch. 264	SB 251
72-38-413	enacted	Ch. 264	SB 251
72-38-414	enacted	Ch. 264	SB 251
72-38-415	enacted	Ch. 264	SB 251
72-38-416	enacted	Ch. 264	SB 251
72-38-417	enacted	Ch. 264	SB 251
72-38-501	enacted	Ch. 264	SB 251
72-38-502	enacted	Ch. 264	SB 251
72-38-504	enacted	Ch. 264	SB 251
72-38-505	enacted	Ch. 264	SB 251
72-38-506	enacted	Ch. 264	SB 251
72-38-507	enacted	Ch. 264	SB 251
72-38-601	enacted	Ch. 264	SB 251
72-38-602	enacted	Ch. 264	SB 251
72-38-603	enacted	Ch. 264	SB 251
72-38-604	enacted	Ch. 264	SB 251
72-38-605	enacted	Ch. 264	SB 251
72-38-606	enacted	Ch. 264	SB 251
72-38-701	enacted	Ch. 264	SB 251
72-38-702	enacted	Ch. 264	SB 251
72-38-703	enacted	Ch. 264	SB 251
72-38-704	enacted	Ch. 264	SB 251
72-38-705	enacted	Ch. 264	SB 251
72-38-706	enacted	Ch. 264	SB 251
72-38-707	enacted	Ch. 264	SB 251
72-38-708	enacted	Ch. 264	SB 251
72-38-709	enacted	Ch. 264	SB 251
72-38-801	enacted	Ch. 264	SB 251

72-38-802	enacted	Ch. 264	SB 251
72-38-803	enacted	Ch. 264	SB 251
72-38-804	enacted	Ch. 264	SB 251
72-38-805	enacted	Ch. 264	SB 251
72-38-806	enacted	Ch. 264	SB 251
72-38-807	enacted	Ch. 264	SB 251
72-38-808	enacted	Ch. 264	SB 251
72-38-809	enacted	Ch. 264	SB 251
72-38-810	enacted	Ch. 264	SB 251
72-38-811	enacted	Ch. 264	SB 251
72-38-812	enacted	Ch. 264	SB 251
72-38-813	enacted	Ch. 264	SB 251
72-38-814	enacted	Ch. 264	SB 251
72-38-815	enacted	Ch. 264	SB 251
72-38-816	enacted	Ch. 264	SB 251
72-38-817	enacted	Ch. 264	SB 251
72-38-820	enacted	Ch. 264	SB 251
72-38-821	enacted	Ch. 264	SB 251
72-38-822	enacted	Ch. 264	SB 251
72-38-823	enacted	Ch. 264	SB 251
72-38-824	enacted	Ch. 264	SB 251
72-38-825	enacted	Ch. 264	SB 251
72-38-826	enacted	Ch. 264	SB 251
72-38-901	enacted	Ch. 264	SB 251
72-38-902	enacted	Ch. 264	SB 251
72-38-903	enacted	Ch. 264	SB 251
72-38-904	enacted	Ch. 264	SB 251
72-38-905	enacted	Ch. 264	SB 251
72-38-906	enacted	Ch. 264	SB 251
72-38-1001	enacted	Ch. 264	SB 251
72-38-1002	enacted	Ch. 264	SB 251
72-38-1003	enacted	Ch. 264	SB 251
72-38-1004	enacted	Ch. 264	SB 251
72-38-1005	enacted	Ch. 264	SB 251
72-38-1006	enacted	Ch. 264	SB 251
72-38-1007	enacted	Ch. 264	SB 251
72-38-1008	enacted	Ch. 264	SB 251
72-38-1009	enacted	Ch. 264	SB 251
72-38-1010	enacted	Ch. 264	SB 251
72-38-1011	enacted	Ch. 264	SB 251
72-38-1012	enacted	Ch. 264	SB 251
72-38-1013	enacted	Ch. 264	SB 251
72-38-1101	enacted	Ch. 264	SB 251
72-38-1102	enacted	Ch. 264	SB 251
72-38-1111	formerly 72-36-206	Ch. 264	SB 251
75-1-220	amended	Ch. 235	HB 24
75-1-1101	amended	Ch. 120	SB 49
75-2-103	amended	Ch. 417	SB 44
75-2-121	repealed	Ch. 417	SB 44
75-2-122	repealed	Ch. 417	SB 44
75-2-123	repealed	Ch. 417	SB 44
75-2-205	repealed	Ch. 417	SB 44
75-2-402	amended	Ch. 417	SB 44
75-5-304	amended	Ch. 156	SB 76
75-5-618	enacted	Ch. 159	SB 137
75-6-304	amended	Ch. 187	SB 48
75-6-326	amended	Ch. 187	SB 48
75-10-115	amended	Ch. 229	HB 146
75-10-204	amended	Ch. 411	SB 364
75-10-214	amended	Ch. 411	SB 364
75-10-234	enacted	Ch. 159	SB 137
75-10-428	enacted	Ch. 159	SB 137
75-10-706	amended	Ch. 342	HB 359

## MONTANA SESSION LAWS 2013

2034

75-10-711	amended	Ch. 342	HB 359
75-11-322	enacted	Ch. 159	SB 137
75-11-503	amended	Ch. 141	SB 70
75-11-519	enacted	Ch. 159	SB 137
75-20-303	amended	Ch. 230	HB 256
76-1-601	amended	Ch. 65	HB 169
76-1-607	enacted	Ch. 65	HB 169
76-2-206	amended	Ch. 56	HB 148
	amended	Ch. 416	SB 23
76-2-216	enacted	Ch. 274	SB 290
76-2-240	enacted	Ch. 56	HB 148
76-2-306	amended	Ch. 56	HB 148
76-2-340	enacted	Ch. 56	HB 148
76-3-103	amended	Ch. 379	SB 324
76-3-202	repealed	Ch. 379	SB 324
76-3-204	repealed	Ch. 379	SB 324
76-3-207	amended	Ch. 351	HB 562
76-3-208	repealed	Ch. 379	SB 324
76-3-504	amended	Ch. 109	SB 40
	amended	Ch. 379	SB 324
76-3-601	amended	Ch. 109	SB 40
76-3-604	amended	Ch. 109	SB 40
76-3-608	amended	Ch. 112	SB 146
	amended	Ch. 195	SB 316
76-3-622	amended	Ch. 165	SB 293
76-4-102	amended	Ch. 195	SB 316
76-4-104	amended	Ch. 195	SB 316
76-4-125	amended	Ch. 123	SB 71
	amended	Ch. 379	SB 324
76-6-203	amended	Ch. 379	SB 324
76-6-212	amended	Ch. 175	HB 38
76-7-203	amended	Ch. 379	SB 324
76-8-101	enacted	Ch. 379	SB 324
76-8-102	enacted	Ch. 379	SB 324
76-8-103	enacted	Ch. 379	SB 324
76-8-106	enacted	Ch. 379	SB 324
76-8-107	enacted	Ch. 379	SB 324
76-8-108	enacted	Ch. 379	SB 324
76-8-113	enacted	Ch. 379	SB 324
76-8-114	enacted	Ch. 379	SB 324
76-13-104	amended	Ch. 206	HB 451
	amended	Ch. 401	SB 201
76-13-115	amended	Ch. 401	SB 201
76-13-145	amended	Ch. 24	SB 39
76-13-150	amended	Ch. 368	HB 354
76-13-154	enacted	Ch. 401	SB 201
76-13-301	amended	Ch. 403	SB 217
76-13-303	amended	Ch. 403	SB 217
76-13-701	amended	Ch. 403	SB 217
76-13-702	amended	Ch. 403	SB 217
77-1-102	amended	Ch. 210	SB 18
77-1-109	amended	Ch. 17	HB 21
77-1-219	amended	Ch. 264	SB 251
77-1-229	amended	Ch. 264	SB 251
77-1-405	amended	Ch. 235	HB 24
77-2-303	amended	Ch. 17	HB 21
	amended	Ch. 422	SB 369
77-2-304	amended	Ch. 17	HB 21
77-2-311	amended	Ch. 422	SB 369
77-2-317	enacted	Ch. 422	SB 369
77-2-318	amended	Ch. 422	SB 369
77-2-320	repealed	Ch. 422	SB 369
77-2-363	amended	Ch. 422	SB 369

77-2-364	amended	Ch. 264	SB 251
77-2-366	amended	Ch. 422	SB 369
77-3-205	amended	Ch. 96	SB 35
77-3-317	amended	Ch. 96	SB 35
77-5-222	amended	Ch. 288	SB 154
77-5-223	amended	Ch. 288	SB 154
80-2-203	amended	Ch. 399	SB 162
80-2-204	amended	Ch. 399	SB 162
80-2-206	amended	Ch. 399	SB 162
80-2-207	amended	Ch. 399	SB 162
80-2-208	amended	Ch. 242	HB 189
	amended	Ch. 399	SB 162
80-2-220	enacted	Ch. 399	SB 162
80-2-221	amended	Ch. 399	SB 162
80-2-222	amended	Ch. 399	SB 162
80-2-224	amended	Ch. 399	SB 162
80-2-225	amended	Ch. 399	SB 162
80-2-226	repealed 1/1/2014	Ch. 399	SB 162
80-2-230	amended	Ch. 399	SB 162
80-2-231	repealed 1/1/2014	Ch. 399	SB 162
80-2-232	amended (voided by sec. 3, Ch. 242)	Ch. 242	HB 189
	amended	Ch. 399	SB 162
80-2-242	amended	Ch. 399	SB 162
80-2-243	amended	Ch. 399	SB 162
80-2-244	amended	Ch. 399	SB 162
80-4-419	enacted	Ch. 247	HB 344
80-7-814	amended	Ch. 326	SB 144
80-7-1002	amended	Ch. 354	HB 586
80-7-1003	amended	Ch. 354	HB 586
80-7-1004	amended	Ch. 354	HB 586
80-7-1006	amended	Ch. 354	HB 586
80-7-1007	amended	Ch. 354	HB 586
80-7-1008	amended	Ch. 354	HB 586
80-7-1010	amended	Ch. 354	HB 586
80-7-1011	amended	Ch. 354	HB 586
80-7-1014	amended	Ch. 354	HB 586
80-7-1015	enacted	Ch. 354	HB 586
81-1-102	amended	Ch. 90	HB 337
81-1-110	amended	Ch. 172	HB 323
81-2-501	amended	Ch. 47	HB 114
81-6-104	amended	Ch. 27	SB 72
81-6-204	amended	Ch. 27	SB 72
81-6-209	amended	Ch. 27	SB 72
81-8-901	amended	Ch. 100	SB 211
81-9-219	amended	Ch. 92	HB 356
81-9-232	amended	Ch. 48	HB 115
81-20-206	amended	Ch. 94	HB 399
82-1-304	amended	Ch. 264	SB 251
82-4-222	amended	Ch. 96	SB 35
	amended	Ch. 98	SB 92
82-4-226	amended	Ch. 98	SB 92
82-4-227	amended	Ch. 98	SB 92
82-4-237	amended	Ch. 98	SB 92
82-4-253	amended	Ch. 98	SB 92
82-4-403	amended	Ch. 198	SB 332
82-4-425	amended	Ch. 198	SB 332
82-4-427	amended	Ch. 198	SB 332
82-4-431	amended	Ch. 198	SB 332
82-4-432	amended	Ch. 198	SB 332
82-4-433	amended	Ch. 198	SB 332
82-4-437	amended	Ch. 198	SB 332
82-10-502	amended	Ch. 345	HB 431
82-10-504	amended	Ch. 345	HB 431

## MONTANA SESSION LAWS 2013

2036

82-11-182	amended	Ch. 123	SB 71
85-1-605	amended	Ch. 120	SB 49
85-2-102	amended	Ch. 235	HB 24
	amended	Ch. 335	HB 106
	amended	Ch. 409	SB 336
	amended	Ch. 421	SB 346
85-2-145	enacted	Ch. 408	SB 335
85-2-222	amended	Ch. 323	SB 355
85-2-233	amended	Ch. 323	SB 355
85-2-234	amended	Ch. 323	SB 355
85-2-302	amended	Ch. 335	HB 106
85-2-306	amended	Ch. 421	SB 346
85-2-310	amended	Ch. 335	HB 106
85-2-311	amended	Ch. 335	HB 106
85-2-314	amended	Ch. 335	HB 106
85-2-320	amended	Ch. 335	HB 106
85-2-360	amended	Ch. 335	HB 106
85-2-361	amended	Ch. 335	HB 106
85-2-362	amended	Ch. 335	HB 106
85-2-363	repealed	Ch. 335	HB 106
85-2-369	amended	Ch. 335	HB 106
85-2-380	enacted	Ch. 421	SB 346
85-2-381	enacted	Ch. 421	SB 346
85-2-402	amended	Ch. 335	HB 106
85-2-424	amended	Ch. 335	HB 106
85-2-427	enacted	Ch. 236	HB 37
85-7-1710	amended	Ch. 134	SB 252
85-8-361	amended	Ch. 79	HB 389
85-20-1701	enacted	Ch. 227	SB 278
85-20-1801	enacted	Ch. 224	SB 88
87-1-101	amended	Ch. 235	HB 24
87-1-106	amended	Ch. 235	HB 24
87-1-202	amended	Ch. 235	HB 24
87-1-209	amended	Ch. 235	HB 24
87-1-217	amended	Ch. 163	SB 249
87-1-218	amended	Ch. 235	HB 24
87-1-246	amended	Ch. 204	HB 170
87-1-270	amended	Ch. 204	HB 170
87-1-274	amended	Ch. 299	HB 533
87-1-283	amended	Ch. 299	HB 533
87-1-293	enacted	Ch. 83	SB 123
87-1-294	enacted	Ch. 346	HB 444
87-1-301	amended	Ch. 137	HB 247
	amended	Ch. 163	SB 249
	amended	Ch. 235	HB 24
87-1-303	amended	Ch. 235	HB 24
87-1-304	amended	Ch. 13	HB 73
87-1-401	amended	Ch. 235	HB 24
87-1-601	amended	Ch. 83	SB 123
87-1-622	amended	Ch. 235	HB 24
87-1-628	enacted	Ch. 83	SB 123
87-1-701	amended	Ch. 69	HB 142
87-1-901	enacted	Ch. 297	SB 200
87-2-104	amended	Ch. 13	HB 73
	amended	Ch. 297	SB 200
87-2-106	amended	Ch. 96	SB 35
87-2-113	amended	Ch. 298	HB 401
87-2-405	enacted	Ch. 204	HB 170
87-2-507	amended	Ch. 129	HB 163
87-2-508	amended	Ch. 129	HB 163
87-2-511	amended	Ch. 104	HB 136
	amended	Ch. 319	SB 178
87-2-522	amended	Ch. 104	HB 136

## SESSION LAWS AFFECTED

87-2-523	amended	Ch. 13	HB 73
	amended	Ch. 297	SB 200
87-2-524	amended	Ch. 13	HB 73
	amended	Ch. 297	SB 200
87-2-526	amended	Ch. 107	HB 273
87-2-702	amended	Ch. 54	SB 75
	amended	Ch. 151	HB 278
87-2-730	amended	Ch. 181	HB 328
	amended	Ch. 298	HB 401
87-2-803	amended	Ch. 70	HB 179
	amended	Ch. 397	SB 101
87-2-815	enacted	Ch. 54	SB 75
87-2-903	amended	Ch. 83	SB 123
87-3-145	enacted	Ch. 137	HB 247
87-4-432	repealed	Ch. 26	SB 60
	amended	Ch. 235	HB 24
87-4-530	enacted	Ch. 132	HB 360
87-4-902	amended	Ch. 132	HB 360
87-6-202	amended	Ch. 137	HB 247
87-6-207	amended	Ch. 355	HB 588
87-6-208	enacted	Ch. 355	HB 588
87-6-401	amended	Ch. 13	HB 73
	amended	Ch. 297	SB 200
87-6-414	amended	Ch. 13	HB 73
	amended	Ch. 297	SB 200
87-6-415	amended	Ch. 338	HB 147
87-6-702	amended	Ch. 241	HB 187
	amended	Ch. 341	HB 274
90-1-201	amended	Ch. 23	SB 30
90-1-204	amended	Ch. 23	SB 30
90-1-403	amended	Ch. 175	HB 38
90-1-404	amended	Ch. 175	HB 38
90-1-405	amended	Ch. 175	HB 38
90-1-406	amended	Ch. 175	HB 38
90-1-410	amended	Ch. 175	HB 38
90-1-411	amended	Ch. 175	HB 38
90-1-413	amended	Ch. 175	HB 38
90-1-501	amended	Ch. 205	HB 388
90-2-1113	amended	Ch. 168	HB 7
90-3-1001	amended	Ch. 123	SB 71
90-6-603	amended	Ch. 213	SB 136
90-6-703	amended	Ch. 120	SB 49
90-6-802	amended	Ch. 325	HB 15
90-6-811	amended	Ch. 325	HB 15

## SESSION LAWS AFFECTED

<u>Laws Affected</u>	<u>Action</u>	<u>Chapter</u>	<u>Bill Number</u>
Laws of 1997			
Ch. 537, sec. 9	amended	317	SB 108
Laws of 1999			
Ch. 495, sec. 6	amended	390	HB 454
Laws of 2001			
Ch. 226, sec. 5	amended	317	SB 108
Laws of 2005			
Ch. 4, sec. 7	amended	317	SB 108



MONTANA SESSION LAWS 2013

2038

Laws of 2007

Ch. 208, sec. 2, 3, 4, 7 . . . . . amended . . . . . 317 . . . . . SB 108

Laws of 2009

Ch. 321, sec. 37 . . . . . amended . . . . . 125 . . . . . SB 93

Ch. 345, sec. 4 . . . . . repealed . . . . . 107 . . . . . HB 273

Ch. 435, sec. 2 . . . . . amended . . . . . 120 . . . . . SB 49

Laws of 2011

Ch. 330, sec. 4 . . . . . amended . . . . . 36 . . . . . HB 60

Ch. 389, sec. 15, 16 . . . . . amended . . . . . 390 . . . . . HB 454

Ch. 418, sec. 29 . . . . . amended . . . . . 400 . . . . . SB 175

**SENATE BILL TO CHAPTER NUMBER**

<u>Bill No.</u>	<u>Chapter No.</u>	<u>Bill No.</u>	<u>Chapter No.</u>	<u>Bill No.</u>	<u>Chapter No.</u>
SB 2	118	SB 96	396	SB 213	101
SB 3	133	SB 99	142	SB 215	402
SB 5	41	SB 101	397	SB 217	403
SB 8	6	SB 103	157	SB 223	404
SB 11	209	SB 104	99	SB 225	113
SB 15	21	SB 106	259	SB 226	418
SB 16	22	SB 107	225	SB 230	162
SB 18	210	SB 108	317	SB 231	405
SB 20	286	SB 111	45	SB 235	114
SB 21	95	SB 112	260	SB 239	214
SB 23	416	SB 116	188	SB 242	290
SB 28	360	SB 117	398	SB 245	226
SB 29	10	SB 120	211	SB 249	163
SB 30	23	SB 121	31	SB 251	264
SB 32	38	SB 122	212	SB 252	134
SB 33	138	SB 123	83	SB 258	221
SB 34	119	SB 127	287	SB 259	193
SB 35	96	SB 128	167	SB 264	406
SB 36	42	SB 132	143	SB 266	115
SB 39	24	SB 134	158	SB 267	144
SB 40	109	SB 136	213	SB 270	164
SB 43	258	SB 137	159	SB 271	233
SB 44	417	SB 139	318	SB 275	322
SB 45	361	SB 141	44	SB 278	227
SB 46	15	SB 142	126	SB 280	419
SB 47	60	SB 144	326	SB 290	274
SB 48	187	SB 145	111	SB 291	127
SB 49	120	SB 146	112	SB 292	265
SB 50	7	SB 149	220	SB 293	165
SB 51	43	SB 154	288	SB 294	327
SB 52	25	SB 158	303	SB 297	420
SB 55	97	SB 160	304	SB 301	301
SB 57	139	SB 161	261	SB 306	228
SB 60	26	SB 162	399	SB 312	166
SB 61	121	SB 164	73	SB 314	194
SB 62	122	SB 165	189	SB 316	195
SB 63	140	SB 172	160	SB 319	196
SB 64	16	SB 175	400	SB 323	407
SB 65	61	SB 176	190	SB 324	379
SB 67	155	SB 178	319	SB 325	328
SB 69	362	SB 179	289	SB 326	149
SB 70	141	SB 182	273	SB 327	197
SB 71	123	SB 183	320	SB 332	198
SB 72	27	SB 185	191	SB 335	408
SB 73	53	SB 189	161	SB 336	409
SB 75	54	SB 191	305	SB 340	266
SB 76	156	SB 194	192	SB 342	410
SB 77	110	SB 196	377	SB 343	102
SB 84	363	SB 198	378	SB 345	291
SB 86	124	SB 199	262	SB 346	421
SB 87	39	SB 200	297	SB 348	364
SB 88	224	SB 201	401	SB 351	267
SB 90	55	SB 203	321	SB 355	323
SB 92	98	SB 207	263	SB 356	128
SB 93	125	SB 209	232	SB 357	324
SB 94	302	SB 211	100	SB 361	268

SB 364	411
SB 369	422
SB 386	412
SB 392	423
SB 405	270
SB 408	269
SB 410	413

## HOUSE BILL TO CHAPTER NUMBER

<u>Bill No.</u>	<u>Chapter No.</u>	<u>Bill No.</u>	<u>Chapter No.</u>	<u>Bill No.</u>	<u>Chapter No.</u>
HB 1	1	HB 66	200	HB 147	338
HB 2	380	HB 68	176	HB 148	56
HB 3	293	HB 71	237	HB 152	57
HB 4	294	HB 72	177	HB 155	58
HB 5	381	HB 73	13	HB 157	296
HB 6	382	HB 74	332	HB 163	129
HB 7	168	HB 76	333	HB 164	40
HB 8	365	HB 77	59	HB 168	153
HB 9	215	HB 78	238	HB 169	65
HB 10	383	HB 79	199	HB 170	204
HB 11	384	HB 81	66	HB 172	105
HB 13	385	HB 82	74	HB 179	70
HB 15	325	HB 84	201	HB 182	222
HB 16	308	HB 86	276	HB 184	414
HB 17	28	HB 87	334	HB 187	241
HB 20	2	HB 89	85	HB 189	242
HB 21	17	HB 91	145	HB 190	71
HB 22	169	HB 92	9	HB 192	50
HB 23	234	HB 95	239	HB 193	51
HB 24	235	HB 97	386	HB 194	170
HB 25	3	HB 104	271	HB 195	243
HB 28	67	HB 105	178	HB 199	80
HB 32	32	HB 106	335	HB 202	52
HB 34	18	HB 107	29	HB 203	244
HB 35	11	HB 110	146	HB 206	339
HB 36	46	HB 111	37	HB 210	179
HB 37	236	HB 114	47	HB 212	75
HB 38	175	HB 115	48	HB 224	154
HB 39	329	HB 116	277	HB 226	150
HB 40	33	HB 117	216	HB 232	148
HB 41	19	HB 118	278	HB 233	309
HB 42	4	HB 120	336	HB 243	72
HB 45	103	HB 122	240	HB 245	130
HB 46	330	HB 123	68	HB 247	137
HB 47	62	HB 124	202	HB 250	245
HB 48	331	HB 125	147	HB 252	76
HB 51	8	HB 127	203	HB 254	340
HB 52	34	HB 129	367	HB 256	230
HB 53	20	HB 131	337	HB 258	279
HB 54	366	HB 132	14	HB 259	310
HB 55	35	HB 136	104	HB 261	81
HB 56	12	HB 137	30	HB 262	387
HB 59	84	HB 138	49	HB 264	82
HB 60	36	HB 139	5	HB 270	106
HB 61	275	HB 140	135	HB 273	107
HB 63	63	HB 141	64	HB 274	341
HB 64	295	HB 142	69	HB 278	151
HB 65	173	HB 146	229	HB 286	280

## CHAPTER NUMBER TO BILL NUMBER

HB 287	217	HB 388	205	HB 494	348
HB 291	180	HB 389	79	HB 497	415
HB 299	246	HB 391	307	HB 498	315
HB 305	86	HB 395	369	HB 502	208
HB 308	87	HB 399	94	HB 508	254
HB 310	311	HB 401	298	HB 510	255
HB 313	281	HB 402	184	HB 513	218
HB 314	171	HB 403	344	HB 521	292
HB 317	77	HB 410	249	HB 524	375
HB 318	78	HB 414	370	HB 533	299
HB 320	282	HB 415	313	HB 544	306
HB 323	172	HB 417	371	HB 545	349
HB 325	131	HB 422	117	HB 546	256
HB 328	181	HB 431	345	HB 552	257
HB 330	88	HB 433	283	HB 554	392
HB 333	89	HB 442	314	HB 555	350
HB 335	182	HB 444	346	HB 559	393
HB 336	272	HB 446	250	HB 560	284
HB 337	90	HB 447	372	HB 562	351
HB 344	247	HB 448	251	HB 566	219
HB 345	388	HB 451	206	HB 575	316
HB 347	108	HB 454	390	HB 580	352
HB 351	91	HB 455	185	HB 583	353
HB 352	248	HB 457	347	HB 586	354
HB 354	368	HB 459	231	HB 588	355
HB 355	312	HB 461	252	HB 591	356
HB 356	92	HB 462	186	HB 593	357
HB 359	342	HB 463	174	HB 603	394
HB 360	132	HB 464	373	HB 605	285
HB 362	183	HB 465	207	HB 607	358
HB 367	116	HB 469	152	HB 609	395
HB 368	93	HB 477	391	HB 614	359
HB 371	136	HB 478	374	HB 626	376
HB 377	389	HB 485	253	HB 630	300
HB 385	343	HB 488	223		

## CHAPTER NUMBER TO BILL NUMBER

Chapter No.	Bill No.	Chapter No.	Bill No.	Chapter No.	Bill No.
Ch. 1	HB 1	Ch. 20	HB 53	Ch. 39	SB 87
Ch. 2	HB 20	Ch. 21	SB 15	Ch. 40	HB 164
Ch. 3	HB 25	Ch. 22	SB 16	Ch. 41	SB 5
Ch. 4	HB 42	Ch. 23	SB 30	Ch. 42	SB 36
Ch. 5	HB 139	Ch. 24	SB 39	Ch. 43	SB 51
Ch. 6	SB 8	Ch. 25	SB 52	Ch. 44	SB 141
Ch. 7	SB 50	Ch. 26	SB 60	Ch. 45	SB 111
Ch. 8	HB 51	Ch. 27	SB 72	Ch. 46	HB 36
Ch. 9	HB 92	Ch. 28	HB 17	Ch. 47	HB 114
Ch. 10	SB 29	Ch. 29	HB 107	Ch. 48	HB 115
Ch. 11	HB 35	Ch. 30	HB 137	Ch. 49	HB 138
Ch. 12	HB 56	Ch. 31	SB 121	Ch. 50	HB 192
Ch. 13	HB 73	Ch. 32	HB 32	Ch. 51	HB 193
Ch. 14	HB 132	Ch. 33	HB 40	Ch. 52	HB 202
Ch. 15	SB 46	Ch. 34	HB 52	Ch. 53	SB 73
Ch. 16	SB 64	Ch. 35	HB 55	Ch. 54	SB 75
Ch. 17	HB 21	Ch. 36	HB 60	Ch. 55	SB 90
Ch. 18	HB 34	Ch. 37	HB 111	Ch. 56	HB 148
Ch. 19	HB 41	Ch. 38	SB 32	Ch. 57	HB 152

## MONTANA SESSION LAWS 2013

2042

Ch. 58	HB	155	Ch. 118	SB	2	Ch. 178	HB	105
Ch. 59	HB	77	Ch. 119	SB	34	Ch. 179	HB	210
Ch. 60	SB	47	Ch. 120	SB	49	Ch. 180	HB	291
Ch. 61	SB	65	Ch. 121	SB	61	Ch. 181	HB	328
Ch. 62	HB	47	Ch. 122	SB	62	Ch. 182	HB	335
Ch. 63	HB	63	Ch. 123	SB	71	Ch. 183	HB	362
Ch. 64	HB	141	Ch. 124	SB	86	Ch. 184	HB	402
Ch. 65	HB	169	Ch. 125	SB	93	Ch. 185	HB	455
Ch. 66	HB	81	Ch. 126	SB	142	Ch. 186	HB	462
Ch. 67	HB	28	Ch. 127	SB	291	Ch. 187	SB	48
Ch. 68	HB	123	Ch. 128	SB	356	Ch. 188	SB	116
Ch. 69	HB	142	Ch. 129	HB	163	Ch. 189	SB	165
Ch. 70	HB	179	Ch. 130	HB	245	Ch. 190	SB	176
Ch. 71	HB	190	Ch. 131	HB	325	Ch. 191	SB	185
Ch. 72	HB	243	Ch. 132	HB	360	Ch. 192	SB	194
Ch. 73	SB	164	Ch. 133	SB	3	Ch. 193	SB	259
Ch. 74	HB	82	Ch. 134	SB	252	Ch. 194	SB	314
Ch. 75	HB	212	Ch. 135	HB	140	Ch. 195	SB	316
Ch. 76	HB	252	Ch. 136	HB	371	Ch. 196	SB	319
Ch. 77	HB	317	Ch. 137	HB	247	Ch. 197	SB	327
Ch. 78	HB	318	Ch. 138	SB	33	Ch. 198	SB	332
Ch. 79	HB	389	Ch. 139	SB	57	Ch. 199	HB	79
Ch. 80	HB	199	Ch. 140	SB	63	Ch. 200	HB	66
Ch. 81	HB	261	Ch. 141	SB	70	Ch. 201	HB	84
Ch. 82	HB	264	Ch. 142	SB	99	Ch. 202	HB	124
Ch. 83	SB	123	Ch. 143	SB	132	Ch. 203	HB	127
Ch. 84	HB	59	Ch. 144	SB	267	Ch. 204	HB	170
Ch. 85	HB	89	Ch. 145	HB	91	Ch. 205	HB	388
Ch. 86	HB	305	Ch. 146	HB	110	Ch. 206	HB	451
Ch. 87	HB	308	Ch. 147	HB	125	Ch. 207	HB	465
Ch. 88	HB	330	Ch. 148	HB	232	Ch. 208	HB	502
Ch. 89	HB	333	Ch. 149	SB	326	Ch. 209	SB	11
Ch. 90	HB	337	Ch. 150	HB	226	Ch. 210	SB	18
Ch. 91	HB	351	Ch. 151	HB	278	Ch. 211	SB	120
Ch. 92	HB	356	Ch. 152	HB	469	Ch. 212	SB	122
Ch. 93	HB	368	Ch. 153	HB	168	Ch. 213	SB	136
Ch. 94	HB	399	Ch. 154	HB	224	Ch. 214	SB	239
Ch. 95	SB	21	Ch. 155	SB	67	Ch. 215	HB	9
Ch. 96	SB	35	Ch. 156	SB	76	Ch. 216	HB	117
Ch. 97	SB	55	Ch. 157	SB	103	Ch. 217	HB	287
Ch. 98	SB	92	Ch. 158	SB	134	Ch. 218	HB	513
Ch. 99	SB	104	Ch. 159	SB	137	Ch. 219	HB	566
Ch. 100	SB	211	Ch. 160	SB	172	Ch. 220	SB	149
Ch. 101	SB	213	Ch. 161	SB	189	Ch. 221	SB	258
Ch. 102	SB	343	Ch. 162	SB	230	Ch. 222	HB	182
Ch. 103	HB	45	Ch. 163	SB	249	Ch. 223	HB	488
Ch. 104	HB	136	Ch. 164	SB	270	Ch. 224	SB	88
Ch. 105	HB	172	Ch. 165	SB	293	Ch. 225	SB	107
Ch. 106	HB	270	Ch. 166	SB	312	Ch. 226	SB	245
Ch. 107	HB	273	Ch. 167	SB	128	Ch. 227	SB	278
Ch. 108	HB	347	Ch. 168	HB	7	Ch. 228	SB	306
Ch. 109	SB	40	Ch. 169	HB	22	Ch. 229	HB	146
Ch. 110	SB	77	Ch. 170	HB	194	Ch. 230	HB	256
Ch. 111	SB	145	Ch. 171	HB	314	Ch. 231	HB	459
Ch. 112	SB	146	Ch. 172	HB	323	Ch. 232	SB	209
Ch. 113	SB	225	Ch. 173	HB	65	Ch. 233	SB	271
Ch. 114	SB	235	Ch. 174	HB	463	Ch. 234	HB	23
Ch. 115	SB	266	Ch. 175	HB	38	Ch. 235	HB	24
Ch. 116	HB	367	Ch. 176	HB	68	Ch. 236	HB	37
Ch. 117	HB	422	Ch. 177	HB	72	Ch. 237	HB	71

Ch. 238	HB 78	Ch. 298	HB 401	Ch. 358	HB 607
Ch. 239	HB 95	Ch. 299	HB 533	Ch. 359	HB 614
Ch. 240	HB 122	Ch. 300	HB 630	Ch. 360	SB 28
Ch. 241	HB 187	Ch. 301	SB 301	Ch. 361	SB 45
Ch. 242	HB 189	Ch. 302	SB 94	Ch. 362	SB 69
Ch. 243	HB 195	Ch. 303	SB 158	Ch. 363	SB 84
Ch. 244	HB 203	Ch. 304	SB 160	Ch. 364	SB 348
Ch. 245	HB 250	Ch. 305	SB 191	Ch. 365	HB 8
Ch. 246	HB 299	Ch. 306	HB 544	Ch. 366	HB 54
Ch. 247	HB 344	Ch. 307	HB 391	Ch. 367	HB 129
Ch. 248	HB 352	Ch. 308	HB 16	Ch. 368	HB 354
Ch. 249	HB 410	Ch. 309	HB 233	Ch. 369	HB 395
Ch. 250	HB 446	Ch. 310	HB 259	Ch. 370	HB 414
Ch. 251	HB 448	Ch. 311	HB 310	Ch. 371	HB 417
Ch. 252	HB 461	Ch. 312	HB 355	Ch. 372	HB 447
Ch. 253	HB 485	Ch. 313	HB 415	Ch. 373	HB 464
Ch. 254	HB 508	Ch. 314	HB 442	Ch. 374	HB 478
Ch. 255	HB 510	Ch. 315	HB 498	Ch. 375	HB 524
Ch. 256	HB 546	Ch. 316	HB 575	Ch. 376	HB 626
Ch. 257	HB 552	Ch. 317	SB 108	Ch. 377	SB 196
Ch. 258	SB 43	Ch. 318	SB 139	Ch. 378	SB 198
Ch. 259	SB 106	Ch. 319	SB 178	Ch. 379	SB 324
Ch. 260	SB 112	Ch. 320	SB 183	Ch. 380	HB 2
Ch. 261	SB 161	Ch. 321	SB 203	Ch. 381	HB 5
Ch. 262	SB 199	Ch. 322	SB 275	Ch. 382	HB 6
Ch. 263	SB 207	Ch. 323	SB 355	Ch. 383	HB 10
Ch. 264	SB 251	Ch. 324	SB 357	Ch. 384	HB 11
Ch. 265	SB 292	Ch. 325	HB 15	Ch. 385	HB 13
Ch. 266	SB 340	Ch. 326	SB 144	Ch. 386	HB 97
Ch. 267	SB 351	Ch. 327	SB 294	Ch. 387	HB 262
Ch. 268	SB 361	Ch. 328	SB 325	Ch. 388	HB 345
Ch. 269	SB 408	Ch. 329	HB 39	Ch. 389	HB 377
Ch. 270	SB 405	Ch. 330	HB 46	Ch. 390	HB 454
Ch. 271	HB 104	Ch. 331	HB 48	Ch. 391	HB 477
Ch. 272	HB 336	Ch. 332	HB 74	Ch. 392	HB 554
Ch. 273	SB 182	Ch. 333	HB 76	Ch. 393	HB 559
Ch. 274	SB 290	Ch. 334	HB 87	Ch. 394	HB 603
Ch. 275	HB 61	Ch. 335	HB 106	Ch. 395	HB 609
Ch. 276	HB 86	Ch. 336	HB 120	Ch. 396	SB 96
Ch. 277	HB 116	Ch. 337	HB 131	Ch. 397	SB 101
Ch. 278	HB 118	Ch. 338	HB 147	Ch. 398	SB 117
Ch. 279	HB 258	Ch. 339	HB 206	Ch. 399	SB 162
Ch. 280	HB 286	Ch. 340	HB 254	Ch. 400	SB 175
Ch. 281	HB 313	Ch. 341	HB 274	Ch. 401	SB 201
Ch. 282	HB 320	Ch. 342	HB 359	Ch. 402	SB 215
Ch. 283	HB 433	Ch. 343	HB 385	Ch. 403	SB 217
Ch. 284	HB 560	Ch. 344	HB 403	Ch. 404	SB 223
Ch. 285	HB 605	Ch. 345	HB 431	Ch. 405	SB 231
Ch. 286	SB 20	Ch. 346	HB 444	Ch. 406	SB 264
Ch. 287	SB 127	Ch. 347	HB 457	Ch. 407	SB 323
Ch. 288	SB 154	Ch. 348	HB 494	Ch. 408	SB 335
Ch. 289	SB 179	Ch. 349	HB 545	Ch. 409	SB 336
Ch. 290	SB 242	Ch. 350	HB 555	Ch. 410	SB 342
Ch. 291	SB 345	Ch. 351	HB 562	Ch. 411	SB 364
Ch. 292	HB 521	Ch. 352	HB 580	Ch. 412	SB 386
Ch. 293	HB 3	Ch. 353	HB 583	Ch. 413	SB 410
Ch. 294	HB 4	Ch. 354	HB 586	Ch. 414	HB 184
Ch. 295	HB 64	Ch. 355	HB 588	Ch. 415	HB 497
Ch. 296	HB 157	Ch. 356	HB 591	Ch. 416	SB 23
Ch. 297	SB 200	Ch. 357	HB 593	Ch. 417	SB 44

Ch. 418	.....	SB	226
Ch. 419	.....	SB	280
Ch. 420	.....	SB	297
Ch. 421	.....	SB	346
Ch. 422	.....	SB	369
Ch. 423	.....	SB	392

**EFFECTIVE DATES BY CHAPTER NUMBER**

<u>Chapter No.</u>		<u>Bill No.</u>	<u>Effective Date</u>
Ch. 1	.....	HB 1	01/25/2013
Ch. 2	.....	HB 20	07/01/2013
Ch. 3	.....	HB 25	07/01/2013
Ch. 4	.....	HB 42	10/01/2013
Ch. 5	.....	HB 139	10/01/2013
Ch. 6	.....	SB 8	10/01/2013
Ch. 7	.....	SB 50	10/01/2013
Ch. 8	.....	HB 51	10/01/2013
Ch. 9	.....	HB 92	10/01/2013
Ch. 10	.....	SB 29	02/11/2013
Ch. 11	.....	HB 35	02/13/2013
Ch. 12	.....	HB 56	10/01/2013
Ch. 13	.....	HB 73	02/13/2013
Ch. 14	.....	HB 132	10/01/2013
Ch. 15	.....	SB 46	10/01/2013
Ch. 16	.....	SB 64	02/13/2013
Ch. 17	§§ 1-3, 5-9, 10(1), and 11	HB 21	07/01/2013
	§§ 4 and 10(2).		Effective on the date that the governor certifies to the code commissioner that federal funds and interest earnings received under 17-3-112 have been spent
Ch. 18	.....	HB 34	02/18/2013
Ch. 19	.....	HB 41	02/18/2013
Ch. 20	.....	HB 53	02/18/2013
Ch. 21	.....	SB 15	10/01/2013
Ch. 22	.....	SB 16	10/01/2013
Ch. 23	.....	SB 30	02/18/2013
Ch. 24	.....	SB 39	02/18/2013
Ch. 25	.....	SB 52	02/18/2013
Ch. 26	.....	SB 60	02/18/2013
Ch. 27	.....	SB 72	02/18/2013
Ch. 28	.....	HB 17	10/01/2013
Ch. 29	.....	HB 107	07/01/2013
Ch. 30	.....	HB 137	02/19/2013
Ch. 31	.....	SB 121	10/01/2013
Ch. 32	.....	HB 32	10/01/2013
Ch. 33	.....	HB 40	02/20/2013
Ch. 34	.....	HB 52	10/01/2013
Ch. 35	.....	HB 55	02/20/2013
Ch. 36	.....	HB 60	10/01/2013
Ch. 37	.....	HB 111	10/01/2013
Ch. 38	.....	SB 32	10/01/2013
Ch. 39	.....	SB 87	07/01/2013
Ch. 40	.....	HB 164	10/01/2013
Ch. 41	.....	SB 5	10/01/2013
Ch. 42	.....	SB 36	10/01/2013
Ch. 43	.....	SB 51	10/01/2013
Ch. 44	.....	SB 141	02/26/2013
Ch. 45	.....	SB 111	10/01/2013
Ch. 46	.....	HB 36	10/01/2013



## EFFECTIVE DATES BY CHAPTER NUMBER

Ch. 47	HB 114	10/01/2013
Ch. 48	HB 115	02/27/2013
Ch. 49	HB 138	10/01/2013
Ch. 50	HB 192	02/27/2013
Ch. 51	HB 193	10/01/2013
Ch. 52	HB 202	02/27/2013
Ch. 53	SB 73	02/27/2013
Ch. 54	SB 75	02/27/2013
Ch. 55	SB 90	07/01/2013
Ch. 56	HB 148	02/28/2013
Ch. 57	HB 152	02/28/2013
Ch. 58	HB 155	10/01/2013
Ch. 59	HB 77	03/01/2013
Ch. 60	SB 47	07/01/2013
Ch. 61	SB 65	10/01/2013
Ch. 62	HB 47	07/01/2013
Ch. 63	HB 63	10/01/2013
Ch. 64	HB 141	07/01/2013
§§ 4 and 5		
§§ 1-3		10/01/2013
Ch. 65	HB 169	10/01/2013
Ch. 66	HB 81	03/07/2013
Ch. 67	HB 28	10/01/2013
Ch. 68	HB 123	10/01/2013
Ch. 69	HB 142	03/18/2013
Ch. 70	HB 179	10/01/2013
Ch. 71	HB 190	03/18/2013
Ch. 72	HB 243	10/01/2013
Ch. 73	SB 164	03/18/2013
Ch. 74	HB 82	03/20/2013
Ch. 75	HB 212	07/01/2013
Ch. 76	HB 252	10/01/2013
Ch. 77	HB 317	03/20/2013
Ch. 78	HB 318	10/01/2013
Ch. 79	HB 389	10/01/2013
Ch. 80	HB 199	10/01/2013
Ch. 81	HB 261	10/01/2013
Ch. 82	HB 264	03/22/2013
Ch. 83	SB 123	07/01/2013
Ch. 84	HB 59	03/27/2013
Ch. 85	HB 89	10/01/2013
Ch. 86	HB 305	10/01/2013
Ch. 87	HB 308	03/27/2013
Ch. 88	HB 330	10/01/2013
Ch. 89	HB 333	03/27/2013
Ch. 90	HB 337	03/27/2013
Ch. 91	HB 351	10/01/2013
Ch. 92	HB 356	03/27/2013
Ch. 93	HB 368	10/01/2013
Ch. 94	HB 399	03/27/2013
Ch. 95	SB 21	10/01/2013
Ch. 96	SB 35	10/01/2013
Ch. 97	SB 55	03/27/2013
Ch. 98	SB 92	10/01/2013
Ch. 99	SB 104	10/01/2013
Ch. 100	SB 211	10/01/2013
Ch. 101	SB 213	10/01/2013
Ch. 102	SB 343	10/01/2013
Ch. 103	HB 45	10/01/2013
Ch. 104	HB 136	10/01/2013
Ch. 105	HB 172	10/01/2013
Ch. 106	HB 270	10/01/2013
Ch. 107	HB 273	03/28/2013
Ch. 108	HB 347	03/28/2013

## MONTANA SESSION LAWS 2013

2046

Ch. 109	SB	40	03/28/2013
Ch. 110	SB	77	03/28/2013
Ch. 111	SB	145	10/01/2013
Ch. 112	SB	146	03/28/2013
Ch. 113	SB	225	10/01/2013
Ch. 114	SB	235	10/01/2013
Ch. 115	SB	266	07/01/2013
Ch. 116	HB	367	10/01/2013
Ch. 117	HB	422	10/01/2013
Ch. 118	SB	2	10/01/2013
Ch. 119	SB	34	01/01/2014
Ch. 120	SB	49	07/01/2013
Ch. 121	SB	61	03/29/2013
Ch. 122	SB	62	10/01/2013
Ch. 123	SB	71	10/01/2013
Ch. 124	SB	86	10/01/2013
Ch. 125	SB	93	10/01/2013
Ch. 126	SB	142	03/29/2013
Ch. 127	SB	291	10/01/2013
Ch. 128	SB	356	03/29/2013
Ch. 129	HB	163	07/01/2013
Ch. 130	HB	245	10/01/2013
Ch. 131	HB	325	10/01/2013
Ch. 132	HB	360	04/01/2013
Ch. 133	SB	3	10/01/2013
Ch. 134	SB	252	03/31/2013
Ch. 135	HB	140	10/01/2013
Ch. 136	HB	371	10/01/2013
Ch. 137	HB	247	10/01/2013
Ch. 138	SB	33	04/03/2013
Ch. 139	SB	57	01/01/2014
Ch. 140	SB	63	04/03/2013
Ch. 141	SB	70	04/03/2013
Ch. 142	SB	99	04/03/2013
Ch. 143	SB	132	10/01/2013
Ch. 144	SB	267	10/01/2013
Ch. 145	HB	91	07/01/2013
Ch. 146	HB	110	10/01/2013
Ch. 147	HB	125	10/01/2013
Ch. 148	HB	232	07/01/2013
Ch. 149	SB	326	10/01/2013
Ch. 150	HB	226	10/01/2013
Ch. 151	HB	278	04/05/2013
Ch. 152	HB	469	10/01/2013
Ch. 153	HB	168	10/01/2013
Ch. 154	HB	224	04/05/2013
Ch. 155	SB	67	10/01/2013
Ch. 156	SB	76	04/05/2013
Ch. 157	SB	103	10/01/2013
Ch. 158	SB	134	04/05/2013
Ch. 159	SB	137	04/05/2013
Ch. 160	SB	172	07/01/2013
Ch. 161	SB	189	04/05/2013
Ch. 162	SB	230	10/01/2013
Ch. 163	SB	249	10/01/2013
Ch. 164	SB	270	01/01/2014
Ch. 165	SB	293	10/01/2013
Ch. 166	SB	312	10/01/2013
Ch. 167	SB	128	07/01/2013
Ch. 168	HB	7	07/01/2013
Ch. 169	HB	22	04/09/2013
Ch. 170	HB	194	07/01/2013
Ch. 171	HB	314	04/09/2013

## EFFECTIVE DATES BY CHAPTER NUMBER

Ch. 172	HB 323	10/01/2013
Ch. 173	HB 65	12/31/2013
Ch. 174	HB 463	10/01/2013
Ch. 175	HB 38	07/01/2013
Ch. 176	HB 68	07/01/2013
Ch. 177	HB 72	04/12/2013
Ch. 178	HB 105	07/01/2013
Ch. 179	HB 210	04/12/2013
Ch. 180	HB 291	04/12/2013
Ch. 181	HB 328	10/01/2013
Ch. 182	HB 335	10/01/2013
Ch. 183	HB 362	10/01/2013
Ch. 184	HB 402	10/01/2013
Ch. 185	HB 455	10/01/2013
Ch. 186	HB 462	07/01/2013
Ch. 187	SB 48	10/01/2013
Ch. 188	SB 116	04/12/2013
Ch. 189	SB 165	07/01/2013
Ch. 190	SB 176	10/01/2013
Ch. 191	SB 185	10/01/2013
Ch. 192	SB 194	10/01/2013
Ch. 193	SB 259	10/01/2013
Ch. 194	SB 314	04/12/2013
	§§ 1-3 and 4,	
	§ 2	10/01/2013
Ch. 195	SB 316	10/01/2013
Ch. 196	SB 319	07/01/2013
Ch. 197	SB 327	04/12/2013
Ch. 198	SB 332	10/01/2013
Ch. 199	HB 79	Effective upon approval by the electorate
Ch. 200	HB 66	10/01/2013
Ch. 201	HB 84	07/01/2013
Ch. 202	HB 124	10/01/2013
Ch. 203	HB 127	10/01/2013
Ch. 204	HB 170	04/15/2013
Ch. 205	HB 388	10/01/2013
Ch. 206	HB 451	10/01/2013
Ch. 207	HB 465	07/01/2013
Ch. 208	HB 502	10/01/2013
Ch. 209	SB 11	10/01/2013
Ch. 210	SB 18	04/15/2013
Ch. 211	SB 120	10/01/2013
Ch. 212	SB 122	10/01/2013
Ch. 213	SB 136	07/01/2013
Ch. 214	SB 239	07/01/2013
Ch. 215	HB 9	07/01/2013
Ch. 216	§§ 1-4, 5(1)(a), 5(1)(c), 5(2), and 6-15	
	§ 5(1)(b)	04/16/2013
Ch. 217	HB 287	07/01/2013
Ch. 218	HB 513	10/01/2013
Ch. 219	HB 566	10/01/2013
Ch. 220	SB 149	10/01/2013
Ch. 221	SB 258	04/17/2013
Ch. 222	HB 182	04/18/2013
Ch. 223	HB 488	10/01/2013
Ch. 224	SB 88	04/18/2013
Ch. 225	SB 107	10/01/2013
Ch. 226	SB 245	04/18/2013
Ch. 227	SB 278	04/18/2013
Ch. 228	SB 306	04/18/2013
Ch. 229	HB 146	04/19/2013
Ch. 230	HB 256	04/19/2013

## MONTANA SESSION LAWS 2013

2048

Ch. 231	HB 459	10/01/2013
Ch. 232	SB 209	04/19/2013
Ch. 233	SB 271	04/19/2013
Ch. 234	HB 23	10/01/2013
Ch. 235	HB 24	07/01/2013
Ch. 236	HB 37	07/01/2013
Ch. 237	HB 71	07/01/2013
Ch. 238	HB 78	07/01/2013
Ch. 239	HB 95	07/01/2013
Ch. 240	HB 122	04/22/2013
Ch. 241	HB 187	09/01/2013
Ch. 242	HB 189	10/01/2013
Ch. 243	HB 195	10/01/2013
Ch. 244	HB 203	07/01/2013
Ch. 245	HB 250	07/01/2013
Ch. 246	HB 299	04/22/2013
Ch. 247	HB 344	10/01/2013
Ch. 248	HB 352	04/22/2013
Ch. 249	HB 410	10/01/2013
Ch. 250	HB 446	10/01/2013
Ch. 251	HB 448	10/01/2013
Ch. 252	HB 461	07/01/2013
Ch. 253	HB 485	04/22/2013
Ch. 254	HB 508	10/01/2013
Ch. 255	HB 510	10/01/2013
Ch. 256	HB 546	04/22/2013
Ch. 257	HB 552	10/01/2013
Ch. 258	SB 43	10/01/2013
Ch. 259	SB 106	04/22/2013
Ch. 260	SB 112	04/22/2013
Ch. 261	SB 161	10/01/2013
Ch. 262	SB 199	07/01/2013
Ch. 263	SB 207	10/01/2013
Ch. 264	SB 251	10/01/2013
Ch. 265	SB 292	10/01/2013
Ch. 266	SB 340	04/22/2013
Ch. 267	SB 351	10/01/2013
Ch. 268	SB 361	10/01/2013
Ch. 269	SB 408	Effective upon approval by the electorate
Ch. 270	SB 405	Effective upon approval by the electorate
Ch. 271	HB 104	10/01/2013
Ch. 272	HB 336	07/01/2013
Ch. 273	SB 182	04/22/2013
Ch. 274	SB 290	10/01/2013
Ch. 275	HB 61	10/01/2013
Ch. 276	HB 86	07/01/2013
Ch. 277	HB 116	04/24/2013
Ch. 278	HB 118	12/31/2013
Ch. 279	HB 258	04/24/2013
Ch. 280	HB 286	07/01/2013
Ch. 281	HB 313	07/01/2013
Ch. 282	HB 320	10/01/2013
Ch. 283	HB 433	04/24/2013
Ch. 284	HB 560	07/01/2013
Ch. 285	HB 605	04/24/2013
Ch. 286	SB 20	04/24/2013
Ch. 287	SB 127	10/01/2013
Ch. 288	SB 154	04/24/2013
Ch. 289	SB 179	07/01/2013
Ch. 290	SB 242	04/24/2013
Ch. 291	SB 345	04/24/2013

## EFFECTIVE DATES BY CHAPTER NUMBER

Ch. 292	HB 521	01/01/2015
		If approved by the electorate
	(Note: Ch. 292 was voided by sec. 16, Ch. 292)	
Ch. 293	HB 3	04/25/2013
Ch. 294	HB 4	04/25/2013
Ch. 295	HB 64	10/01/2013
Ch. 296	HB 157	07/01/2013
Ch. 297	SB 200	04/25/2013
Ch. 298	HB 401	03/01/2014
Ch. 299	HB 533	10/01/2013
Ch. 300	HB 630	04/25/2013
Ch. 301	SB 301	04/25/2013
Ch. 302	SB 94	10/01/2013
Ch. 303	SB 158	07/01/2013
Ch. 304	SB 160	04/25/2013
Ch. 305	SB 191	07/01/2013
Ch. 306	HB 544	10/01/2013
Ch. 307	HB 391	07/01/2013
Ch. 308	HB 16	10/01/2013
Ch. 309	HB 233	04/26/2013
Ch. 310	HB 259	04/26/2013
Ch. 311	HB 310	10/01/2013
Ch. 312	HB 355	04/26/2013
Ch. 313	HB 415	04/26/2013
Ch. 314	HB 442	10/01/2013
Ch. 315	HB 498	07/01/2013
Ch. 316	HB 575	07/01/2013
Ch. 317	SB 108	04/26/2013
Ch. 318	SB 139	07/01/2013
Ch. 319	SB 178	03/01/2014
Ch. 320	SB 183	04/26/2013
Ch. 321	SB 203	10/01/2013
Ch. 322	SB 275	01/01/2014
Ch. 323	SB 355	10/01/2013
Ch. 324	SB 357	10/01/2013
Ch. 325	HB 15	07/01/2013
Ch. 326	SB 144	04/26/2013
Ch. 327	SB 294	10/01/2013
Ch. 328	SB 325	04/28/2013
Ch. 329	HB 39	07/01/2013
Ch. 330	HB 46	10/01/2013
Ch. 331	HB 48	04/30/2013
Ch. 332	HB 74	10/01/2013
Ch. 333	HB 76	07/01/2013
Ch. 334	HB 87	07/01/2013
Ch. 335	HB 106	10/01/2013
Ch. 336	HB 120	01/01/2014
Ch. 337	HB 131	10/01/2013
Ch. 338	HB 147	10/01/2013
Ch. 339	HB 206	07/01/2013
Ch. 340	HB 254	10/01/2013
Ch. 341	HB 274	10/01/2013
Ch. 342	HB 359	10/01/2013
Ch. 343	HB 385	10/01/2013
Ch. 344	HB 403	07/01/2013
Ch. 345	HB 431	10/01/2013
Ch. 346	HB 444	01/01/2014
Ch. 347	HB 457	04/30/2013
Ch. 348	HB 494	10/01/2013
Ch. 349	HB 545	01/01/2014
Ch. 350	HB 555	10/01/2013
Ch. 351	HB 562	07/01/2013
Ch. 352	HB 580	04/30/2013

MONTANA SESSION LAWS 2013

2050

Ch. 353	HB 583	07/01/2013
Ch. 354 §§ 1-10, 12 and 13	HB 586	04/30/2013
§ 11		07/01/2013
Ch. 355	HB 588	10/01/2013
Ch. 356	HB 591	07/01/2013
Ch. 357	HB 593	10/01/2013
Ch. 358	HB 607	10/01/2013
Ch. 359	HB 614	10/01/2013
Ch. 360	SB 28	10/01/2013
Ch. 361	SB 45	10/01/2013
Ch. 362	SB 69	10/01/2013
Ch. 363	SB 84	04/30/2013
Ch. 364 §§ 9 and 11	SB 348	04/30/2013
§§ 1-8, 10 and 12		07/01/2013
Ch. 365	HB 8	07/01/2013
Ch. 366	HB 54	07/01/2013
Ch. 367	HB 129	10/01/2013
Ch. 368	HB 354	05/01/2013
Ch. 369	HB 395	10/01/2013
Ch. 370	HB 414	10/01/2013
Ch. 371	HB 417	04/30/2013
Ch. 372	HB 447	07/01/2013
Ch. 373	HB 464	10/01/2013
Ch. 374	HB 478	07/01/2013
Ch. 375	HB 524	10/01/2013
Ch. 376	HB 626	07/01/2013
Ch. 377	SB 196	10/01/2013
Ch. 378	SB 198	10/01/2013
Ch. 379	SB 324	09/01/2013
Ch. 380	HB 2	07/01/2013
Ch. 381	HB 5	05/06/2013
Ch. 382	HB 6	07/01/2013
Ch. 383	HB 10	07/01/2013
Ch. 384	HB 11	07/01/2013
Ch. 385	HB 13	07/01/2013
Ch. 386	HB 97	07/01/2013
Ch. 387	HB 262	05/06/2013
Ch. 388	HB 345	07/01/2013
Ch. 389	HB 377	07/01/2013
Ch. 390	HB 454	07/01/2013
Ch. 391	HB 477	05/05/2013
Ch. 392	HB 554	07/01/2013
Ch. 393 §§ 3-10	HB 559	05/06/2013
§§ 1 and 2		10/01/2013
Ch. 394	HB 603	10/01/2013
Ch. 395	HB 609	05/06/2013
Ch. 396	SB 96	05/06/2013
Ch. 397	SB 101	03/01/2014
Ch. 398	SB 117	05/06/2013
Ch. 399	SB 162	01/01/2014
Ch. 400 §§ 1-8, 10-28 and 32-43	SB 175	05/06/2013
§§ 29 and 31		07/01/2013
§§ 9 and 30		07/01/2016
Ch. 401	SB 201	10/01/2013
Ch. 402	SB 215	07/01/2013
Ch. 403	SB 217	10/01/2013
Ch. 404	SB 223	05/06/2013
Ch. 405	SB 231	10/01/2013
Ch. 406	SB 264	08/01/2013
Ch. 407	SB 323	07/01/2013
Ch. 408	SB 335	05/06/2013
Ch. 409	SB 336	10/01/2013
Ch. 410	SB 342	05/06/2013

## EFFECTIVE DATES BY DATE

Ch. 411	SB 364	05/06/2013
Ch. 412	SB 386	07/01/2013
Ch. 413	SB 410	05/06/2013
Ch. 414	HB 184	05/06/2013
Ch. 415	HB 497	10/01/2013
Ch. 416	SB 23	10/01/2013
Ch. 417	SB 44	05/06/2013
Ch. 418	SB 226	10/01/2013
Ch. 419	§§ 1 and 3-10 § 2	SB 280 05/06/2013 01/01/2015
Ch. 420	SB 297	05/06/2013
Ch. 421	SB 346	10/01/2013
Ch. 422	SB 369	05/06/2013
Ch. 423	SB 392	10/01/2013

## EFFECTIVE DATES BY DATE

<u>Effective Date</u>	<u>Chapter No.</u>	<u>Bill No.</u>
01/25/2013	Ch. 1	HB 1
02/11/2013	Ch. 10	SB 29
02/13/2013	Ch. 11	HB 35
02/13/2013	Ch. 13	HB 73
02/13/2013	Ch. 16	SB 64
02/18/2013	Ch. 18	HB 34
02/18/2013	Ch. 19	HB 41
02/18/2013	Ch. 20	HB 53
02/18/2013	Ch. 23	SB 30
02/18/2013	Ch. 24	SB 39
02/18/2013	Ch. 25	SB 52
02/18/2013	Ch. 26	SB 60
02/18/2013	Ch. 27	SB 72
02/19/2013	Ch. 30	HB 137
02/20/2013	Ch. 33	HB 40
02/20/2013	Ch. 35	HB 55
02/26/2013	Ch. 44	SB 141
02/27/2013	Ch. 48	HB 115
02/27/2013	Ch. 50	HB 192
02/27/2013	Ch. 52	HB 202
02/27/2013	Ch. 53	SB 73
02/27/2013	Ch. 54	SB 75
02/28/2013	Ch. 56	HB 148
02/28/2013	Ch. 57	HB 152
03/01/2013	Ch. 59	HB 77
03/07/2013	Ch. 66	HB 81
03/18/2013	Ch. 69	HB 142
03/18/2013	Ch. 71	HB 190
03/18/2013	Ch. 73	SB 164
03/20/2013	Ch. 74	HB 82
03/20/2013	Ch. 77	HB 317
03/22/2013	Ch. 82	HB 264
03/27/2013	Ch. 84	HB 59
03/27/2013	Ch. 87	HB 308
03/27/2013	Ch. 89	HB 333
03/27/2013	Ch. 90	HB 337
03/27/2013	Ch. 92	HB 356
03/27/2013	Ch. 94	HB 399
03/27/2013	Ch. 97	SB 55
03/28/2013	Ch. 107	HB 273
03/28/2013	Ch. 108	HB 347
03/28/2013	Ch. 109	SB 40
03/28/2013	Ch. 110	SB 77



## MONTANA SESSION LAWS 2013

2052

03/28/2013	Ch.	112	SB	146
03/29/2013	Ch.	121	SB	61
03/29/2013	Ch.	126	SB	142
03/29/2013	Ch.	128	SB	356
03/31/2013	Ch.	134	SB	252
04/01/2013	Ch.	132	HB	360
04/03/2013	Ch.	138	SB	33
04/03/2013	Ch.	140	SB	63
04/03/2013	Ch.	141	SB	70
04/03/2013	Ch.	142	SB	99
04/05/2013	Ch.	151	HB	278
04/05/2013	Ch.	154	HB	224
04/05/2013	Ch.	156	SB	76
04/05/2013	Ch.	158	SB	134
04/05/2013	Ch.	159	SB	137
04/05/2013	Ch.	161	SB	189
04/09/2013	Ch.	169	HB	22
04/09/2013	Ch.	171	HB	314
04/12/2013	Ch.	177	HB	72
04/12/2013	Ch.	179	HB	210
04/12/2013	Ch.	180	HB	291
04/12/2013	Ch.	188	SB	116
04/12/2013	Ch.	194	SB	314
		§§ 1-3 and 4		
04/12/2013	Ch.	197	SB	327
04/15/2013	Ch.	204	HB	170
04/15/2013	Ch.	210	SB	18
04/16/2013	Ch.	216	HB	117
		§§ 1-4, 5(1)(a), 5(1)(c), 5(2), and 6-15		
04/17/2013	Ch.	221	SB	258
04/18/2013	Ch.	222	HB	182
04/18/2013	Ch.	224	SB	88
04/18/2013	Ch.	226	SB	245
04/18/2013	Ch.	227	SB	278
04/18/2013	Ch.	228	SB	306
04/19/2013	Ch.	229	HB	146
04/19/2013	Ch.	230	HB	256
04/19/2013	Ch.	232	SB	209
04/19/2013	Ch.	233	SB	271
04/22/2013	Ch.	240	HB	122
04/22/2013	Ch.	246	HB	299
04/22/2013	Ch.	248	HB	352
04/22/2013	Ch.	253	HB	485
04/22/2013	Ch.	256	HB	546
04/22/2013	Ch.	259	SB	106
04/22/2013	Ch.	260	SB	112
04/22/2013	Ch.	266	SB	340
04/22/2013	Ch.	273	SB	182
04/24/2013	Ch.	277	HB	116
04/24/2013	Ch.	279	HB	258
04/24/2013	Ch.	283	HB	433
04/24/2013	Ch.	285	HB	605
04/24/2013	Ch.	286	SB	20
04/24/2013	Ch.	288	SB	154
04/24/2013	Ch.	290	SB	242
04/24/2013	Ch.	291	SB	345
04/25/2013	Ch.	293	HB	3
04/25/2013	Ch.	294	HB	4
04/25/2013	Ch.	297	SB	200
04/25/2013	Ch.	300	HB	630
04/25/2013	Ch.	301	SB	301
04/25/2013	Ch.	304	SB	160

## EFFECTIVE DATES BY DATE

04/26/2013	Ch.	309	HB	233
04/26/2013	Ch.	310	HB	259
04/26/2013	Ch.	312	HB	355
04/26/2013	Ch.	313	HB	415
04/26/2013	Ch.	317	SB	108
04/26/2013	Ch.	320	SB	183
04/26/2013	Ch.	326	SB	144
04/28/2013	Ch.	328	SB	325
04/30/2013	Ch.	331	HB	48
04/30/2013	Ch.	347	HB	457
04/30/2013	Ch.	352	HB	580
04/30/2013	Ch.	354	HB	586
		§§ 1-10, 12 and 13		
04/30/2013	Ch.	363	SB	84
04/30/2013	Ch.	364	SB	348
		§§ 9 and 11		
04/30/2013	Ch.	371	HB	417
05/01/2013	Ch.	368	HB	354
05/05/2013	Ch.	391	HB	477
05/06/2013	Ch.	381	HB	5
05/06/2013	Ch.	387	HB	262
05/06/2013	Ch.	393	HB	559
		§§ 3-10		
05/06/2013	Ch.	395	HB	609
05/06/2013	Ch.	396	SB	96
05/06/2013	Ch.	398	SB	117
05/06/2013	Ch.	400	SB	175
		§§ 1-8, 10-28 and 32-43		
05/06/2013	Ch.	404	SB	223
05/06/2013	Ch.	408	SB	335
05/06/2013	Ch.	410	SB	342
05/06/2013	Ch.	411	SB	364
05/06/2013	Ch.	413	SB	410
05/06/2013	Ch.	414	HB	184
05/06/2013	Ch.	417	SB	44
05/06/2013	Ch.	419	SB	280
		§§ 1 and 3-10		
05/06/2013	Ch.	420	SB	297
05/06/2013	Ch.	422	SB	369
07/01/2013	Ch.	2	HB	20
07/01/2013	Ch.	3	HB	25
07/01/2013	Ch.	17	HB	21
		§§ 1-3, 5-9, 10(1), and 11		
07/01/2013	Ch.	29	HB	107
07/01/2013	Ch.	39	SB	87
07/01/2013	Ch.	55	SB	90
07/01/2013	Ch.	60	SB	47
07/01/2013	Ch.	62	HB	47
07/01/2013	Ch.	64	HB	141
		§§ 4 and 5		
07/01/2013	Ch.	75	HB	212
07/01/2013	Ch.	83	SB	123
07/01/2013	Ch.	115	SB	266
07/01/2013	Ch.	120	SB	49
07/01/2013	Ch.	129	HB	163
07/01/2013	Ch.	145	HB	91
07/01/2013	Ch.	148	HB	232
07/01/2013	Ch.	160	SB	172
07/01/2013	Ch.	167	SB	128
07/01/2013	Ch.	168	HB	7
07/01/2013	Ch.	170	HB	194
07/01/2013	Ch.	175	HB	38
07/01/2013	Ch.	176	HB	68

## MONTANA SESSION LAWS 2013

2054

07/01/2013	Ch.	178	HB	105
07/01/2013	Ch.	186	HB	462
07/01/2013	Ch.	189	SB	165
07/01/2013	Ch.	196	SB	319
07/01/2013	Ch.	201	HB	84
07/01/2013	Ch.	207	HB	465
07/01/2013	Ch.	213	SB	136
07/01/2013	Ch.	214	SB	239
07/01/2013	Ch.	215	HB	9
07/01/2013	Ch.	216	HB	117
		§ 5(1)(b)		
07/01/2013	Ch.	235	HB	24
07/01/2013	Ch.	236	HB	37
07/01/2013	Ch.	237	HB	71
07/01/2013	Ch.	238	HB	78
07/01/2013	Ch.	239	HB	95
07/01/2013	Ch.	244	HB	203
07/01/2013	Ch.	245	HB	250
07/01/2013	Ch.	252	HB	461
07/01/2013	Ch.	262	SB	199
07/01/2013	Ch.	272	HB	336
07/01/2013	Ch.	276	HB	86
07/01/2013	Ch.	280	HB	286
07/01/2013	Ch.	281	HB	313
07/01/2013	Ch.	284	HB	560
07/01/2013	Ch.	289	SB	179
07/01/2013	Ch.	296	HB	157
07/01/2013	Ch.	303	SB	158
07/01/2013	Ch.	305	SB	191
07/01/2013	Ch.	307	HB	391
07/01/2013	Ch.	315	HB	498
07/01/2013	Ch.	316	HB	575
07/01/2013	Ch.	318	SB	139
07/01/2013	Ch.	325	HB	15
07/01/2013	Ch.	329	HB	39
07/01/2013	Ch.	333	HB	76
07/01/2013	Ch.	334	HB	87
07/01/2013	Ch.	339	HB	206
07/01/2013	Ch.	344	HB	403
07/01/2013	Ch.	351	HB	562
07/01/2013	Ch.	353	HB	583
07/01/2013	Ch.	354	HB	586
		§ 11		
07/01/2013	Ch.	356	HB	591
07/01/2013	Ch.	364	SB	348
		§§ 1-8, 10 and 12		
07/01/2013	Ch.	365	HB	8
07/01/2013	Ch.	366	HB	54
07/01/2013	Ch.	372	HB	447
07/01/2013	Ch.	374	HB	478
07/01/2013	Ch.	376	HB	626
07/01/2013	Ch.	380	HB	2
07/01/2013	Ch.	382	HB	6
07/01/2013	Ch.	383	HB	10
07/01/2013	Ch.	384	HB	11
07/01/2013	Ch.	385	HB	13
07/01/2013	Ch.	386	HB	97
07/01/2013	Ch.	388	HB	345
07/01/2013	Ch.	389	HB	377
07/01/2013	Ch.	390	HB	454
07/01/2013	Ch.	392	HB	554
07/01/2013	Ch.	400	SB	175
		§§ 29 and 31		

## EFFECTIVE DATES BY DATE

07/01/2013	Ch.	402	SB	215
07/01/2013	Ch.	407	SB	323
07/01/2013	Ch.	412	SB	386
08/01/2013	Ch.	406	SB	264
09/01/2013	Ch.	241	HB	187
09/01/2013	Ch.	379	SB	324
10/01/2013	Ch.	4	HB	42
10/01/2013	Ch.	5	HB	139
10/01/2013	Ch.	6	SB	8
10/01/2013	Ch.	7	SB	50
10/01/2013	Ch.	8	HB	51
10/01/2013	Ch.	9	HB	92
10/01/2013	Ch.	12	HB	56
10/01/2013	Ch.	14	HB	132
10/01/2013	Ch.	15	SB	46
10/01/2013	Ch.	21	SB	15
10/01/2013	Ch.	22	SB	16
10/01/2013	Ch.	28	HB	17
10/01/2013	Ch.	31	SB	121
10/01/2013	Ch.	32	HB	32
10/01/2013	Ch.	34	HB	52
10/01/2013	Ch.	36	HB	60
10/01/2013	Ch.	37	HB	111
10/01/2013	Ch.	38	SB	32
10/01/2013	Ch.	40	HB	164
10/01/2013	Ch.	41	SB	5
10/01/2013	Ch.	42	SB	36
10/01/2013	Ch.	43	SB	51
10/01/2013	Ch.	45	SB	111
10/01/2013	Ch.	46	HB	36
10/01/2013	Ch.	47	HB	114
10/01/2013	Ch.	49	HB	138
10/01/2013	Ch.	51	HB	193
10/01/2013	Ch.	58	HB	155
10/01/2013	Ch.	61	SB	65
10/01/2013	Ch.	63	HB	63
10/01/2013	Ch.	64	HB	141
		§§ 1-3		
10/01/2013	Ch.	65	HB	169
10/01/2013	Ch.	67	HB	28
10/01/2013	Ch.	68	HB	123
10/01/2013	Ch.	70	HB	179
10/01/2013	Ch.	72	HB	243
10/01/2013	Ch.	76	HB	252
10/01/2013	Ch.	78	HB	318
10/01/2013	Ch.	79	HB	389
10/01/2013	Ch.	80	HB	199
10/01/2013	Ch.	81	HB	261
10/01/2013	Ch.	85	HB	89
10/01/2013	Ch.	86	HB	305
10/01/2013	Ch.	88	HB	330
10/01/2013	Ch.	91	HB	351
10/01/2013	Ch.	93	HB	368
10/01/2013	Ch.	95	SB	21
10/01/2013	Ch.	96	SB	35
10/01/2013	Ch.	98	SB	92
10/01/2013	Ch.	99	SB	104
10/01/2013	Ch.	100	SB	211
10/01/2013	Ch.	101	SB	213
10/01/2013	Ch.	102	SB	343
10/01/2013	Ch.	103	HB	45
10/01/2013	Ch.	104	HB	136
10/01/2013	Ch.	105	HB	172

## MONTANA SESSION LAWS 2013

2056

10/01/2013	Ch.	106	HB	270
10/01/2013	Ch.	111	SB	145
10/01/2013	Ch.	113	SB	225
10/01/2013	Ch.	114	SB	235
10/01/2013	Ch.	116	HB	367
10/01/2013	Ch.	117	HB	422
10/01/2013	Ch.	118	SB	2
10/01/2013	Ch.	122	SB	62
10/01/2013	Ch.	123	SB	71
10/01/2013	Ch.	124	SB	86
10/01/2013	Ch.	125	SB	93
10/01/2013	Ch.	127	SB	291
10/01/2013	Ch.	130	HB	245
10/01/2013	Ch.	131	HB	325
10/01/2013	Ch.	133	SB	3
10/01/2013	Ch.	135	HB	140
10/01/2013	Ch.	136	HB	371
10/01/2013	Ch.	137	HB	247
10/01/2013	Ch.	143	SB	132
10/01/2013	Ch.	144	SB	267
10/01/2013	Ch.	146	HB	110
10/01/2013	Ch.	147	HB	125
10/01/2013	Ch.	149	SB	326
10/01/2013	Ch.	150	HB	226
10/01/2013	Ch.	152	HB	469
10/01/2013	Ch.	153	HB	168
10/01/2013	Ch.	155	SB	67
10/01/2013	Ch.	157	SB	103
10/01/2013	Ch.	162	SB	230
10/01/2013	Ch.	163	SB	249
10/01/2013	Ch.	165	SB	293
10/01/2013	Ch.	166	SB	312
10/01/2013	Ch.	172	HB	323
10/01/2013	Ch.	174	HB	463
10/01/2013	Ch.	181	HB	328
10/01/2013	Ch.	182	HB	335
10/01/2013	Ch.	183	HB	362
10/01/2013	Ch.	184	HB	402
10/01/2013	Ch.	185	HB	455
10/01/2013	Ch.	187	SB	48
10/01/2013	Ch.	190	SB	176
10/01/2013	Ch.	191	SB	185
10/01/2013	Ch.	192	SB	194
10/01/2013	Ch.	193	SB	259
10/01/2013	Ch.	194	SB	314
		§ 2		
10/01/2013	Ch.	195	SB	316
10/01/2013	Ch.	198	SB	332
10/01/2013	Ch.	200	HB	66
10/01/2013	Ch.	202	HB	124
10/01/2013	Ch.	203	HB	127
10/01/2013	Ch.	205	HB	388
10/01/2013	Ch.	206	HB	451
10/01/2013	Ch.	208	HB	502
10/01/2013	Ch.	209	SB	11
10/01/2013	Ch.	211	SB	120
10/01/2013	Ch.	212	SB	122
10/01/2013	Ch.	217	HB	287
10/01/2013	Ch.	218	HB	513
10/01/2013	Ch.	219	HB	566
10/01/2013	Ch.	220	SB	149
10/01/2013	Ch.	223	HB	488
10/01/2013	Ch.	225	SB	107

## EFFECTIVE DATES BY DATE

10/01/2013	Ch.	231	HB	459
10/01/2013	Ch.	234	HB	23
10/01/2013	Ch.	242	HB	189
10/01/2013	Ch.	243	HB	195
10/01/2013	Ch.	247	HB	344
10/01/2013	Ch.	249	HB	410
10/01/2013	Ch.	250	HB	446
10/01/2013	Ch.	251	HB	448
10/01/2013	Ch.	254	HB	508
10/01/2013	Ch.	255	HB	510
10/01/2013	Ch.	257	HB	552
10/01/2013	Ch.	258	SB	43
10/01/2013	Ch.	261	SB	161
10/01/2013	Ch.	263	SB	207
10/01/2013	Ch.	264	SB	251
10/01/2013	Ch.	265	SB	292
10/01/2013	Ch.	267	SB	351
10/01/2013	Ch.	268	SB	361
10/01/2013	Ch.	271	HB	104
10/01/2013	Ch.	274	SB	290
10/01/2013	Ch.	275	HB	61
10/01/2013	Ch.	282	HB	320
10/01/2013	Ch.	287	SB	127
10/01/2013	Ch.	295	HB	64
10/01/2013	Ch.	299	HB	533
10/01/2013	Ch.	302	SB	94
10/01/2013	Ch.	306	HB	544
10/01/2013	Ch.	308	HB	16
10/01/2013	Ch.	311	HB	310
10/01/2013	Ch.	314	HB	442
10/01/2013	Ch.	321	SB	203
10/01/2013	Ch.	323	SB	355
10/01/2013	Ch.	324	SB	357
10/01/2013	Ch.	327	SB	294
10/01/2013	Ch.	330	HB	46
10/01/2013	Ch.	332	HB	74
10/01/2013	Ch.	335	HB	106
10/01/2013	Ch.	337	HB	131
10/01/2013	Ch.	338	HB	147
10/01/2013	Ch.	340	HB	254
10/01/2013	Ch.	341	HB	274
10/01/2013	Ch.	342	HB	359
10/01/2013	Ch.	343	HB	385
10/01/2013	Ch.	345	HB	431
10/01/2013	Ch.	348	HB	494
10/01/2013	Ch.	350	HB	555
10/01/2013	Ch.	355	HB	588
10/01/2013	Ch.	357	HB	593
10/01/2013	Ch.	358	HB	607
10/01/2013	Ch.	359	HB	614
10/01/2013	Ch.	360	SB	28
10/01/2013	Ch.	361	SB	45
10/01/2013	Ch.	362	SB	69
10/01/2013	Ch.	367	HB	129
10/01/2013	Ch.	369	HB	395
10/01/2013	Ch.	370	HB	414
10/01/2013	Ch.	373	HB	464
10/01/2013	Ch.	375	HB	524
10/01/2013	Ch.	377	SB	196
10/01/2013	Ch.	378	SB	198
10/01/2013	Ch.	393	HB	559
		§§ 1 and 2		
10/01/2013	Ch.	394	HB	603

MONTANA SESSION LAWS 2013

2058

10/01/2013 . . . . .	Ch.	401 . . . . .	SB	201
10/01/2013 . . . . .	Ch.	403 . . . . .	SB	217
10/01/2013 . . . . .	Ch.	405 . . . . .	SB	231
10/01/2013 . . . . .	Ch.	409 . . . . .	SB	336
10/01/2013 . . . . .	Ch.	415 . . . . .	HB	497
10/01/2013 . . . . .	Ch.	416 . . . . .	SB	23
10/01/2013 . . . . .	Ch.	418 . . . . .	SB	226
10/01/2013 . . . . .	Ch.	421 . . . . .	SB	346
10/01/2013 . . . . .	Ch.	423 . . . . .	SB	392
12/31/2013 . . . . .	Ch.	173 . . . . .	HB	65
12/31/2013 . . . . .	Ch.	278 . . . . .	HB	118
01/01/2014 . . . . .	Ch.	119 . . . . .	SB	34
01/01/2014 . . . . .	Ch.	139 . . . . .	SB	57
01/01/2014 . . . . .	Ch.	164 . . . . .	SB	270
01/01/2014 . . . . .	Ch.	322 . . . . .	SB	275
01/01/2014 . . . . .	Ch.	336 . . . . .	HB	120
01/01/2014 . . . . .	Ch.	346 . . . . .	HB	444
01/01/2014 . . . . .	Ch.	349 . . . . .	HB	545
01/01/2014 . . . . .	Ch.	399 . . . . .	SB	162
03/01/2014 . . . . .	Ch.	298 . . . . .	HB	401
03/01/2014 . . . . .	Ch.	319 . . . . .	SB	178
03/01/2014 . . . . .	Ch.	397 . . . . .	SB	101
01/01/2015 . . . . .	Ch.	292 . . . . .	HB	521
		If approved by the electorate (Note: Ch. 292 was voided by sec. 16, Ch. 292)		
01/01/2015 . . . . .	Ch.	419 . . . . .	SB	280
		§ 2		
07/01/2016 . . . . .	Ch.	400 . . . . .	SB	175
		§§ 9 and 30		
? . . . . .	Ch.	17 . . . . .	HB	21
		(§§ 4 and 10(2), Effective on the date that the governor certifies to the code commissioner that federal funds and interest earnings received under 17-3-112 have been spent)		
? . . . . .	Ch.	199 . . . . .	HB	79
		(Effective upon approval by the electorate)		
? . . . . .	Ch.	269 . . . . .	SB	408
		(Effective upon approval by the electorate)		
? . . . . .	Ch.	270 . . . . .	SB	405
		(Effective upon approval by the electorate)		





4	76-2-340	4	50-19-401	25	30-9A-809
5	76-2-206	5	50-19-402	26	Savings provisions
6	76-2-306	6	50-19-403	27	Codification instruction
7	Codification instruction	7	50-19-404	28	Effective date
8	Effective date	8	Notification to tribal governments	76	1 1-5-419
57	1 15-24-1402	68	1 15-67-101	2	1-5-420
2	15-24-1501	2	33-22-304	3	Transition
3	15-24-1502	3	33-22-506	77	1 20-25-517
4	15-24-1603	4	33-30-1003	2	Codification instruction
5	15-24-1605	5	33-30-1004	3	Effective date
6	15-24-1802	6	39-30-103	78	1 20-25-301
7	15-24-1902	7	50-8-101	2	20-25-424
8	15-24-2002	8	53-6-401	3	Repealer
9	Saving clause	9	53-6-402	79	1 85-8-361
10	Effective date	10	53-20-102	80	1 23-5-503
11	Applicability	11	53-20-127	2	Notification to tribal governments
58	1 61-8-351	12	53-20-128	81	1 39-51-301
59	1 53-2-301	13	53-20-141	2	39-51-1213
2	53-2-304	14	53-20-142	3	39-51-1214
3	53-2-305	15	53-20-146	4	Retroactive applicability
4	Effective date	16	53-20-148	82	1 23-5-177
60	1 50-72-105	17	53-20-161	2	23-5-310
2	50-72-106	18	53-20-164	3	23-5-410
3	50-72-107	19	53-20-202	4	Effective date
3	50-73-406	20	53-21-102	83	1 87-1-293
4	Codification instruction	21	Nonapplicability	2	87-1-628
5	Effective date	22	Contingent voidness	3	87-1-601
61	1 41-3-202	69	1 87-1-701	4	87-2-903
2	41-3-205	2	Effective date	5	Codification instruction
62	1 7-4-2504	70	1 87-2-803	6	Effective date
2	7-6-4024	71	1 30-4A-108	7	Termination
3	7-6-4036	2	Effective date	84	1 2-15-3308
4	7-11-1025	72	1 37-67-306	2	Effective date
5	20-9-152	2	37-67-307	85	1 72-3-1101
6	20-15-313	3	37-67-311	86	1 61-4-129
7	Effective date	73	1 69-3-2004	87	1 2-15-1758
63	1 31-1-202	2	Saving clause	2	Effective date
2	31-1-203	3	Effective date	88	1 40-4-105
3	31-1-211	4	Retroactive applicability	2	40-4-121
4	31-1-221	74	1 39-71-402	3	40-4-201
5	31-1-222	2	Effective date — applicability	4	40-4-202
6	31-1-231	75	1 30-2A-103	5	40-4-203
7	31-1-232	2	30-9A-102	6	40-4-204
8	31-1-235	3	30-9A-105	7	40-4-205
9	31-1-236	4	30-9A-307	8	40-4-215
10	31-1-241	5	30-9A-311	9	40-4-219
11	31-1-242	6	30-9A-316	10	40-4-220
12	31-1-223	7	30-9A-317	11	Applicability
13	Codification instruction	8	30-9A-326	12	Contingent termination
64	1 23-5-312	9	30-9A-406	89	1 50-50-202
2	23-5-317	10	30-9A-408	2	Effective date
3	23-5-318	11	30-9A-502	90	1 81-1-102
4	23-5-612	12	30-9A-503	2	Effective date
5	Effective dates	13	30-9A-507	91	1 1-1-521
65	1 76-1-607	14	30-9A-515	2	Codification instruction
2	76-1-601	15	30-9A-516	92	1 81-9-219
3	Codification instruction	16	30-9A-518	2	Effective date
66	1 30-10-115	17	30-9A-521	93	1 70-24-430
2	30-10-209	18	30-9A-607	94	1 50-50-202
3	30-10-1004	19	30-9A-803	2	81-20-206
4	Severability	20	30-9A-804		
5	Effective date	21	30-9A-805		
67	1 50-16-522	22	30-9A-806		
2	50-16-804	23	30-9A-807		
3	50-16-805	24	30-9A-808		



132	1	87-4-530	3	Effective date	8	Severability
	2	87-4-902	146	1 2-15-142	9	Two-thirds vote required
	3	Codification instruction	2	Notification to tribal governments	10	Effective date
	4	Effective date			160	1 33-22-115
133	1	Repealer	147	1 13-37-126	2	Codification instruction
134	1	85-7-1710	148	1 39-71-413	3	Effective date
	2	Effective date	149	1 45-5-503	161	1 45-5-206
135	1	45-9-101	150	1 39-3-406	2	Effective date
	2	45-9-102	151	1 87-2-702	162	1 37-15-102
	3	45-9-103			2	37-15-202
	4	45-9-110	152	1 71-3-564	3	37-15-314
	5	50-32-101			4	37-15-315
	6	50-32-222			5	Codification instruction
	7	50-32-224	153	1 61-8-411	163	1 87-1-217
	8	50-32-226			2	87-1-301
	9	50-32-229			164	1 33-22-138
	10	50-32-232			2	33-22-101
	11	50-32-314			3	33-31-111
136	1	7-5-2303			4	33-35-306
137	1	87-3-145			5	Codification instruction
	2	87-1-301			6	Effective date
	3	87-6-202			165	1 76-3-622
	4	Codification instruction			2	Applicability
138	1	10-3-312			166	1 2-17-505
	2	Effective date			167	1 39-51-1214
139	1	13-2-110			2	Effective date
	2	13-13-201			168	1 Appropriations for reclamation and development grants
	3	13-13-211			2	Coordination of fund sources for project grants
	4	13-13-233			3	Conditions of grants
	5	13-15-201			4	Other appropriations
	6	13-19-106			5	90-2-1113
	7	13-19-306			6	Notification to tribal governments
	8	13-21-101			7	Severability
	9	13-21-102			8	Effective date
	10	13-21-104			169	1 33-1-409
	11	13-21-213			2	33-1-1202
	12	13-21-105			3	33-2-604
	13	13-21-106			4	33-2-606
	14	13-21-220			5	33-2-611
	15	13-21-221			6	33-2-612
	16	13-21-222			7	33-2-1303
	17	13-21-223	154	1 25-12-103	8	33-3-401
	18	13-21-224	2	Codification instruction	9	33-4-302
	19	13-21-225			10	33-10-104
	20	13-21-226			11	33-17-102
	21	13-21-227			12	33-17-214
	22	13-21-228			13	33-17-301
	23	Repealer			14	33-17-503
	24	Codification instruction			15	33-17-505
	25	Effective date			16	33-17-1101
140	1	10-1-1201	155	1 2-17-804	17	33-22-1811
	2	Effective date			18	33-22-2002
141	1	75-11-503			19	33-28-104
	2	Effective date			20	33-28-202
142	1	61-3-303	157	1 50-5-101	21	33-28-301
	2	61-3-312	2	50-5-103	22	Repealer
	3	61-6-105	158	1 52-3-803	23	Effective date
	4	Effective date	2	52-3-825		
			3	Effective date		
143	1	3-10-201				
	2	3-10-206	159	1 75-5-618		
	3	7-4-2106	2	75-10-234		
	4	7-4-2206	3	75-10-428		
144	1	46-16-105				
	2	46-17-203				
	3	Applicability				
145	1	19-50-101				
	2	19-50-103	7	Saving clause		

170	1	15-70-101	7	19-2-907	3	7-13-4307
	2	Effective date	8	19-3-412	4	69-7-111
171	1	7-11-1003	9	19-3-512	5	75-6-304
	2	7-11-1006	10	19-3-908	6	75-6-326
	3	7-11-1007	11	19-3-1103	188	1 15-70-301
	4	7-11-1008	12	19-3-1106	2	15-70-311
	5	7-11-1011	13	19-3-1210	3	15-70-314
	6	7-11-1013	14	19-3-1501	4	15-70-321
	7	7-11-1021	15	19-3-2133	5	15-70-330
	8	7-11-1023	16	19-3-2141	6	15-70-356
	9	7-11-1025	17	19-5-601	7	15-70-372
	10	Saving clause	18	19-5-701	8	Repealer
	11	Severability	19	19-5-801	9	Effective date
	12	Effective date	20	19-5-802	189	1 20-5-420
	13	Applicability	21	19-6-601	2	20-5-421
172	1	2-15-3110	22	19-7-503	3	Codification
	2	2-15-3111	23	19-7-601		instruction
	3	2-15-3112	24	19-7-901	4	Effective date
	4	2-15-3113	25	19-7-1001	190	1 35-2-114
	5	81-1-110	26	19-8-302	2	35-2-115
	6	Saving clause	27	19-8-701	3	35-2-119
173	1	32-5-102	28	19-8-801	4	35-2-233
	2	32-5-103	29	19-8-1002	5	35-2-520
	3	32-5-201	30	19-9-710	6	35-2-526
	4	32-5-202	31	19-9-1007	7	35-2-527
	5	32-5-205	32	19-13-104	8	35-2-533
	6	32-5-207	33	19-13-803	9	35-2-535
	7	32-5-301	34	19-17-605	10	35-2-539
	8	32-5-302	35	Repealer	11	35-2-542
	9	32-5-303	36	Effective date	12	35-2-911
	10	32-5-304	179	1 Funding	191	1 39-29-102
	11	32-5-305	2	Effective date	2	39-29-103
	12	32-5-308	180	1 70-17-112	3	39-29-112
	13	32-5-209	2	Effective date	4	39-30-103
	14	32-5-311	181	1 87-2-730	5	39-30-107
	15	Repealer	182	1 46-23-509	6	39-30-201
	16	Codification	2	Applicability	192	1 46-5-105
	17	instruction	183	1 35-8-102	2	Codification
		Effective date	2	35-8-107		instruction
174	1	30-22-101	3	35-8-108	193	1 46-18-608
	2	45-6-320	4	35-8-202	2	Codification
	3	Codification	5	35-8-205		instruction
	4	instruction	6	35-8-208	194	1 61-5-110
		Applicability	7	35-8-304	2	61-5-301
175	1	7-11-1014	8	35-8-307	3	61-11-101
	2	7-11-1029	9	35-8-503	4	Effective dates
	3	76-6-212	10	35-8-803	195	1 50-2-116
	4	90-1-403	11	35-8-804	2	76-3-608
	5	90-1-404	12	35-8-901	3	76-4-102
	6	90-1-405	13	35-8-902	4	76-4-104
	7	90-1-406	184	1 16-4-1101	5	Saving clause
	8	90-1-410	2	16-4-1102	196	1 61-3-116
	9	90-1-411	3	16-4-1103	2	61-3-205
	10	90-1-413	4	16-1-411	3	61-3-211
	11	Effective date	5	16-3-402	4	61-3-225
176	1	46-23-901	6	16-3-411	5	61-3-303
	2	46-23-902	7	16-4-107	6	61-3-311
	3	46-23-903	8	16-4-901	7	61-3-331
	4	Codification	9	16-4-902	8	61-3-338
		instruction	10	16-4-903	9	61-3-414
	5	Effective date	11	16-4-906	10	61-3-415
177	1	46-18-104	12	16-6-301	11	61-3-465
	2	46-18-201	13	Codification	12	61-3-467
	3	Effective date		instruction	13	61-3-480
178	1	19-2-303	185	1 61-8-913	14	61-4-111
	2	19-2-403	186	1 71-3-1203	15	61-4-112
	3	19-2-406	2	Effective date	16	61-11-105
	4	19-2-505	3	Applicability	17	Effective date
	5	19-2-706	187	1 7-13-2275	197	1 69-3-2004
	6	19-2-801	2	7-13-2301	2	Saving clause

MONTANA SESSION LAWS 2013

2064

	3	Effective date	206	1	7-33-2215	28	Effective date	
	4	Retroactive applicability		2	76-13-104	215	1	Appropriation of cultural and aesthetic grant funds — priority of disbursement
198	1	7-14-2124		3	Codification instruction		2	Appropriation of cultural and aesthetic grant funds
	2	82-4-403	207	1	7-4-2631		3	Reversion of grant money
	3	82-4-425		2	Effective date		4	Reduction of grants on pro rata basis
	4	82-4-427	208	1	33-4-320		5	Effective date
	5	82-4-431		2	33-2-1501		216	32-7-102
	6	82-4-432		3	33-4-502		2	32-7-103
	7	82-4-433		4	Codification instruction		3	32-7-108
	8	82-4-437					4	32-7-109
199		Not codified — referendum*	209	1	2-15-2302		5	32-7-110
	1	Art. IV, sec. 8, Mont. Const*		2	46-9-108		6	32-7-111
	2	Art. VI, sec. 1, Mont. Const*		3	46-9-301		7	32-7-115
	3	Art. VI, sec. 2, Mont. Const*		4	46-14-101		8	32-7-121
	4	Art. VI, sec. 3, Mont. Const*	210	1	46-23-201		9	32-7-122
	5	Art. VI, sec. 4, Mont. Const*		6	46-23-1003		10	32-7-123
	6	Art. VI, sec. 6, Mont. Const*		7	Applicability		11	32-7-124
	7	Art. VI, sec. 7, Mont. Const*	211	1	70-18-206		12	32-7-112
	8	Art. X, sec. 4, Mont. Const*		2	77-1-102		13	Transition
	9	Two-thirds vote required		3	Repealer		14	Codification instruction
	10	Submission to electorate	212	1	Codification instruction		15	Effective date
200	1	15-1-706	213	1	13-14-115		217	30-14-144
	2	25-13-402		2	17-6-308		2	30-14-143
	3	15-1-706(6)	214	1	90-6-603		3	Codification instruction
	4	Codification instruction		2	Effective date		4	Saving clause
201	1	53-21-1401		3	7-15-4277		218	61-10-121
	2	53-21-1402		4	7-15-4278		219	61-3-458
	3	53-21-1403		5	7-15-4279		220	37-7-101
	4	53-21-1404		6	7-15-4280		2	37-7-105
	5	53-21-1405		7	7-15-4282		221	2-17-818
	6	Codification instruction		8	7-15-4283		1	2-17-807
	7	Effective date		9	7-15-4284		3	2-17-808
202	1	13-37-206		10	7-15-4285		4	Effective date
203	1	39-51-605		11	7-15-4286		222	20-1-102
	2	39-51-401		12	7-15-4287		2	Effective date
	3	39-51-1125		13	7-15-4288		223	44-4-1501
	4	39-51-1212		14	7-15-4289		2	60-2-244
	5	39-51-1214		15	7-15-4290		3	Codification instruction
	6	39-51-3106		16	7-15-4291		224	85-20-1801
	7	39-51-3201		17	7-15-4292		2	Codification instruction
	8	40-5-901		18	7-15-4293		3	Effective date
	9	Notification to tribal governments		19	7-15-4294		225	27-2-216
	10	Codification instruction		20	7-15-4301		1	41-3-102
	11	Contingent termination		21	7-15-4302		2	45-1-205
204	1	87-2-405		22	7-15-4304		4	45-2-101
	2	87-1-246		23	7-15-4305		5	45-5-505
	3	87-1-270		24	7-15-4306		6	(Renumbered 45-8-218)
	4	Codification instruction		25	7-15-4322		7	46-1-502
	5	Effective date		26	7-15-4324		8	52-3-803
	6	Termination		27	Existing technology districts, aerospace transportation and technology districts, and industrial districts		226	Directions to code commissioner
205	1	90-1-501			Repealer		2	Effective date
					Codification instruction		227	85-20-1701

	2	Codification instruction	38	Coordination instruction	5	Termination
	3	Effective date	39	Coordination instruction	245	1 33-2-708
228	1	45-5-206	40	Saving clause	2	33-17-241
	2	Effective date	41	Effective date	3	33-17-242
	3	Applicability	236	1 85-2-427	4	33-17-243
229	1	75-10-115	2	Codification instruction	5	33-17-244
	2	Effective date	3	Effective date	6	33-17-102
	3	Applicability	4	Termination	7	33-17-220
230	1	75-20-303	237	1 2-15-2012	8	33-17-231
	2	Effective date	2	2-15-2013	9	Notification to tribal governments
231	1	50-16-108	3	46-15-411	10	Codification instruction
	2	Codification instruction	4	Effective date	11	Effective date
232	1	7-6-1506	238	1 19-20-731	246	1 60-1-220
	2	7-6-1541	2	19-20-734	2	60-1-221
	3	7-6-1542	3	19-20-733 (Voided and replaced by sec. 12, Ch. 366)	3	Codification instruction
	4	Effective date	4	Codification instruction	247	1 80-4-419
233	1	7-13-2351	5	Effective date	2	Codification instruction
	2	7-13-2352	6	Termination	248	1 3-10-231
	3	Codification instruction	239	1 19-3-1113	2	Effective date
	4	Effective date	2	19-7-1101	249	1 13-35-601
234	1	2-2-136	3	19-13-1101	2	13-35-602
	2	13-37-108	4	Codification instruction	3	13-35-603
	3	13-37-111	5	Effective date	4	13-35-604
235	1	2-15-3406	240	1 19-2-303	5	Codification instruction
	2	23-1-111	2	19-2-405	250	1 45-8-101
	3	2-15-3110	3	19-2-1001	251	1 20-15-219
	4	2-15-3113	4	19-2-1011	2	20-15-221
	5	2-15-3401	5	19-2-1014	252	1 19-18-602
	6	2-15-3402	6	19-3-901	2	Effective date
	7	2-15-3404	7	19-5-501	253	1 3-10-302
	8	23-1-101	8	19-6-501	2	Effective date
	9	23-1-102	9	19-7-501	254	1 61-5-123
	10	23-1-106	10	19-8-601	2	61-5-110
	11	23-1-108	11	19-9-801	3	Codification instruction
	12	23-1-110	12	19-13-701	255	1 13-1-210
	13	23-1-121	13	19-50-104	2	13-13-212
	14	23-1-122	14	Effective date	3	13-21-210
	15	23-2-301	15	Retroactive applicability	256	1 67-1-214
	16	23-2-403	241	1 37-47-325	2	Transition
	17	23-2-404	2	37-47-405	3	Codification instruction
	18	23-2-408	3	37-47-101	4	Effective date
	19	23-2-410	4	37-47-201	257	1 5-11-1101
	20	37-47-310	5	37-47-401	2	5-11-1102
	21	75-1-220	6	37-47-403	3	5-11-1111
	22	77-1-405	7	37-47-404	258	1 53-20-163
	23	85-2-102	8	39-3-406	259	1 69-3-2003
	24	87-1-101	9	87-6-702	2	Effective date
	25	87-1-106	10	Effective date	260	1 Short title
	26	87-1-202	11	Termination	2	20-7-1301
	27	87-1-209	12	Codification instruction	3	20-7-1302
	28	87-1-218	242	1 80-2-208	4	20-7-1303
	29	87-1-301	2	80-2-232 (Voided by sec. 3, Ch. 242)	5	20-7-1304
	30	87-1-303	3	Coordination instruction	6	Codification instruction
	31	87-1-401	243	1 15-6-143	7	Effective date
	32	87-1-622	244	1 17-7-502	261	1 61-8-309
	33	87-4-432	2	22-1-327	262	1 20-9-533
	34	Name change — directions to code commissioner	3	Coordination instruction	3	Saving clause
	35	Codification instruction	4	Effective date	4	Effective date
	36	Coordination instruction	243	1 15-6-143	263	1 70-29-401
	37	Coordination instruction	244	1 17-7-502		



2	70-29-402	56	72-38-407	126	72-38-1009
3	70-29-403	57	72-38-408	127	72-38-1010
4	70-29-404	58	72-38-409	128	72-38-1011
5	70-29-405	59	72-38-410	129	72-38-1012
6	70-29-410	60	72-38-411	130	72-38-1013
7	70-29-411	61	72-38-412	131	72-38-1101
8	70-29-412	62	72-38-413	132	72-38-1102
9	70-29-413	63	72-38-414	133	72-5-444
10	70-29-414	64	72-38-415	134	72-5-445
11	70-29-415	65	72-38-416	135	72-5-446
12	70-29-419	66	72-38-417	136	72-5-447
13	70-29-420	67	72-38-501	137	72-5-448
14	Codification instruction	68	72-38-502	138	72-5-449
15	Applicability	69	72-38-504	139	72-5-450
264	1	70	72-38-505	140	72-6-123
	2	71	72-38-506	141	72-6-228
	3	72	72-38-507	142	31-2-209
	4	73	72-38-601	143	32-1-102
	5	74	72-38-602	144	32-3-506
	6	75	72-38-603	145	35-2-118
	7	76	72-38-604	146	72-1-103
	8	77	72-38-605	147	72-1-310
	9	78	72-38-606	148	72-1-311
	10	79	72-38-701	149	72-1-312
	11	80	72-38-702	150	72-6-206
	12	81	72-38-703	151	72-6-214
	13	82	72-38-704	152	72-16-1001
	14	83	72-38-705	153	72-34-424
	15	84	72-38-706	154	72-34-446
	16	85	72-38-707	155	72-36-206
	17	86	72-38-708		(Renumbered
	18	87	72-38-709		72-38-1111)
	19	88	72-38-801	156	77-1-219
	20	89	72-38-802	157	77-1-229
	21	90	72-38-803	158	77-2-364
	22	91	72-38-804	159	82-1-304
	23	92	72-38-805	160	Codification
	24	93	72-38-806		instruction
	25	94	72-38-807	161	Severability
	26	95	72-38-808	162	Repealer
	27	96	72-38-809	163	Effective date
	28	97	72-38-810	164	Application to
	29	98	72-38-811		existing
	30	99	72-38-812		relationships
	31	100	72-38-813	265	1
	32	101	72-38-814		37-2-401
	33	102	72-38-815	266	2
	34	103	72-38-816		50-16-201
	35	104	72-38-817		20-3-324
	36	105	72-38-820	267	1
	37	106	72-38-821		Effective date
	38	107	72-38-822		41-3-304
	39	108	72-38-823		2
	40	109	72-38-824		Notification to
	41	110	72-38-825		tribal
	42	111	72-38-826		governments
	43	112	72-38-901		Codification
	44	113	72-38-902		instruction
	45	114	72-38-903	268	1
	46	115	72-38-904		5-4-104
	47	116	72-38-905		15-1-121
	48	117	72-38-906		3
	49	118	72-38-1001		15-1-205
	50	119	72-38-1002		4
	51	120	72-38-1003		15-6-138
	52	121	72-38-1004		5
	53	122	72-38-1005		15-30-2110
	54	123	72-38-1006		6
	55	124	72-38-1007		15-30-2328
		125	72-38-1008		7
					15-30-3301
					8
					15-30-3312
					9
					15-30-3313
					10
					15-31-101
					11
					15-31-102
					12
					15-31-111
					13
					15-31-112
					14
					15-31-113
					15
					15-31-114
					16
					15-31-115

17	15-31-117	40	13-12-202*	107	Coordination instruction
18	15-31-125	41	13-12-203*		
19	15-31-143	42	13-12-205*	108	Effective date
20	15-31-161	43	13-12-207*	109	Applicability
21	15-31-401	44	13-13-214*	110	Submission to electorate
22	15-31-402	45	13-13-225*		Not codified — referendum*
23	15-31-404	46	13-13-241*	270	
24	15-31-406	47	13-14-111*		1 13-2-301*
25	15-31-511	48	13-14-112*		2 13-2-304*
26	15-31-522	49	13-14-113*		3 13-19-207*
27	15-31-523	50	13-14-114*		4 61-5-107*
28	15-31-531	51	13-14-115*		5 Effective date
29	15-31-543	52	13-14-117*		6 Submission to electorate
30	15-31-551	53	13-14-118*		7 Coordination instruction
31	15-32-107	54	13-15-201*		
32	15-50-207	55	13-15-205*		
33	15-68-815	56	13-15-206*	271	1 45-5-102
34	20-9-630	57	13-15-208*		2 45-5-103
35	33-17-407	58	13-15-405*		3 45-5-116(3)
36	33-27-103	59	13-15-406*		4 45-5-116(1)
37	Name change — directions to code commissioner	60	13-15-507*		5 45-5-116(2)
		61	13-16-101*		6 Severability
38	Coordination instruction	62	13-16-201*		7 Codification instruction
39	Saving clause	63	13-16-211*	272	1 19-6-712
40	Applicability	64	13-16-412*		2 19-2-303
269	Not codified — referendum*	65	13-16-418*		3 19-6-301
1	2-16-615*	66	13-16-419*		4 19-6-402
2	5-2-402*	67	13-16-501*		5 19-6-404
3	5-2-403*	68	13-17-103*		6 19-6-502
4	5-2-404*	69	13-19-205*		7 19-6-503
5	5-2-406*	70	13-21-205*		8 19-6-601
6	7-2-2219*	71	13-25-101*		9 19-6-707
7	7-3-176*	72	13-25-201*		10 19-6-710
8	7-3-218*	73	13-25-205*		11 19-6-711
9	7-3-313*	74	13-25-303*		12 19-6-801
10	7-3-412*	75	13-35-106*		13 19-6-803
11	7-3-512*	76	13-35-205*		14 19-6-804
12	7-3-704*	77	13-35-206*		15 44-1-504
13	7-3-1256*	78	13-35-207*		16 Codification instruction
14	7-4-2106*	79	13-35-214*		17 Effective date
15	7-4-2206*	80	13-35-218*	273	1 61-4-206
16	7-4-2302*	81	13-35-221*		2 61-4-207
17	7-4-2310*	82	13-35-225*		3 61-4-208
18	7-4-4112*	83	13-35-226*		4 Saving clause
19	13-1-101*	84	13-36-101*		5 Effective date
20	13-1-103*	85	13-36-102*	274	1 76-2-216
21	13-4-102*	86	13-36-103*		2 Codification instruction
22	13-10-201*	87	13-36-104*		
23	13-10-203*	88	13-36-201*	275	1 37-35-102
24	13-10-204*	89	13-36-202*	276	1 20-7-320
25	13-10-209*	90	13-36-203*		2 Codification instruction
26	13-10-211*	91	13-36-206*		3 Effective date
27	13-10-301*	92	13-36-207*	277	1 31-1-705
28	13-10-325*	93	13-36-209*		2 31-1-706
29	13-10-326*	94	13-36-210*		3 31-1-707
30	13-10-327*	95	13-36-211*		4 31-1-712
31	Top two primary restrictions — exceptions	96	13-36-212*		5 31-1-713
		97	13-37-127*		6 31-1-714
32	13-10-402*	98	13-37-216*		7 31-1-710
33	13-10-403*	99	13-37-218*		8 Codification instruction
34	13-10-404*	100	13-38-101*		9 Effective date
35	13-10-405*	101	13-38-201*	278	1 31-1-106
36	13-10-501*	102	Repealer		2 31-1-111
37	13-10-504*	103	Codification instruction		3 31-1-112
38	13-10-505*	104	Severability		4 31-1-401
39	13-12-201*	105	Coordination instruction		
		106	Coordination instruction		

	5	32-5-102		5	Applicability		4	Codification
	6	32-5-103	290	1	1-1-522			instruction
	7	Repealer		2	Authorization of		5	Effective date
	8	Effective date			other funding	297	1	87-1-901
279	1	7-1-2121			source		2	87-2-104
	2	7-1-4127		3	Codification		3	87-2-523
	3	Effective date			instruction		4	87-2-524
280	1	20-25-421		4	Effective date		5	87-6-401
	2	Notification to	291	1	50-63-104		6	87-6-414
		tribal		2	50-63-103		7	Codification
		governments		3	Codification			instruction
	3	Effective date			instruction		8	Severability
281	1	20-5-104		4	Saving clause		9	Effective date
	2	20-5-105		5	Effective date	298	1	87-2-113
	3	20-5-106		6	Applicability		2	87-2-730
	4	41-5-103			Voided by sec. 16,		3	Effective date
	5	Effective date	292		Ch. 292		299	1 87-1-283
	6	Applicability		1	Short title		2	87-1-274
282	1	19-2-511		2	Legislative		300	1 Montana food
	2	19-3-112			purpose and			policy
	3	19-3-2101			findings			modernization
	4	19-3-2106		3	Definitions			project —
	5	19-3-2112		4	Consent of parent			guidelines
	6	19-3-2113			or legal guardian		2	Appropriation
	7	19-20-208			required		3	Effective date
	8	19-20-302		5	Consent form —		4	Termination
	9	19-20-426			disclosure —	301	1	7-22-2131
	10	19-20-621			requirements for		2	7-22-2132
	11	19-20-731			validity		3	7-22-2133
	12	19-21-101		6	Proof of		4	7-22-2134
	13	19-21-102			identification and		5	Direction to
	14	19-21-211			relationship to			department —
	15	19-21-212			minor —			notification of
	16	Instructions to			retention of			landowners
		code			records		6	7-22-2117
		commissioner		7	Exceptions		7	7-22-2144
283	1	46-23-505		8	Coercion		8	7-22-2146
	2	Effective date			prohibited		9	7-22-2148
284	1	2-15-1021		9	Procedure for		10	Repealer
	2	2-17-518			judicial waiver of		11	Codification
	3	5-11-401			consent			instruction
	4	5-11-402		10	Criminal and civil		12	Effective date
	5	5-11-403			penalties	302	1	50-50-102
	6	5-11-404		11	Construction	303	1	33-2-1401
	7	5-11-405		12	41-1-405 (Voided		2	33-2-1402
	8	5-11-406			by sec. 16, Ch.		3	33-2-1403
	9	5-11-407			292)		4	33-2-1404
	10	Effective date		13	47-1-104 (Voided		5	33-2-1405
285	1	7-6-1551			by sec. 16, Ch.		6	33-2-1406
	2	Codification			292)		7	33-2-1407
		instruction		14	Repealer		8	Codification
	3	Effective date		15	Codification			instruction
286	1	30-10-216			instruction		9	Effective date
	2	30-10-301		16	Coordination		10	Applicability
	3	30-10-303			instruction	304	1	45-5-628
	4	30-10-324		17	Effective date		2	Codification
	5	30-10-1004		18	Submission to			instruction
	6	Repealer			electorate		3	Effective date
	7	Codification	293	1	Time limits		4	Applicability
		instruction		2	Appropriations —	305	1	20-5-324
	8	Effective date			authorization to		2	Effective date
287	1	39-51-201			expend money	306	1	33-22-1706
288	1	77-5-222		3	Effective date	307	1	50-20-501
	2	77-5-223			Time limits		2	50-20-502
	3	Effective date	294	1	Appropriations		3	50-20-503
				2	Effective date		4	50-20-504
289	1	15-30-3315		3	Effective date		5	50-20-505
	2	Codification	295	1	13-37-226		6	50-20-506
		instruction		296	30-12-107		7	50-20-507
	3	Severability			30-12-306		8	50-20-507
	4	Effective date		3	30-12-406			50-20-508

9	50-20-509	7	Sec. 4, Ch. 208, L. 2007	9	Appropriations from school facility and technology state special revenue account for planning grants
10	50-20-510			10	90-6-811
11	50-20-511	8	Sec. 7, Ch. 208, L. 2007	11	Transfer of funds
12	41-1-405			12	Notification to tribal governments
13	47-1-104	9	Effective date	13	Effective date
14	Repealer	10	Applicability	326	80-7-814
15	Codification instruction	11	Termination	2	Effective date
16	Severability	318	1 2-4-111	327	16-4-406
17	Effective date	2	2-4-102	328	69-3-2003
308	1 53-21-102	3	Saving clause	2	Effective date
2	53-21-119	4	Codification instruction	329	1 20-3-363
3	53-21-129	5	Effective date	2	20-9-104
309	1 44-4-1201	6	Termination	3	20-9-208
2	44-4-1202	319	1 87-2-511	4	20-9-235
3	44-4-1203	2	Effective date	5	20-9-517
4	44-4-1204	320	1 37-1-145	6	20-9-518 (Voided and replaced by sec. 8, Ch. 329)
5	44-4-1205	2	Codification instruction	7	20-9-534
6	44-4-1206	3	Effective date	8	Coordination instruction
7	46-18-201	321	1 20-1-230	9	Effective date
8	61-8-442	2	20-1-231	10	Applicability
9	61-8-733	3	Codification instruction	330	1 13-37-219
10	Effective date	4	Termination	2	13-37-216
310	1 37-1-145	322	1 10-2-1301	3	Codification instruction
2	Appropriation — reversion	2	61-5-111	331	1 33-22-2004
3	Codification instruction	3	61-5-114	2	33-22-2006
4	Effective date	4	61-12-502	3	33-22-2007
311	1 27-1-747	5	Codification instruction	4	33-22-2008
2	Codification instruction	6	Effective date	5	Effective date
3	Saving clause	323	1 85-2-222	332	1 41-3-205
312	1 61-8-465	2	85-2-233	2	41-3-208
2	61-8-734	3	85-2-234	333	1 41-3-1201
3	Effective date	324	1 33-17-212	2	41-3-1202
4	Applicability — retroactive applicability	2	33-17-1203	3	41-3-1203
313	1 30-14-151	325	1 20-9-343 (Line-item vetoed)	4	41-3-1204
2	30-14-152	2	20-9-516 (Line-item vetoed)	5	41-3-1205
3	30-14-153	3	20-9-620 (Line-item vetoed)	6	41-3-1206
4	30-14-154	4	90-6-802	7	41-3-1207
5	30-14-155	5	Appropriation from school facility and technology state special revenue account	8	41-3-205
6	30-14-156			9	Codification instruction
7	30-14-157			10	Contingent voidness
8	33-1-102	6	Approval of grants — completion of biennial appropriation	11	Effective date
9	Codification instruction	7	Conditions of grants — disbursement of funds	12	Termination
10	Effective date	8	Appropriations from school facility and technology state special revenue account for emergency grants	334	1 33-22-156
11	Applicability			2	33-22-157
314	1 61-7-108			3	33-22-158
315	1 61-12-504			4	33-22-159
2	Effective date			5	33-31-111
316	1 10-4-101			6	Appropriation and authorization
2	10-4-313			7	Codification instruction
3	Saving clause			8	Severability
4	Severability			9	Effective date — applicability
5	Effective date			335	1 85-2-102
317	1 15-30-2327			2	85-2-302
2	Sec. 9, Ch. 537, L. 1997				
3	Sec. 5, Ch. 226, L. 2001				
4	Sec. 7, Ch. 4, L. 2005				
5	Sec. 2, Ch. 208, L. 2007				
6	Sec. 3, Ch. 208, L. 2007				

3	85-2-310	60	13-37-126	12	Codification
4	85-2-311	61	13-38-201		instruction
5	85-2-314	62	Directions to code	13	Effective date
6	85-2-320		commissioner	348	1 60-2-115
7	85-2-360	63	Coordination	2	Saving clause
8	85-2-361		instruction	349	1 33-22-166
9	85-2-362	64	Coordination	2	15-30-2110
10	85-2-369		instruction	3	33-22-1804
11	85-2-402	65	Effective date	4	Codification
12	85-2-424	337	1 41-3-201		instruction
13	Repealer	2	41-3-205	5	Effective date
336	1 5-2-402	338	1 87-6-415	350	1 40-4-219
2	13-1-101	339	1 25-31-112	2	40-4-301
3	13-1-210	2	25-35-608	3	40-4-302
4	13-2-107	3	Effective date	4	40-4-307
5	13-2-108	4	Applicability	351	1 76-3-207
6	13-2-112	340	1 13-35-237	2	Effective date
7	13-2-115	2	Codification	352	1 Appropriation
8	13-2-122		instruction	2	Effective date
9	13-2-207	341	1 37-47-101	353	1 53-21-1105
10	13-2-220	2	37-47-201	2	53-21-1106
11	13-2-301	3	37-47-301	3	53-21-1107
12	13-2-304	4	37-47-302	4	53-21-1108
13	13-10-201	5	37-47-303	5	53-21-1109
14	13-10-203	6	37-47-304	6	53-21-1110
15	13-10-209	7	37-47-305	7	50-16-522
16	13-10-211	8	37-47-306	8	50-16-525
17	13-10-302	9	37-47-307	9	50-16-804
18	13-10-404	10	37-47-310	10	50-16-805
19	13-10-405	11	37-47-311	11	53-21-1102
20	13-10-503	12	37-47-341	12	Appropriation
21	13-10-507	13	37-47-343	13	Notification to
22	13-13-112	14	37-47-401		tribal
23	13-13-118	15	37-47-402		governments
24	13-13-201	16	37-47-403	14	Codification
25	13-13-204	17	37-47-404		instruction
26	13-13-211	18	87-6-702	15	Effective date
27	13-13-212	19	Repealer	16	Termination
28	13-13-213	342	1 75-10-706	354	1 80-7-1015
29	13-13-214	2	75-10-711	2	80-7-1002
30	13-13-225	343	1 70-24-303	3	80-7-1003
31	13-13-226	2	70-24-321	4	80-7-1004
32	13-13-227	3	70-24-422	5	80-7-1006
33	13-13-228	4	70-24-427	6	80-7-1007
34	13-13-229	344	1 7-4-2516	7	80-7-1008
35	13-13-230	2	25-1-201	8	80-7-1010
36	13-13-241	3	25-10-404	9	80-7-1011
37	13-13-244	4	25-10-405	10	80-7-1014
38	13-13-245	5	Effective date	11	Appropriation
39	13-13-301	345	1 82-10-502	12	Codification
40	13-13-602	2	82-10-504		instruction
41	13-13-603	346	1 15-30-2380	13	Effective dates
42	13-14-112	2	87-1-294	355	1 87-6-208
43	13-14-113	3	Codification	2	87-6-207
44	13-15-107		instruction	3	Codification
45	13-15-108	4	Effective date		instruction
46	13-15-201	5	Applicability	356	1 30-12-203
47	13-15-206	6	Termination	2	Effective date
48	13-15-401	347	1 20-20-420	357	1 15-7-103
49	13-16-201	2	13-1-101	2	15-7-201
50	13-16-211	3	13-16-101	3	Applicability
51	13-16-417	4	13-16-201	358	1 61-3-109
52	13-17-203	5	13-16-203	359	1 33-17-1401
53	13-17-211	6	13-16-204	2	33-17-1402
54	13-19-102	7	13-16-205	3	33-17-1403
55	13-19-106	8	13-16-301	4	33-17-1404
56	13-19-304	9	13-16-417	5	33-17-212
57	13-21-210	10	13-16-418	6	Codification
58	13-21-212	11	13-16-420		instruction
59	13-35-218			360	1 33-39-101

	2	33-39-102		7	Creation of state		2	45-5-306
	3	33-39-103			debt —		3	45-5-310
	4	33-1-311			appropriation of		4	45-5-311
	5	33-1-501			coal severance tax		5	45-5-601
	6	Codification			— bonding		6	45-5-602
		instruction			provisions		7	45-5-603
	7	Two-thirds vote		8	Notification to		8	46-18-111
		required			tribal		9	46-18-201
361	1	69-3-2003			governments		10	46-18-203
	2	69-3-2006		9	Severability		11	46-18-205
	3	Notification to		10	Effective date		12	46-18-207
		tribal	366	1	19-20-101		13	46-18-222
		governments		2	19-20-201		14	46-18-231
	4	Coordination		3	19-20-409		15	46-23-502
		instruction		4	19-20-716		16	46-23-1011
362	1	53-6-190		5	19-20-733 (Voided		17	Codification
	2	Codification			and replaced by			instruction
		instruction			sec. 12, Ch. 366)		18	Effective date
363	1	33-40-101		6	19-20-801 (Voided		19	Applicability
	2	33-40-102			and replaced by	375	1	16-4-115
	3	33-40-103			sec. 13, Ch. 366)	376	1	15-1-122
	4	33-40-104		7	19-20-802 (Voided		2	Effective date
	5	33-40-105			by sec. 14, Ch.	377	1	46-5-109
	6	2-18-705			366)		2	Codification
	7	20-25-1403		8	19-20-805			instruction
	8	33-1-102		9	19-20-810	378	1	45-5-212
	9	33-31-111		10	19-20-1101		2	46-18-111
	10	33-35-306		11	Codification		3	Applicability
	11	53-6-113			instruction	379	1	76-8-101
	12	Codification		12	Coordination		2	76-8-103
		instruction			instruction		3	76-8-106
	13	Effective date		13	Coordination		4	76-8-107
	14	Termination			instruction		5	76-8-108
364	1	2-6-102		14	Coordination		6	76-8-102
	2	20-1-401			instruction		7	76-8-113
	3	20-1-402		15	Effective date		8	76-8-114
	4	20-5-202		367	1	13-35-225	9	76-3-103
	5	41-3-205		2	13-37-131		10	76-3-504
	6	41-5-215		368	1	10-3-312	11	76-4-125
	7	52-2-211		2	17-7-140		12	76-6-203
	8	52-2-304		3	17-7-502		13	76-7-203
	9	Transfer of funds		4	76-13-150		14	Repealer
		— improvements		5	Fund transfer		15	Codification
		to school safety		6	Effective date			instruction
		and security		369	1	2-15-3110	16	Saving clause
	10	Codification		370	1	61-3-201	17	Severability
		instruction		2	61-3-303		18	Effective date
	11	Effective dates		371	1	70-30-110	19	Applicability
	12	Termination		2	70-30-111			Short title
365	1	Approval of		3	70-30-203		2	First level
		renewable		4	70-30-206			expenditures
		resource projects		5	70-30-305		3	Legislative intent
		and authorization		6	Saving clause		4	Severability
		to provide loans		7	Severability		5	Appropriation
	2	Projects not		8	Effective date			control
		completing		9	Applicability		6	Program
		requirements —		372	1	10-2-118		definition
		projects		2	Appropriation		7	Totals not
		reauthorized		3	Codification			appropriations
	3	Coal severance			instruction		8	Effective date
		tax bonds		4	Effective date		9	Appropriations
		authorized		373	1	18-2-402	10	Rates
	4	Conditions of		2	18-2-411		1	Definitions
		loans		3	18-2-413	381	2	Capital projects
	5	Private and		4	18-2-414			appropriations
		discount purchase		5	18-2-418			and
		of loans		6	18-2-419			authorizations
	6	Appropriations		7	Codification		3	Capital
		established			instruction			improvements
			374	1	45-5-305			

4	Land acquisition appropriations		state endowment	10	19-20-716
			state special	11	19-20-719
5	Planning and design		revenue account	12	19-20-732
6	Capital projects — contingent funds	6	for emergency grants	13	19-20-801 (Voided and replaced by sec. 13, Ch. 366)
			Appropriations from treasure	14	19-20-802
7	Review by department of environmental quality		state endowment	15	19-20-804
			state special	16	19-20-805
			revenue account	17	19-20-901
8	Conditions of projects	7	for infrastructure planning grants	18	19-20-1001
9	Fund transfer		Appropriation	20	19-20-216
10	Legislative consent		from treasure	21	20-10-145
			state endowment	22	Transfer of excess retirement fund operating reserves
11	Severability		regional water system special		
12	Effective date		revenue account		
382	1 Appropriations for renewable resource grants	8	Approval of funds — completion of appropriation	23	Appropriations
			Conditions — manner of disbursements of funds	24	Codification instruction
2	Coordination of fund sources for grants to political subdivisions and local governments	9	Fund transfer	25	Severability
			Notification to tribal governments	26	Effective date
3	Condition of grants	10	Effective date	390	1 15-35-108
			Effective date	2	17-5-703
4	Appropriations established	11	2-18-301	3	19-3-315
5	Transfer of funds	12	2-18-303	4	19-3-316
6	Notification to tribal governments	1	2-18-703	5	19-3-1605
		2	Appropriations	6	19-3-2117
7	Coordination instruction	3	Reporting of implementation of pay increase	7	19-3-117
8	Severability	4	Effective date	8	Sec. 6, Ch. 495, L. 1999
9	Effective date	5	Appropriations	9	Sec. 15, Ch. 389, L. 2011
383	1 Definitions	6	Reporting of implementation of pay increase	10	Sec. 16, Ch. 389, L. 2011
			Effective date	11	Appropriations
2	Appropriations and authorizations	386	19-2-303	12	Codification instruction
		2	19-2-1005	13	Severability
3	Fund transfer	3	19-3-108	14	Effective date
4	Legislative branch information	4	19-5-101	391	1 69-3-222
		5	19-6-101	2	69-3-223
		6	19-7-101	3	Codification instruction
		7	19-8-101	4	Severability
		8	19-9-104	5	Saving clause
		9	19-13-104	6	Effective date
		10	Effective date	7	Applicability
		387	1 53-6-131	392	1 5-2-302
5	Severability	2	Effective date	2	5-2-303
6	Effective date	388	1 17-8-402	3	Effective date
384	1 Appropriation from treasure	2	17-8-403	393	1 61-3-321
		3	17-8-404	2	61-3-332
		4	17-8-410	3	61-3-337
		5	17-8-411	4	61-3-562
		6	17-8-412	5	61-8-303
		7	17-8-416	6	61-8-309
2	Approval of grants — completion of biennial appropriation	8	Saving clause	7	61-8-310
		9	Severability	8	61-8-725
		10	Effective date	9	Repealer
3	Condition of grants — disbursements of funds	389	1 19-20-101	10	Effective dates
		2	19-20-208	394	1 46-5-110(1)
		3	19-20-409	2	46-5-110(2)
		4	19-20-427	3	Codification instruction
4	Other powers and duties of department	5	19-20-602	395	1 Interim study — evaluation of hunting and
		6	19-20-608		
		7	19-20-605		
5	Appropriations from treasure	8	19-20-609		
		9	19-20-607		



	fishery licensing	27	20-9-473	11	Codification
	— reporting	28	20-9-474		instruction
2	Appropriation	29	20-9-517	12	Effective date
3	Effective date	30	20-9-517	407	1 39-71-1110
4	Termination	31	20-9-518 (Voided	2	Codification
396	1 15-1-123		and replaced by		instruction
	2 15-6-138		sec. 8, Ch. 329)	3	Effective date
3	15-6-141	32	20-9-622	408	1 85-2-145
4	15-23-101	33	20-9-376	2	Codification
5	Notification to	34	20-9-520		instruction
	tribal	35	20-9-521	3	Effective date
	governments	36	Transfers of funds	409	1 85-2-102
6	Coordination	37	Appropriation	2	Coordination
	instruction	38	Sec. 29, Ch. 418,		instruction
7	Coordination		L. 2011	410	1 20-9-537
	instruction	39	Notification to	2	Appropriation
8	Saving clause		tribal		(Voided by sec. 5,
9	Effective date		governments		Ch. 410)
10	Applicability	40	Codification	3	Notification to
397	1 87-2-803		instruction		tribal
	2 Effective date	41	Coordination		governments
398	1 15-30-2110		instruction	4	Codification
	2 Effective date	42	Effective dates —		instruction
3	Retroactive		applicability	5	Coordination
	applicability	43	Termination		instruction
399	1 80-2-203	401	1 76-13-104	6	Effective date
	2 80-2-204	2	76-13-154 (Voided	7	Termination
3	80-2-206		and replaced by	411	1 75-10-204
4	80-2-207		sec. 5, Ch. 401)	2	75-10-214
5	80-2-208	3	76-13-115	3	Effective date
6	80-2-221	4	Codification	412	1 7-33-4510
7	80-2-222		instruction	2	7-6-621
8	80-2-224	5	Coordination	3	39-71-118
9	80-2-225		instruction	4	39-71-123
10	80-2-230	402	1 23-4-101	5	39-71-401
11	80-2-232	2	Directions to code	6	39-71-745
12	80-2-242		commissioner	7	Codification
13	80-2-243	3	Effective Date		instruction
14	80-2-244	403	1 76-13-301	8	Effective date
15	80-2-220	2	76-13-303	413	1 Transfers
16	Repealer	3	76-13-701	2	53-1-215
17	Codification	4	76-13-702	3	53-2-208
	instruction	5	76-13-154 (Voided	4	2-15-247
400	18 Effective date		and replaced by	5	39-1-105
	1 20-7-105		sec. 5, Ch. 401)	6	17-7-502
2	20-9-325	6	Codification	7	Codification
3	20-7-102		instruction		instruction
4	20-7-104	404	1 33-22-1501	8	Coordination
5	20-9-141	2	33-22-1502		instruction
6	20-9-306	3	33-22-1504	9	Effective date
7	20-9-308	4	Effective date	10	Termination date
8	20-9-310	405	1 15-6-201	414	1 37-51-309
9	20-9-310	2	Transition —	2	Effective date
10	20-9-311		existing property	415	1 7-5-4209
11	20-9-314		taxes not	2	7-5-109
12	20-9-323		extinguished	3	7-5-4207
13	20-9-326	3	Notification to	4	Codification
14	20-9-342		tribal		instruction
15	20-9-344		governments	416	1 76-2-206
16	20-9-403	4	Applicability	417	1 75-2-103
17	20-9-406	406	1 33-24-201	2	75-2-402
18	20-9-408	2	33-24-202	3	Repealer
19	20-9-422	3	33-24-203	4	Effective date
20	20-9-423	4	33-24-204	418	1 15-70-321
21	20-9-426	5	33-24-205	2	15-70-330
22	20-9-427	6	33-24-206	419	1 15-1-212
23	20-9-430	7	33-24-207	2	15-1-213
24	20-9-437	8	33-24-208	3	15-1-211
25	20-9-438	9	33-24-209	4	15-1-402
26	20-9-440	10	33-17-301	5	15-8-601

MONTANA SESSION LAWS 2013

2074

6	15-23-102		4	Effective date	5	77-2-366
7	15-23-104	421	1	85-2-102	6	77-2-317
8	15-24-3112		2	85-2-306	7	Repealer
9	Codification instruction		3	85-2-380	8	Codification instruction
10	Effective dates		4	85-2-381	9	Effective date
420	1 33-1-110		5	Codification instruction	423	1 13-35-225
	2 50-4-105	422	1	77-2-303	2	Coordination instruction
	3 Codification instruction		2	77-2-311	3	Applicability
	4 Severability		3	77-2-318		
			4	77-2-363		

2012 BALLOT ISSUES TO CODE

Legislative Referendum			Initiative		
LR	Sec.	MCA	Init.	Sec.	MCA
120	1	50-20-221	166	1	13-35-501
	2	50-20-222		2	13-35-502
	3	50-20-223		3	13-35-503
	4	50-20-224		4	13-35-504
	5	50-20-225		5	Saving clause
	6	50-20-228		6	Severability
	7	50-20-229		7	Effective date
	8	50-20-232		8	Codification instruction
	9	50-20-235			
	10	41-1-405			
	11	47-1-104			
	12	Repealer			
	13	Codification instruction			
	14	Coordination instruction			
	15	Effective date			
	16	Submission to electorate			
121	1	1-1-411			
	2	Codification instruction			
	3	Coordination instruction			
	4	Severability			
	5	Effective date			
	6	Applicability			
	7	Submission to electorate			
122	1	50-4-901			
	2	50-4-902			
	3	Codification instruction			
	4	Effective date			
	5	Submission to electorate			

Initiative Referendum

IR 124 offered voters the choice to affirm or reject the passage of Senate Bill 423 by the 62nd legislature in regular session (Ch. 419, L. 2011). The passage of the bill was affirmed. Please refer to the 2011 Laws of Montana (Session Laws) to see where Ch. 419 was codified.

## **INDEX TO APPROPRIATIONS**



AQUATIC INVASIVE SPECIES MANAGEMENT, Ch 354.

CAPITAL PROJECTS AND IMPROVEMENTS.

Appropriations for projects through June 30, 2015, Ch 381.

CHILD ABUSE AND NEGLECT PROCEEDINGS.

Funding counsel assignments, Ch 29.

COMMERCE DEPARTMENT.

Projects and grants, Ch 384.

COMMUNITY COLLEGE DISTRICTS AND TRUSTEES.

Appropriations for community college spending.

Adjusted cost of education, defined, Ch 3.

CONTINUATION OF NECESSARY EXPENSES.

Past fiscal year 2013, Ch 294.

CORRECTIONS OPERATIONS ACCOUNT, Ch 413.

CULTURAL AND AESTHETIC PROJECTS GRANT AWARDS.

Funding, Ch 215.

DISASTER OR EMERGENCY.

Declaration, appropriations to governor's office, Ch 138.

ENERGY.

Renewable resource project authorizations for loans, Chs 365, 382.

FIRE SUPPRESSION ACCOUNT, Ch 368.

FISCAL YEAR 2013 NECESSARY EXPENSES.

Various state agencies, Ch 294.

FISCAL YEAR 2013 ORDINARY EXPENSES.

Various state agencies, Ch 293.

FISH AND WILDLIFE.

Environmental quality council, study of hunting and fishing licensing,  
Ch 395.

FOOD POLICY MODERNIZATION PROJECT, Ch 300.

GOVERNOR'S OPERATIONS ACCOUNT, Ch 413.

GREATER SAGE-GROUSE HABITAT CONSERVATION ADVISORY  
COUNCIL, Ch 352.

HEALTH INSURANCE.

Rate filings and review, implementation of provisions, Ch 334.

INDIAN LANGUAGE PRESERVATION PILOT PROGRAM, Ch 410.

INFORMATION TECHNOLOGY.

Appropriations and budget transfers for information technology  
development, Ch 383.

- LABOR AND INDUSTRY DEPARTMENT OPERATIONS ACCOUNT, Ch 413.
- LAND ACQUISITIONS, Ch 381.
- LEGISLATURE.  
Appropriations for fiscal years 2013-2015 for legislative branch, Ch 1.
- LIBRARIES.  
State aid to public libraries, Ch 244.
- LOTTERY, STATE.  
Lottery contractor fees paid from state lottery enterprise fund, Ch 2.
- NATURAL RESOURCES AND CONSERVATION DEPARTMENT.  
Compacts for Blackfeet tribe and Fort Belknap reservation, Ch 382.  
Reclamation and development grants program, Ch 168.  
Regional water projects, appropriations for, Ch 384.
- OCCUPATIONAL AND PROFESSIONAL LICENSING.  
Military training and experience to satisfy licensing requirements, appropriation for rulemaking, Ch 310.
- PUBLIC EMPLOYEES' RETIREMENT SYSTEM.  
Employer contributions, Ch 390.
- PUBLIC HEALTH OPERATIONS ACCOUNT, Ch 413.
- PUBLIC OFFICERS AND EMPLOYEES.  
Compensation plans.  
Analysis and comparison of plans to other states, Ch 385.  
Broadband pay plan, Ch 385.
- PURPLE HEART RECIPIENT SCHOLARSHIP PROGRAM, Ch 372.
- REVIEW OF STATUTORY APPROPRIATIONS.  
Repeal of provisions, Ch 17.
- SCHOOLS AND EDUCATION.  
Digital academy, Ch 179.  
School facility and technology account, appropriations relating to, Ch 325.  
School finance and state aid, Ch 400.
- STATE SPECIAL REVENUE FUND ACCOUNTS, Ch 413.
- SUICIDE REVIEW TEAM, Ch 353.
- TEACHERS' RETIREMENT SYSTEM.  
Supplemental state contribution, Ch 389.

## **GENERAL INDEX**





## - A -

## ABORTION.

Parental consent for abortion act of 2013, Chs 292, 307.

## ACCOUNTANTS.

Firms.

Issuance of shares to persons not licensed as accountants, Ch 99.

## ADMINISTRATION DEPARTMENT.

Derivative transactions, rules and standards regarding, Ch 121.

Director, confirmation of appointment, SR 26.

Escrow businesses, regulation, Ch 216.

## ADMINISTRATIVE RULEMAKING.

Guiding principles for rules with direct tribal implications.

Agency to document, Ch 146.

Small business impact analysis requirement, Ch 318.

## ADULT RESIDENTIAL FACILITIES.

Abuse of residents prohibition and reporting of abuse, Ch 258.

## AERONAUTICS.

Board of aeronautics.

Confirmation of appointments, SR 61, 75.

Meteorological evaluation towers.

Aeronautic safety standards, Ch 256.

Unlawful use of aircraft for hunting, Ch 355.

Unmanned aerial vehicles, limitations on use of, Ch 377.

## AGRICULTURAL COMMODITIES.

Dealer contracts.

Bankruptcy as grounds for cancellation, Ch 247.

## AGRICULTURAL PROPERTY.

Property taxes.

Classification and appraisal of property, Ch 357.

## AGRICULTURE DEPARTMENT.

Director, confirmation of appointment, SR 14.

## AIR POLLUTION.

Advisory council, elimination, Ch 417.

## ALCOHOLIC BEVERAGES.

Licenses, limitation on number per licensee, Ch 211.

Penalties for violations by licensees.

Mitigating circumstances, Ch 327.

Reduction for quantity sales of liquor, sale at less than posted price, Ch 12.

Retail sale of beer or wine for off-premises consumption.

Store required to be grocery store or drugstore licensed as a pharmacy, Ch 375.

Sacramental wine.

Provisions regarding price, tax and licensing, Ch 115.

Social host ordinances in municipalities.

Landlords, restrictions and prohibitions, Ch 415.

- ALCOHOLIC BEVERAGES (Continued)
  - Table wine, direct shipment endorsements, Ch 184.
- AMATEUR RADIO OPERATIONS.
  - Local regulation, Ch 56.
- ANATOMICAL GIFTS.
  - Notation on identification card or drivers' license, Ch 194.
- ANIMALS.
  - Deviate sexual conduct, revision of definition and laws pertaining to, Ch 225.
  - Garbage for use as animal feed.
    - Definition of garbage, Ch 47.
- APPEALS.
  - Bonds in civil actions, Ch 154.
- APPRENTICESHIPS.
  - Committees and agreements, clarification of terms, Ch 15.
- AQUATIC INVASIVE SPECIES MANAGEMENT, Ch 354.
- ARCHITECTS.
  - Board of architects and landscape architects.
    - Confirmation of appointments, SR 36, 76.
- ARTS COUNCIL.
  - Confirmation of appointments, SR 32, 73.
- ASSAULT.
  - Minor under 36 months of age, Ch 378.
  - Partner or family member assault.
    - Definition of partner revised, Ch 228.
    - Previous convictions, determining, Ch 161.
- ATHLETICS.
  - Concussion protection of student athletes.
    - Dylan Steigers protection of youth athletes act, Ch 260.
- ATTORNEYS AT LAW.
  - Child abuse and neglect proceedings.
    - Right to counsel, Ch 29.
  - License tax.
    - Report on authorized expenditures, elimination of requirement for, Ch 7.
  - Municipal court judge disqualification.
    - Attorney acting as judge pro tempore, good standing requirement, Ch 105.

- B -

- BANKS AND BANKING.
  - Acquisition or sale of bank or holding company, Ch 49.
  - Derivative transactions, rules and standards regarding, Ch 121.
  - Financial interest of examiner, Ch 49.

**BANKS AND BANKING (Continued)**

Foreign trust companies.

Capitalization requirements in lieu of bond, Ch 122.

Legislative oversight of banking division and financial institutions, Ch 19.

Merger of banks, Ch 49.

State banking board.

Confirmation of appointments, SR 38.

Time for banks to take certain actions, Ch 49.

**BARBERS AND COSMETOLOGISTS.**

Board of barbers and cosmetologists.

Confirmation of appointments, SR 39.

School affiliation, number of members required to have, Ch 102.

Schools.

Qualifications to teach, Ch 102.

**BESTIALITY.**

Deviate sexual conduct, revision of definition and laws pertaining to, Ch 225.

**BIG SKY ECONOMIC DEVELOPMENT PROGRAM.**

Employee benefits and minimum wage requirements, Ch 23.

**BOATS AND OTHER WATERCRAFT.**

Unlawful use of boat for hunting, Ch 355.

**BOND ISSUES.**

Applicability of bond validating act, Ch 18.

Resort area districts, Ch 232.

School finance.

Oil and natural gas revenue bonds issued by school districts, Ch 400.

**BUDGETS.**

Accounts in state special revenue fund, Ch 413.

Balancing of federal budget and reduction of deficit, encouraging initiation of process for, SJ 18.

Constitution of the United States.

Balanced budget amendment, request for, SR 63.

Hearing on preliminary budget for local government, Ch 62.

Revenue estimates for fiscal years 2013-2015, SJR 2.

Transfer from orphan share account, Ch 382.

Transfer of funds for regional water projects, Ch 384.

Transfer of funds from state general fund to long-range building program account, Ch 381.

Transfers of funds to implement general appropriations act, Ch 413.

Transfer to long-range information technology program account, Ch 383.

- C -

**CANADA.**

Economic development center in Calgary, Alberta.

Requesting establishment of, SJ 11.

**CANAL OR DITCH EASEMENTS.**

Interference with, Ch 180.

**CANCER.**

Health coverage of routine patient costs for participants in clinical trials, Ch 97.

**CAPITOL COMPLEX.**

Advisory council membership, Ch 42.

Joseph P. Mazurek building, memorial and plaque, Ch 221.

**CARBON DIOXIDE.**

Pipelines transporting considered to be common carrier pipelines, Ch 44.

**CELL PHONES.**

Locating electronic devices.

Search warrant requirement, Ch 394.

Portable electronics insurance, Ch 406.

**CHARLES M. RUSSELL NATIONAL WILDLIFE REFUGE.**

Compact between state and federal governments to settle claims regarding water rights, Ch 227.

**CHILDREN AND MINORS.**

Abuse and neglect proceedings.

Disclosure of child abuse records, Ch 332.

Release of case records and verification of receipt of report, Ch 61.

Right to counsel, Ch 29.

Sharing of limited information with mandatory reporter, Ch 337.

Action for damages based on birth of a child, prohibition, Ch 311.

Assault on minor under 36 months of age, Ch 378.

Child and family ombudsman office, Ch 333.

Criminal child endangerment, Ch 304.

Destruction of property by minor, parental liability.

Recoverable damages by governmental entities, Ch 4.

Emergency placement of child.

Criminal background checks of adult residents, Ch 267.

Medicaid eligibility.

Child in subsidized guardianship, Ch 387.

Sexual intercourse without consent.

Child as result of, forfeiture of parental and custodial rights, Ch 149.

Sexual servitude and patronizing of a child, Ch 374.

**CIVIL PROCEDURE.**

Appeal bonds in civil actions, Ch 154.

**CLAIMS AGAINST THE GOVERNMENT.**

Tort action for damages from violation of clean water, solid waste management, hazardous waste, or storage tank acts.

Defense where ownership acquired through bankruptcy or foreclosure, Ch 159.

**COMMERCE DEPARTMENT.**

Appropriations, Ch 384.

Director, confirmation of appointment, SR 19.

## COMMERCE DEPARTMENT (Continued)

Horseracing board, administrative attachment to department, Ch 402.

## COMMERCIAL DRIVERS' LICENSES.

Waiver of skills test for veterans with military commercial motor vehicles experience, Ch 254.

## COMMUNITY COLLEGE DISTRICTS AND TRUSTEES.

Appropriations for community college spending.

Adjusted cost of education, defined, Ch 3.

Dates by which certain actions to be taken, Ch 62.

Trustee candidates, filing deadlines, Ch 251.

## CONCUSSIONS.

Dylan Steigers protection of youth athletes act, Ch 260.

## CONSTITUTION OF MONTANA.

Commissioner of securities and insurance.

Name changed from state auditor, Ch 199.

School classrooms, constitutional documents to be available, Ch 266.

## CONSTITUTION OF THE UNITED STATES.

Balanced budget amendment, request for, SR 63.

Congress, power to regulate commerce.

Urging amendment of constitution to limit, HJ 3.

School classrooms, constitutional documents to be available, Ch 266.

## CONSTRUCTION LIENS.

Arbitration of disputes, Ch 152.

## CONSUMER LOANS.

Confession of judgment when loan in default, Ch 173.

Fees charged to consumers, Ch 173.

Licensing of lenders, Ch 173.

Precomputed interest, Ch 173.

Receipts, Ch 173.

## CONTRACTS.

Interpretation.

Uncertainty, resolution against party who caused it, Ch 31.

## CORRECTIONS DEPARTMENT.

Director, confirmation of appointment, SR 27.

Multiagency task force for released offenders at high risk of recidivism,  
Ch 176.

## COUNSELORS AND THERAPISTS.

Addiction counselors.

Gambling dependence counseling, Ch 275.

Testimony in judicial proceedings.

Immunity from disciplinary authority of licensing board regarding, Ch  
16.

## COUNTIES.

Amateur radio operations, local regulation, Ch 56.

Commissioner districts, alteration of boundaries, Ch 40.

Deposit of funds in time or savings deposits, Ch 52.

## COUNTIES (Continued)

- Electronic records, storage at separate location, Ch 41.
- Fees of county clerk.
  - Recordation of certain documents, Ch 207.
- Firewardens, Ch 206.
- Gasoline taxes, disposition of proceeds.
  - Projects funded with proceeds, when bidding required, Ch 170.
- Park land, dedication by counties, Ch 130.
- Public assistance, local offices, Ch 59.
- Publication of notice.
  - Newspaper failure to publish second notice, Ch 279.
- Purchase of equipment at public auction, dollar amount limit, Ch 136.
- Vacancies in office.
  - Appointment of interim officer, Ch 51.
  - Dates for filling, Ch 143.
- Zoning.
  - Interim zoning district or regulation, Ch 416.

## CRIME CONTROL BOARD.

- Confirmation of appointments, SR 7, 67.

## CRIMINAL CHILD ENDANGERMENT, Ch 304.

## CRIMINAL HISTORY CHECKS.

- Emergency placement of child.
  - Criminal background checks of adult residents, Ch 267.

## CRIMINAL JUSTICE INFORMATION NETWORK, Ch 5.

## CULTURAL AND AESTHETIC PROJECTS GRANT AWARDS.

- Appropriation of funding, Ch 215.

**- D -**

## DECEDENTS' ESTATES.

- Unclaimed property, refund to successor of decedent, Ch 85.

## DEFERRED DEPOSIT LOANS.

- Licensing and regulation, Ch 277.

## DENTISTRY.

- Board of dentistry.
  - Confirmation of appointments, SR 50.
  - Provider agreement with dental or health benefit plan.
    - Limitation to covered services, Ch 160.

## DEVELOPMENTAL DISABILITIES.

- Older persons with, abuse or exploitation of, Ch 158.
- Unfair or deceptive act committed against persons with, Ch 217.

## DISASTER OR EMERGENCY.

- Declaration by governor, appropriations, Ch 138.
- Unemployment insurance.
  - Disaster causing layoff of employees, Ch 81.

## DISORDERLY CONDUCT.

- Discharging of firearm, repeal of provision, Ch 250.



**DISSOLUTION OF MARRIAGE.**

- Guardian ad litem report, Ch 88.
- Investigator's report, Ch 88.
- Parenting plan, amendment, Ch 88.
- Sealed records and confidential information, Ch 88.

**DISTRICT COURTS.**

- Fees, Ch 344.

**DITCHES.**

- Study to examine intersecting interests of estate owners and ditch owners, HJ 26.

**DNA.**

- Sex offenders to submit sample for entry into state DNA database, Ch 101.

**DOMESTIC VIOLENCE.**

- Mediation procedures, Ch 350.
- Partner or family member assault.
  - Definition of partner revised, Ch 228.
  - Previous convictions, determining, Ch 161.

**DRAINAGE DISTRICTS.**

- Contracts for projects, threshold amount requiring bid process, Ch 79.

**DRIVERS' LICENSES.**

- Commercial drivers' licenses.
  - Waiver of skills test for veterans with military commercial motor vehicles experience, Ch 254.
- Organ donation notation, Ch 194.
- Reciprocity agreement with foreign country, Ch 194.
- Report of convictions, Ch 194.
- Veteran designation, Ch 322.

**DRIVING UNDER THE INFLUENCE.**

- Lookback period for determining prior offenses, Ch 312.
- THC, legal limit permitted, Ch 153.
- 24/7 sobriety and drug monitoring program, Ch 309.

**DRONES.**

- Unmanned aerial vehicles, limitations on use of, Ch 377.

**DRUG ABUSE RESISTANCE EDUCATION (D.A.R.E.).**

- Repeal of provisions, Ch 53.

**DRUGS AND CONTROLLED SUBSTANCES.**

- Dangerous drugs, Ch 135.
- Schedule II or III drug for treatment of workplace injury or disease.
  - Query of prescription drug registry, Ch 407.
- Study of prescription drug abuse and its effects on Montanans, SJ 20.

**DRUG TREATMENT COURT.**

- Team members, removal of public defender, Ch 9.

- E -

EASEMENTS.

Canal or ditch easements, interference with, Ch 180.

ECONOMIC DEVELOPMENT.

Requesting establishment of economic development center in Calgary, Alberta, SJ 11.

Targeted economic development district act, Ch 214.

ELECTIONS.

Absentee ballot applications, Ch 255.

Absentee ballot counting, Ch 336.

Absent uniformed services and overseas voting act, Ch 139.

Advertising materials and communications not to be anonymous.

Enforcement of provisions, Ch 423.

Ballots.

When candidate's name not to appear on ballot, Ch 147.

Campaign finance.

Communications not to be anonymous, Ch 367.

Continuation of report filing requirements until closing report filed, Ch 295.

Disclaimer on election materials funded by anonymous donors, Ch 340.

Exceptions for school districts and special districts, Ch 202.

Limits on contributions when office sought not known, Ch 330.

Commissioner of political practices.

Advertising materials and communications not to be anonymous, enforcement, Ch 423.

Ethics violations, prohibition from engaging in private business during office hours, Ch 234.

Study of office of, HJ 1.

County vacancies in office.

Dates for filling, Ch 143.

Illegal influence of voter, Ch 95.

Irrigation districts.

Acreage ownership required to cast vote, Ch 134.

Legislature.

Senate vacancies, filling, Ch 126.

Misrepresentation of voting record, Ch 367.

Participation in election activities by certain officials, repeal of provision, Ch 336.

Precinct committees, Ch 336.

Primary elections.

Advance of candidate regardless of party affiliation, Ch 269.

Elimination of separate party ballots, Ch 269.

Nonpartisan municipal primaries, Ch 212.

Oath of candidate, Ch 336.

Recounts.

Bonds for, Ch 336.

School elections, recount boards, Ch 347.

## ELECTIONS (Continued)

School elections.

Recount boards, Ch 347.

Study regarding feasibility of combined primary and school elections,  
SJ 14.

Voter registration.

Clarifying procedures, Ch 336.

Close of late registration, Ch 270.

National voter registration act compliance, Ch 270.

Third-party voter registration integrity act, Ch 249.

## ELECTRONIC DEVICES.

Locating electronic devices.

Search warrant requirement, Ch 394.

## ELECTRONIC FUNDS TRANSFERS.

Relationship to federal act, Ch 71.

## EMINENT DOMAIN.

Complaint for condemnation.

Contents to include handbook produced by environmental quality  
council, Ch 103.

Facts necessary before condemnation may take place.

Final written offer rejected, Ch 371.

## ENERGY.

Coal combustion residues at electrical generation facilities.

Rules for, Ch 411.

Coal resources and coal-based electricity.

Supporting responsible development, HJ 9.

Federal power marketing administrations.

Concerns about potential changes and request for advance notice of  
hearings, HJ 11, SR 2.

Pacific Northwest electric power and conservation planning council.

Affirmation of appointment, SR 12, 13.

Public utilities, energy use disclosures and liability, Ch 391.

Renewable energy credit reporting by electrical generation facilities, Ch  
25.

Renewable portfolio standard.

Eligible renewable resources defined, Chs 259, 328, 361.

Renewable power production and rural economic development act.

Exemption of competitive electricity supplier with four or fewer small  
customers, Ch 197.

Exemption of utilities serving 50 or fewer customers from provisions,  
Ch 73.

Study of impacts, SJ 6.

Renewable resource project authorizations for loans, Chs 365, 382.

## ENGINEERS AND SURVEYORS.

Board of professional engineers and professional land surveyors.

Confirmation of appointments, SR 36.

Licensing and examinations, Ch 72.

**ENVIRONMENTAL QUALITY DEPARTMENT.**

Coal combustion residues at electrical generation facilities.

Rules for, Ch 411.

Confirmation of director, SR 40.

Environmental quality council, study of hunting and fishing licensing,  
Ch 395.

**EPINEPHRINE.**

School supply and use of epinephrine for anaphylaxis emergencies, Ch  
189.

**ESCROW BUSINESSES, Ch 216.**

- F -

**FACILITY FINANCE AUTHORITY.**

Confirmation of members, SR 51.

**FACILITY SITING.**

Decision on certificate application.

Notices to be given to applicants, Ch 230.

**FALSE CLAIMS ACT.**

Civil penalties, Ch 388.

Definitions, Ch 388.

Limitation of actions where government intervenes, Ch 388.

Reporting by attorney general, Ch 388.

Retaliation prohibited, Ch 388.

**FAMILY LAW.**

Study of court procedures involving family law cases, SJ 22.

**FARMERS' MARKETS.**

Eggs sold at, exemption from license requirement, Ch 94.

Hot beverages sold at, exemption from license requirement, Ch 89.

**FARM MUTUAL INSURANCE.**

Risk, limitation of liability and waiver for managing general agents, Ch  
208.

**FEDERAL LANDS.**

Study evaluating management of federal lands within the state, SJ 15.

**FETAL, INFANT, CHILD AND MATERNAL MORTALITY PREVENTION  
ACT.**

Review of maternal deaths, Ch 67.

**FIREARMS AND OTHER WEAPONS.**

Concealed weapons permits.

Application information considered confidential criminal justice  
information, Ch 111.

Discharging of firearm not included in definition of disorderly conduct,  
Ch 250.

Health care facilities.

Services not to be conditioned on person's disclosure concerning  
firearm ownership, possession or use, Ch 231.

## FIREARMS AND OTHER WEAPONS (Continued)

- Manufacturing of firearms and firearms accessories.
  - Inviting manufacturers threatened by hostile laws in other states to relocate to Montana, HR 5, SR 34.

## FIREFIGHTERS AND FIRE DEPARTMENTS.

- Fire relief associations.
  - Investment of funds, Ch 226.
  - Pension benefits for volunteers, Ch 252.
- Unified retirement systems.
  - Compensation used to determine benefits, limitations, Ch 386.
  - Retirees returning to work, contributions for, Ch 239.
  - Tax code compliance, provisions related to, Ch 240.
- Volunteer firefighters compensation.
  - General amendments to retirement system provisions, Ch 178.
  - Workers' compensation coverage, Ch 412.

## FIRE SUPPRESSION ACCOUNT, Ch 368.

## FISH AND WILDLIFE.

- Aircraft, unlawful use, Ch 355.
- Application for hunting licenses, fees, Ch 298.
- Aquatic invasive species management, Ch 354.
- Bear hunting licenses, waiting period, Ch 151.
- Boat, unlawful use, Ch 355.
- Class B-10 hunting license.
  - Department retention of percentage of fee, Ch 319.
- Department of fish, wildlife and parks.
  - Appointment of director, SR 28.
  - Fish, wildlife and parks commission renamed as fish and wildlife commission, Ch 235.
  - State parks and recreation board created, Ch 235.
- Dingell-Johnson Act, assent to, Ch 69.
- Disabled persons, permit for hunting from vehicle, Ch 397.
- Disabled veterans, eligibility for hunting licenses, Ch 70.
- Donation of hunting licenses to disabled veterans and disabled military personnel, Ch 54.
- Environmental quality council, study of hunting and fishing licensing, Ch 395.
- Fish, wildlife and parks commission.
  - Confirmation of appointments, SR 68, 69, 70.
- Game wardens and peace officers retirement system.
  - Compensation used to determine benefits, limitations, Ch 386.
  - General amendments to retirement system provisions, Ch 178.
  - Tax code compliance, provisions related to, Ch 240.
- Hunters against hunger program, Ch 83.
- Landowner permission to hunt on property.
  - Penalty for failure to obtain, Ch 338.
- Mountain lion trophy license fee, elimination, Ch 129.
- Native Montana fish species enhancement program, Ch 299.
- Nonresident hunting with resident sponsor or family member.
  - Provision made permanent, Ch 107.

**FISH AND WILDLIFE (Continued)**

- Nonresident upland game bird license, Ch 204.
- Nonresident youth big game combination license, Ch 104.
- Salvage of certain game killed by vehicles, Ch 137.
- Shooting preserves.
  - Temporary holding pens for artificially propagated birds, Ch 132.
- Wild buffalo or bison hunting.
  - Location where licensee may hunt, notice of, Ch 181.
- Wildlife management involving large predators and large game.
  - Consultation and coordination, Ch 163.
- Wolf hunting, Ch 13.
- Wolf management generally, Ch 297.

**FLAGS.**

- American flag displayed in classrooms.
  - Requirements, Ch 266.

**FLOODS.**

- Drought and water supply advisory committee.
  - Study of drought and flood impacts, Ch 84.

**FLU SHOTS.**

- Immunizations administered by pharmacist.
  - Without collaborative practice agreement, Ch 220.

**FOOD AND FOOD ESTABLISHMENTS.**

- Exchange of certain food products in nonmonetary transactions,
  - exemption from food safety laws, Ch 302.
- Farmers' markets.
  - Eggs sold at, exemption from license requirement, Ch 94.
  - Hot beverages sold at, exemption from license requirement, Ch 89.
- Food policy modernization project, Ch 300.

**FORESTS AND WILDLANDS.**

- Designation of wildland-urban interface parcels.
  - Report to legislature eliminated, Ch 24.
- Distressed wood products industry, revolving loan program, Ch 205.
- Firewardens, Ch 206.
- Growing timber, parcels of.
  - Classification for property tax purposes, Ch 243.
- Liability for forest or range fires, Ch 291.
- Property taxes.
  - Classification and appraisal of property, Ch 357.
- Sustainable yield determination for timber harvest on forested state lands, Ch 288.
- Wildland fires.
  - Forest management activities, Ch 401.
  - Watersheds at risk for wildfire, Ch 403.

**FRINGE BENEFITS.**

- Prevailing wages and benefits for construction projects, Ch 373.

**FUNERAL SERVICES.**

- Board of funeral service.
  - Confirmation of appointments, SR 17.

## - G -

## GAMBLING.

- Addiction counselors.
  - Gambling dependence counseling, Ch 275.
- Live bingo or card games at senior citizen centers.
  - Exemption from license requirements, Ch 82.
- Machine permits, Ch 64.
- Prizes, Ch 64.
- Sports pool or sports tab game.
  - Maximum wager and payout, Ch 80.
- Tournaments, Ch 64.

## GASOLINE TAXES.

- Disposition of proceeds.
  - Local government projects funded with proceeds, when bidding required, Ch 170.
- Special fuels, Ch 188.
  - Agricultural feed trucks, exemptions, Ch 418.

## GEOGRAPHIC INFORMATION SYSTEMS.

- Duties transferred to state library, Ch 175.

## GOVERNOR.

- Confirmation of appointments.
  - Administration department director, SR 26.
  - Aeronautics board, SR 61, 75.
  - Agriculture director, SR 14.
  - Architects and landscape architects board, SR 36, 76.
  - Arts council, SR 32, 73.
  - Banking board, SR 38.
  - Barbers and cosmetologists board, SR 39.
  - Board of private alternative adolescent residential or outdoor programs, SR 31, 72.
  - Commerce department director, SR 19.
  - Corrections department director, SR 27.
  - Crime control board members, SR 7, 67.
  - Dentistry board, SR 50.
  - Engineers and land surveyors board, SR 36.
  - Environmental quality director, SR 40.
  - Facility finance authority, SR 51.
  - Fish, wildlife and parks commission members, SR 68, 69, 70.
  - Fish, wildlife and parks department director, SR 28.
  - Funeral service board member, SR 17.
  - Hail insurance board members, SR 11, 60.
  - Historical society board of trustees, SR 29.
  - Horseracing board members, SR 11.
  - Housing board, SR 64.
  - Investments board, SR 52, 54.
  - Labor and industry commissioner, SR 18.
  - Livestock board and livestock loss board, SR 43.
  - Medical examiners board, SR 77.



## GOVERNOR (Continued)

## Confirmation of appointments (Continued)

- Military affairs department director, SR 25.
- Natural resources and conservation department director, SR 41.
- Occupational therapy practice board, SR 36.
- Oil and gas conservation board, SR 56, 57, 59.
- Optometry board, SR 66.
- Pacific Northwest electric power and conservation planning council,  
SR 12, 13.
- Pardons and parole board, SR 67.
- Personnel appeals board, SR 35, 65.
- Private security board members, SR 7.
- Professional and occupational board members, SR 8.
- Public assistance board, SR 74.
- Public education board, SR 30, 46.
- Public employees' retirement board members, SR 22, 53.
- Public health and human services director, SR 21.
- Public safety officer standards and training council, SR 7, 67.
- Regents, board of, SR 44, 45, 48.
- Research and commercialization technology board, SR 37.
- Revenue director, SR 16.
- Tax appeal board member, SR 20.
- Transportation commission, SR 62.
- Transportation department director, SR 15.
- Veterans' affairs board, SR 23.
- Veterinary medicine, board members, SR 11.
- Water well contractors board, SR 10.

## GRATEFUL NATION MONTANA MEMORIAL.

- State Iraq and Afghanistan veterans' memorial, Ch 91.

## GRAY WOLF MANAGEMENT, Ch 297.

GREATER SAGE-GROUSE HABITAT CONSERVATION ADVISORY  
COUNCIL, Ch 352.

## GUARANTEED ASSET PROTECTION WAIVER ACT, Ch 313.

**- H -**

## HAIL INSURANCE PROGRAM.

- Adjusters and appraisals, Ch 399.
- Confirmation of appointments to board, SR 11, 60.
- Duties of department, Ch 399.
- Fees and payment for insurance, Ch 399.
- Maximum amount provided, Ch 242.
- Maximum insurance, Ch 399.

## HAZARDOUS WASTE.

- Remediation of hazardous waste.
  - Admissibility of certain orders in civil actions, Ch 342.
- Tort action for damages from violation of act.
  - Defense where ownership acquired through bankruptcy or foreclosure,  
Ch 159.

**HEALTH AND HUMAN SERVICES DEPARTMENT.**

Director, confirmation of appointment, SR 21.

**HEALTH INSURANCE.**

Cancer clinical trials.

Coverage of routine patient costs for participants, Ch 97.

Comprehensive health association.

Termination plan, Ch 404.

Dentistry.

Provider agreement with dental or health benefit plan.

Limitation to covered services, Ch 160.

Exchanges.

Certification and training, Ch 245.

Mandatory and permissible provisions in provider agreements, policies, and subscriber contracts, Ch 306.

Navigators, certification and training, Ch 245.

Producers, exchange training, Ch 245.

Provider agreements, limitations on payments negotiated under, Ch 420.

Rate filings and review, Ch 334.

Small businesses and employers, Ch 169.

Employer payment of employee individual disability coverage, Ch 349.

Insure Montana.

Tax credits and premium assistance payments, Ch 331.

Telemedicine, services provided using, Ch 164.

**HERITAGE PRESERVATION AND DEVELOPMENT COMMISSION.**

Management and operation of state-owned sites at Virginia City, Nevada City and Reeder's Alley, SJ 4.

**HIGHWAYS.**

Federal-aid highway funds.

Apportionment to urban highway system, definition of urban population, Ch 45.

Joshua Thomas "Josh" Rutherford memorial highway, Ch 246.

Patrick A. Pyette memorial highway, Ch 246.

Patrol officers retirement system.

Benefit multiplier, Ch 272.

Compensation used to determine benefits, limitations, Ch 386.

Contributions by employers and employees, Ch 272.

General amendments to retirement system provisions, Ch 178.

Guaranteed annual benefit adjustment, Ch 272.

Purchase of service credit by new members, Ch 272.

Tax code compliance, provisions related to, Ch 240.

Transportation department contracts.

Inspection prior to final payment, Ch 348.

**HISTORICAL SOCIETY.**

Board of trustees.

Confirmation of appointments, SR 29.

**HOLIDAYS.**

Legal holiday falling on Saturday, Ch 131.

**HOMICIDE.**

Causing death of fetus with knowledge that woman is pregnant, Ch 271.

**HORSE RACING.**

Horseracing board.

Administrative attachment to commerce department, Ch 402.

Confirmation of appointments, SR 11.

**HOSPITALS AND OTHER HEALTH CARE FACILITIES.**

Accreditation of facilities.

Entities granting, Ch 157.

Firearm ownership.

Services not to be conditioned on person's disclosure concerning firearm ownership, possession or use, Ch 231.

Patient-centered medical homes act, Ch 363.

**HOUSING.**

Board of housing.

Confirmation of appointments, SR 64.

**HUMAN TRAFFICKING.**

Commercial sexual activity, Ch 374.

Poster providing information regarding hotline, Ch 223.

Vacation of prostitution convictions for trafficking victims, Ch 193.

**HUNTERS AGAINST HUNGER PROGRAM, Ch 83.**

- I -

**IDENTIFICATION CARDS.**

Expiration, Ch 315.

Organ donation notation, Ch 194.

Veteran designation, Ch 322.

**IDLE NO MORE.**

Recognition of movement in Canada, SR 9.

**INCOME TAX.**

Checkoffs.

Agriculture literacy in Montana schools program, Ch 34.

Corporate income tax and alternative corporate income tax, Ch 268.

Disclosure of tax return information between spouses filing separately, Ch 21.

Higher education savings plans including Montana family education savings plan.

Adjusted gross income, Ch 398.

Partnerships.

Electronic partnership return for certain partnerships, Ch 289.

Qualified endowment contributions, credits for, Ch 317.

**INDIANS.**

Indian language preservation pilot program, Ch 410.

Property taxes.

Land owned by Indian tribe and designated as park land.

Limit on number of acres eligible for exemption, Ch 405.

## INDIANS (Continued)

- University and postsecondary education.
- Tuition waivers for members of recognized Indian tribes, Ch 280.

## INFORMATION TECHNOLOGY.

- Appropriations and budget transfers for information technology development, Ch 383.
- Legislative branch information technology planning council, Ch 284.
- State policy, Ch 166.
- Technology acquisition and depreciation fund.
- Cloud computing services, use for, Ch 262.

## INSURANCE.

- Captive insurers, Ch 169.
- Certificates of insurance model act, Ch 303.
- Commissioner of securities and insurance.
- Name changed from state auditor, Ch 199.
- Confidentiality of working papers, Ch 169.
- Deposits and depositories, Ch 169.
- Farm mutual insurance.
- Risk, limitation of liability and waiver for managing general agents, Ch 208.
- Fraud, counterfeit insurance documents, Ch 169.
- General amendments, Ch 169.
- Guaranteed asset protection waiver act, Ch 313.
- Hail insurance board.
- Confirmation of appointments, SR 11, 60.
- Hail insurance program.
- Adjusters and appraisals, Ch 399.
- Duties of department, Ch 399.
- Fees and payment for insurance, Ch 399.
- Maximum amount provided, Ch 242.
- Maximum insurance, Ch 399.
- Health insurance.
- Cancer clinical trials.
- Coverage of routine patient costs for participants, Ch 97.
- Comprehensive health association.
- Termination plan, Ch 404.
- Dentistry, provider agreement with dental or health benefit plan.
- Limitation to covered services, Ch 160.
- Exchanges.
- Certification and training, Ch 245.
- Mandatory and permissible provisions in provider agreements, policies, and subscriber contracts, Ch 306.
- Navigators, certification and training, Ch 245.
- Producers, exchange training, Ch 245.
- Provider agreements, limitations on payments negotiated under, Ch 420.
- Rate filings and review, Ch 334.
- Small businesses and employers, Ch 169.
- Employer payment of employee individual disability coverage, Ch 349.

## INSURANCE (Continued)

## Health insurance (Continued)

## Small businesses and employers (Continued)

## Insure Montana.

Tax credits and premium assistance payments, Ch 331.

Telemedicine, services provided using, Ch 164.

Interstate insurance product regulation compact, Ch 360.

Licensing of entities, Ch 169.

Motor vehicle registration.

Insurance verification procedures, Ch 142.

Portable electronics insurance, Ch 406.

Prepaid legal insurance.

Examination for license and continuing education requirements, Ch 324.

Travel insurance, Ch 359.

Unclaimed life insurance benefits act, Ch 119.

## INTELLECTUAL DISABILITY.

Change of terminology from mental retardation, Ch 68.

Interim study of state-operated institutes caring for individuals with, HJ 16.

## INTERNET.

State-funded public affairs broadcasting, Ch 257.

## INVESTMENTS BOARD.

Confirmation of appointments, SR 52, 54.

## IRRIGATION DISTRICTS.

Elections.

Acreage ownership required to cast vote, Ch 134.

- J -

## JUDGES.

Appointment of judges.

Water judge, associate, SR 5.

Workers compensation court judge, SR 6.

Justices of the peace, disqualification.

Procedures, Ch 248.

Municipal court judge disqualification.

Attorney acting as judge pro tempore, good standing requirement, Ch 105.

Retirement system.

Compensation used to determine benefits, limitations, Ch 386.

General amendments to retirement system provisions, Ch 178.

Tax code compliance, provisions related to, Ch 240.

## JUSTICE COURTS.

Fees of court, Ch 339.

## JUSTICE DEPARTMENT.

Child and family ombudsman, Ch 333.

## JUSTICE DEPARTMENT (Continued)

- Cigarette ignition propensity standards, test method.
  - Department review requirement eliminated, Ch 28.
- Domestic violence fatality review commission duties, Ch 28.
- State fire prevention and investigation section, advisory council eliminated, Ch 28.

## - L -

## LABOR AND INDUSTRY DEPARTMENT.

- Commissioner.
  - Confirmation of appointment, SR 18.
- Prevailing wage rates for construction projects, Ch 373.

## LANDLORD AND TENANT.

- Mobile homes, disputes regarding.
  - Concurrent jurisdiction of justices and district courts, Ch 253.
- Social host ordinances.
  - Landlords, restrictions and prohibitions, Ch 415.
- Tenant not engage in certain activities, Ch 343.
- Termination of rental agreement.
  - Disposition of personal property abandoned by tenant, Ch 93.

## LAW ENFORCEMENT AGENCIES AND OFFICERS.

- Criminal justice information network, Ch 5.
- Highway patrol officers.
  - Solicitation of political support or opposition while wearing uniform, Ch 14.
- Public safety officer standards and training council.
  - Confirmation of appointments, SR 7, 67.
- Racial profiling prohibitions.
  - Compliance statistics accessible to public, Ch 6.
- Retirement systems.
  - Compensation used to determine benefits, limitations, Ch 386.
  - General amendments to retirement system provisions, Ch 178.
- Unmanned aerial vehicles, limitations on use of, Ch 377.

## LEGISLATURE.

- Appropriations for fiscal years 2013-2015 for legislative branch, Ch 1.
- Budget revenue estimates for fiscal years 2013-2015, SJR 2.
- Compensation and expenses.
  - Legislature not in session, Ch 392.
- Economic affairs interim committee.
  - Banking division and financial institutions oversight, Ch 19.
- House of representatives.
  - Adoption of house rules, HR 1.
  - Adoption of joint senate and house rules, SJR 1.
- Information technology.
  - Legislative branch information technology planning council, Ch 284.
- Intern program, repeal, Ch 133.
- Legislative fiscal analyst and finance committee.
  - Reports to, Ch 120.

## LEGISLATURE (Continued)

## Redistricting plan.

Recommendations for amendments to districting and apportionment commission, HR 2, SR 3.

## Senate.

Adoption of joint senate and house rules, SJR 1.

Adoption of senate rules, SR 1.

Filling vacancies, Ch 126.

## State administration and veterans' affairs committee.

Banking division and financial institutions oversight, Ch 19.

Duties generally, Ch 20.

Reports to, Ch 155.

## State employees benefits group participation, Ch 392.

## State pay plans, study of, HJ 17.

## LIBRARIES.

## Geographic information systems.

Duties transferred to state library, Ch 175.

## State aid to public libraries, Ch 244.

## LIENS.

## Agisters' liens and other liens for service, Ch 124.

Enforcement action for agisters' lien.

Due process requirements, Ch 186.

## Construction liens, arbitration of disputes, Ch 152.

## LIFE INSURANCE.

Unclaimed life insurance benefits act, Ch 119.

## LIMITED LIABILITY COMPANIES.

Series of members, companies with, Ch 183.

## LIVESTOCK.

## Agisters' liens, Ch 124.

Enforcement action and due process requirements, Ch 186.

## Alternative livestock advisory council.

Repeal of provision, Ch 26.

## Boards of livestock and livestock loss.

Confirmation of appointments, SR 43.

Members generally, Ch 369.

## Cattle assessment fees, date of assessment, Ch 27.

## Department of livestock.

National beef checkoff, collection fee, Ch 100.

Notice of administrative rules and orders, Ch 90.

## Federal laws for meat and poultry inspection, reference to, Ch 92.

## Garbage for use as animal feed.

Definition of garbage, Ch 47.

## Loss programs, grizzly bear management plans, Ch 172.

## Slaughterhouses.

Regulation of equine carcasses or products, Ch 48.

## Storage of embryos, lien for service, Ch 124.

## LOCAL GOVERNMENTS.

Dates by which certain actions to be taken, Ch 62.



## LOCAL GOVERNMENTS (Continued)

Growth policies.

Coordination with federal agencies, Ch 65.

## LONG-TERM CARE FACILITIES.

Abuse of residents prohibition and reporting of abuse, Ch 258.

## LOTTERY, STATE.

Lottery contractor fees paid from state lottery enterprise fund, Ch 2.

- M -

## MARIJUANA.

Driving under the influence.

THC, legal limit permitted, Ch 153.

## MEDIATION OF FAMILY LAW CASES, Ch 350.

## MEDIATION OF PROPERTY TAX DISPUTES, Ch 419.

## MEDICAID.

Child in subsidized guardianship, eligibility, Ch 387.

Transfer of funds to qualify for assistance.

Fine for recipient, Ch 362.

## MEDICAL MALPRACTICE.

Action for damages based on birth of a child, prohibition, Ch 311.

## MENTAL HEALTH TREATMENT COURT.

Team members, removal of public defender, Ch 9.

## MENTAL ILLNESS.

Crisis stabilization services, provider reimbursement, Ch 201.

Emergency situations, detention of person, Ch 308.

Interim study of state-operated institutes caring for individuals with,  
HJ 16.

Waiver of right to be present at hearing, Ch 308.

## METAL AND SCRAP METAL DEALERS.

Theft of nonferrous metal, Ch 174.

## METEOROLOGICAL EVALUATION TOWERS.

Aeronautic safety standards, Ch 256.

## MILITARY.

Academic credit for prior learning through military service, Ch 77.

Award of valorous service to Montana's fallen heroes, Ch 290.

Commercial drivers' licenses.

Waiver of skills test for veterans with military commercial motor  
vehicles experience, Ch 254.

Death of national guard member on state duty for special work.

Benefit payments, Ch 140.

Department of military affairs, appointment of director, SR 25.

Elections.

Absent uniformed services and overseas voting act, Ch 139.

Federal regulations applicable to national guard, Ch 8.

**MILITARY (Continued)**

## Hunting licenses.

Donation of licenses to disabled veterans and disabled military personnel, Ch 54.

Interstate compact on educational opportunity for military children, Ch 321.

Legislature to compile information regarding state and federal benefits for members of the military, national guard and veterans of both, HJ 30.

## License plates.

Next-of-kin of deceased personnel, Ch 219.

## Occupational and professional licensing.

Study of applicability of military training and experience to licensing qualifications, SJ 24.

Training and experience to satisfy licensing requirements, Chs 310, 320.

Recognizing military service of Montanans in United States armed forces, SJ 8.

**MINES AND MINERALS.**

## Coal resources and coal-based electricity.

Supporting responsible development, HJ 9.

## Coal severance taxes.

Composition and disbursement of funds, Ch 390.

Mine safety training and consultation services, Ch 60.

## Opencut mining.

Annual reports, Ch 198.

Definitions, Ch 198.

Inspection of operations, Ch 198.

Permit procedures, Ch 198.

## Permanent coal tax trust fund.

Funds available for veterans home loan mortgage program, Ch 213.

## Strip and underground mine reclamation.

Action for damage to water supply, Ch 98.

Operator annual reports, Ch 98.

Permit process and applicant violator system, Ch 98.

**MISSOULA TAX INCREMENT FINANCING DISTRICT.**

Entitlement share payment, Ch 22.

**MOBILE HOMES.**

## Landlord-tenant disputes.

Concurrent jurisdiction of justices and district courts, Ch 253.

## Taxation.

Moving or transferring to mobile home or housetrailer, Ch 50.

**MORTGAGES AND DEEDS OF TRUST.**

Advertising, Ch 125.

Applicability of mortgage act, Ch 125.

Definitions, Ch 125.

Electronic records, Ch 125.

Fees or compensation of broker or lender, Ch 125.

Licensing, Ch 125.

## MORTGAGES AND DEEDS OF TRUST (Continued)

- Loan originators, Ch 125.
- NMLS participation, Ch 125.
- Servicers, Ch 125.

## MOTOR CARRIERS.

- Certification of carriers and identification number display requirements, Ch 35.
- Indemnification clause as part of transportation contract, limitations, Ch 108.

## MOTOR VEHICLES.

- Abandoned vehicles.
  - Reimbursement claim by person hired to remove vehicle, Ch 117.
- Accidents.
  - Damages sustained, requirements for immediate notice of accident, Ch 314.
  - Warning signs placed at or near scene, Ch 113.
- Agricultural feed trucks.
  - Special fuels tax exemption, Ch 418.
- Authorized agents, transactions with, Ch 196.
- Dealer franchises.
  - Location of franchises, Ch 273.
- Drivers' licenses, Ch 194.
- Driving under the influence.
  - THC, legal limit permitted, Ch 153.
- Electronic filing and recording, Ch 358.
- License plates.
  - Antique trailers, display of single original Montana license plate, Ch 106.
  - Fees and general requirements, Ch 393.
  - Loan of demonstrator plates to dealership customer, Ch 86.
  - Next-of-kin of deceased personnel, Ch 219.
- Oversize or overweight vehicles.
  - Permits, exemption from environmental review, Ch 218.
  - Study regarding transporting oversize loads through state, SJ 26.
- Registration.
  - Authorized agents, transactions with, Ch 196.
  - Electronic filing, Ch 358.
  - Insurance verification procedures, Ch 142.
  - Nonresident with interest in real property within state, Ch 370.
- Revenue to be deposited into state general fund for veterans' cemetery account, Ch 376.
- School buses.
  - Stopping distance from bus when lights flashing, Ch 58.
- School speed zones.
  - Penalties for violations, Ch 393.
- Speed zones.
  - Impact of engineering and traffic investigation, Ch 261.
  - Penalties for violations, Ch 393.
- Titling.
  - Authorized agents, transactions with, Ch 196.

## MOTOR VEHICLES (Continued)

## Titling (Continued)

- Electronic filing, Ch 358.

- Reissuance for wrecked or disabled vehicles.

  - Time for payment of removal and storage costs, Ch 185.

- Salvage certificate applications, Ch 116.

## Traffic offenses.

- Strip search or body cavity search, reasonable suspicion required, Ch 192.

## MULTILEVEL DISTRIBUTION COMPANIES.

- Registration and regulation, Ch 286.

## MUNICIPALITIES.

- Amateur radio operations, local regulation, Ch 56.

- Deposit of funds in time or savings deposits, Ch 52.

- Gasoline taxes, disposition of proceeds.

  - Projects funded with proceeds, when bidding required, Ch 170.

- Police officers retirement system.

  - Tax code compliance, provisions related to, Ch 240.

- Primary elections.

  - Nonpartisan municipal primaries, Ch 212.

- Publication of notice.

  - Newspaper failure to publish second notice, Ch 279.

- Social host ordinances.

  - Landlords, restrictions and prohibitions, Ch 415.

- Zoning.

  - Wholly surrounded county property.

    - Notice of change of use in county zoning districts, Ch 274.

- N -

## NATURAL RESOURCES AND CONSERVATION DEPARTMENT.

- Compacts for Blackfeet tribe and Fort Belknap reservation, appropriations for, Ch 382.

- Designation of wildland-urban interface parcels.

  - Report to legislature eliminated, Ch 24.

- Director, confirmation of appointment, SR 41.

- Drought and water supply advisory committee, Ch 84.

- Reclamation and development grants program, appropriations, Ch 168.

- Regional water projects, appropriations for, Ch 384.

## 911 TELECOMMUNICATIONS.

- Distribution of wireless enhanced 911 account, Ch 316.

## NONPROFIT ORGANIZATIONS.

- Electronic filing and notice, Ch 190.

- Remote communication for meetings, Ch 190.

- Voting by written ballot transmitted electronically, Ch 190.

## NOTARIES PUBLIC.

- Elimination of oath or notarization requirements for certain provisions, Ch 96.

NOTARIES PUBLIC (Continued)

Transfer of duties from county clerk and recorder to secretary of state,  
Ch 76.

- O -

OATHS.

Elimination of oath or notarization requirements for certain provisions,  
Ch 96.

OCCUPATIONAL THERAPISTS.

Board of occupational therapy practice.  
Confirmation of appointments, SR 36.

OIL AND GAS.

Board of oil and gas conservation.  
Confirmation of member appointments, SR 56, 57, 59.  
School finance.  
Oil and natural gas production taxes and revenue bonds for school  
districts, Ch 400.  
Surface damage and disruption payments, negotiation, Ch 345.

OLYMPICS.

Wrestling, urging committee to keep wrestling as part of summer  
games, SR 55.

OPTOMETRISTS.

Board of optometry.  
Confirmation of appointments, SR 66.

OUTFITTERS AND GUIDES.

Elimination of professional guide license, Ch 341.  
Licensing provisions generally, Ch 341.  
Outfitters' assistants, Ch 241.

- P -

PARENTAL CONSENT FOR ABORTION ACT, Chs 292, 307.

PARKS AND RECREATION.

State parks and recreation board, Ch 235.

PARTITION OF REAL PROPERTY.

Uniform partition of heirs property act, Ch 263.

PARTNERSHIPS.

Income tax.  
Electronic partnership return for certain partnerships, Ch 289.

PATIENT-CENTERED MEDICAL HOMES ACT, Ch 363.

PATRONIZING A CHILD, Ch 374.

PERSONNEL APPEALS BOARD.

Confirmation of appointments, SR 35, 65.

**PETROLEUM STORAGE TANKS.**

Tort action for damages from violation of act.

Defense where ownership acquired through bankruptcy or foreclosure,  
Ch 159.

**PHARMACISTS AND PHARMACIES.**

Immunizations administered by pharmacist.

Without collaborative practice agreement, Ch 220.

Pharmacy audit integrity act, Ch 114.

**PHYSICIANS AND SURGEONS.**

Action for damages based on birth of a child, prohibition, Ch 311.

Board of medical examiners.

Confirmation of appointments, SR 77.

Medical peer review.

Clarification of certain terms, Ch 265.

Prescription of schedule II or III drug for treatment of workplace injury  
or disease.

Query of prescription drug registry, Ch 407.

**PIPELINES.**

Common carrier pipelines, transport of carbon dioxide, Ch 44.

**PLEAS IN CRIMINAL CASES.**

Acceptance of guilty plea or plea of nolo contendere, Ch 144.

**PORTABLE ELECTRONICS INSURANCE, Ch 406.****PREGNANCY.**

Causing death of fetus with knowledge that woman is pregnant, Ch  
271.

Fetal, infant, child and maternal mortality prevention act, Ch 67.

**PREPAID LEGAL INSURANCE.**

Examination for license and continuing education requirements, Ch  
324.

**PRESCRIPTION DRUGS.**

Schedule II or III drug for treatment of workplace injury or disease.

Query of prescription drug registry, Ch 407.

Study of prescription drug abuse and its effects on Montanans, SJ 20.

**PRIMARY SECTOR BUSINESS WORKFORCE ACT.**

Definitions, Ch 10.

Training grant eligibility, Ch 10.

**PRISONS AND PRISONERS.**

Medical parole, outcome reporting requirement eliminated, Ch 43.

Multiagency task force for released offenders at high risk of recidivism,  
Ch 176.

**PRIVATE ALTERNATIVE ADOLESCENT RESIDENTIAL OR OUTDOOR  
PROGRAMS.**

Confirmation of appointments to board, SR 31, 72.

**PRIVATE SECURITY BOARD.**

Confirmation of appointments, SR 7.

**PROBATION AND PAROLE.**

- Applicability of parole eligibility restrictions, Ch 30.
- Board of pardons and parole.
  - Confirmation of appointments, SR 67.
  - Study of operations of, SJ 3.
- Medical parole, outcome reporting requirement eliminated, Ch 43.
- Mental health considerations, Ch 209.

**PROFESSIONAL AND OCCUPATIONAL LICENSING AND REGULATION.**

- Affirmation of appointments made.
  - Professional and occupational board members, SR 8.
- Review of licensing boards to determine necessity of board.
  - Termination of act, Ch 36.

**PROPERTY TAXES.**

- Centrally assessed properties, Ch 396.
- Class eight property.
  - Basis for adjustments, Ch 11.
  - Reductions and exemptions, Ch 396.
- Classification and appraisal of property.
  - Agricultural or forest land, Ch 357.
- Class nine property.
  - Taxable percentage, Ch 396.
- Deadlines relating to decisions and notice, Ch 57.
- Growing timber, parcels of.
  - Classification for tax purposes, Ch 243.
- Indian tribe, land owned by and designated as park land.
  - Limit on number of acres eligible for exemption, Ch 405.
- Mediation of assessment disputes, Ch 419.

**PROSTITUTION.**

- Children, revision of laws regarding, Ch 374.
- Vacation of convictions for sex trafficking victims, Ch 193.

**PUBLIC ASSISTANCE.**

- Board of public assistance.
  - Confirmation of appointments, SR 74.
- Local county offices, Ch 59.
- Transfer of funds to qualify for medicaid.
  - Fine for recipient, Ch 362.

**PUBLIC EMPLOYEES' RETIREMENT SYSTEM.**

- Board.
  - Confirmation of appointments, SR 22, 53.
- Coal severance taxes, appropriation of collections to system, Ch 390.
- Compensation used to determine benefits, limitations, Ch 386.
- Employer contributions, Ch 390.
- General amendments to retirement system provisions, Ch 178.
- Guaranteed annual benefit adjustment, Ch 390.
- Member contributions, Ch 390.
- Reporting by board, Ch 390.
- Retirees returning to work, contributions for, Ch 239.
- Tax code compliance, provisions related to, Ch 240.



**PUBLIC OFFICERS AND EMPLOYEES.**

- Commissioner of political practices.
  - Ethics violations, prohibition from engaging in private business during office hours, Ch 234.
  - Study of office of, HJ 1.
- Compensation plans.
  - Analysis and comparison of plans to other states, Ch 385.
  - Broadband pay plan, Ch 385.
  - Roth accounts to be included in deferred compensation plans, Ch 145.
  - Study of state pay plans, HJ 17.
- Deferred compensation program.
  - Tax code compliance, provisions related to, Ch 240.

**PUBLIC PURCHASING AND CONTRACTING.**

- Large purchases or construction contracts by local entities.
  - Increase of contract amount requiring competitive bidding, Ch 110.

**PUBLIC UTILITIES.**

- Energy use disclosures and liability, Ch 391.

**PURPLE HEART RECIPIENT SCHOLARSHIP PROGRAM, Ch 372.****- R -****REAL ESTATE APPRAISERS.**

- Board of real estate appraisers.
  - Qualifications of members, Ch 87.

**REAL ESTATE BROKERS AND SALESPERSONS.**

- Sale by owner, nonliability of supervising broker or real estate firm, Ch 414.

**RECORDS MANAGEMENT.**

- State and local government records.
  - Study regarding electronic records management, HJ 2.

**RECREATIONAL USE OF PRIVATE LAND.**

- Unlocking state lands program, Ch 346.

**RESEARCH AND TECHNOLOGY.**

- Board of research and commercialization technology.
  - Confirmation of appointments, SR 37.

**RESORT AREA DISTRICTS.**

- Annexation of property into, Ch 285.
- Bond issues, authority for, Ch 232.

**RETAIL INSTALLMENT SALES.**

- Contract terms and requirements, Ch 63.
- Definitions, Ch 63.
- Licensing of finance companies, Ch 63.
- Notice of violations, Ch 63.
- Payment, Ch 63.
- Powers of department, Ch 63.

**ROADKILL.**

- Salvage of certain game killed by vehicles, Ch 137.

## RURAL ELECTRIC COOPERATIVES.

Long-term indebtedness, approval to incur, Ch 55.

- S -

## SALES AND USE TAXES.

Lodging facility use tax, distribution of proceeds and accounting for expenditures, Ch 32.

## SCHOOL BUSES.

Stopping distance from bus when lights flashing, Ch 58.

## SCHOOLS AND EDUCATION.

Agriculture literacy in Montana schools program, Ch 34.

American flag displayed in classrooms.

Requirements, Ch 266.

American Indian achievement gap.

Report by office of public instruction, Ch 118.

Assignment of child to school in district outside adopted school boundaries.

Decision subject to grievance policy, Ch 128.

At-risk students.

Report by office of public instruction, Ch 118.

Attendance.

Truancy, Ch 281.

Board of public education.

Confirmation of appointments, SR 30, 46.

Career and technology student organizations.

State-level strengthening, Ch 276.

Concussion protection of student athletes.

Dylan Steigers protection of youth athletes act, Ch 260.

Constitutional documents to be available in classrooms, Ch 266.

Dates by which certain actions to be taken, Ch 62.

Digital academy, appropriation for, Ch 179.

Elections.

Campaign finance requirements.

Exceptions for school districts and special districts, Ch 202.

Recount boards, Ch 347.

Study regarding feasibility of combined primary and school elections, SJ 14.

Epinephrine for anaphylaxis emergencies.

School supply and use of, Ch 189.

Extracurricular fund for pupil functions, Ch 38.

Financial literacy course.

Urging board of public education to add to graduation requirements, HJ 14.

K-12 funding and data system, Ch 400.

Literacy and numeracy goals of public education system, Ch 222.

Military children, interstate compact on educational opportunity for, Ch 321.

Multidistrict cooperative agreements, dissolution process to be included, Ch 127.

## SCHOOLS AND EDUCATION (Continued)

- Office and superintendent of public instruction.
  - Reporting requirements, Ch 118.
- Privacy of student data, Ch 400.
- Purchases or construction contracts by local entities.
  - Increase of amount for large contracts requiring competitive bidding, Ch 110.
- Safety and security procedures and programs, Ch 364.
- School facility and technology account, appropriations relating to, Ch 325.
- School finance.
  - Appropriations, Ch 400.
  - Data-for-achievement, Ch 400.
  - Deposits into various funds and accounts, Ch 329.
  - General operating fund reserves, Ch 329.
  - Increase in state aid for BASE budgets, Ch 400.
  - K-12 funding payments and data system, Ch 400.
  - Multidistrict agreements, Ch 329.
  - Oil and natural gas revenues, Ch 400.
  - Performance and accreditation, effect, Ch 400.
  - Transfers from fund to fund, Chs 329, 400.
- Social, political and economic systems, understanding of.
  - Goals of public education system, Ch 222.
- Speed limits in school zones.
  - Penalties for violations, Ch 393.
- Student records, retention, Ch 33.
- Technology acquisition and depreciation fund.
  - Cloud computing services, use for, Ch 262.
- Transportation reimbursement, Ch 389.
- Truancy, Ch 281.
- Tuition levy to pay tuition expenses for out-of-district attendance, Ch 305.

## SEARCHES AND SEIZURES.

- Electronic devices, locating.
  - Search warrant requirement, Ch 394.
- Strip search or body cavity search, reasonable suspicion required, Ch 192.

## SECURED TRANSACTIONS.

- Definitions, Ch 75.
- Electronic chatter paper, Ch 75.
- Financing statement, Ch 75.
- Location of debtor.
  - Effect of changes in applicable law, Ch 75.
- Name of debtor and secured party, Ch 75.
- Organizations or other entities as debtors, Ch 75.
- Perfection of security interest, Ch 75.
- Priority of security interests, Ch 75.

## SECURITIES.

- Securities restitution assistance fund, deposits, Ch 66.

**SENIOR CITIZENS.**

- Abuse or exploitation of older persons with developmental disabilities, Ch 158.
- Unfair or deceptive act committed against, Ch 217.

**SENTENCING.**

- Mental health considerations, Ch 209.
- Probation and parole.
  - Applicability of parole eligibility restrictions, Ch 30.
  - Medical parole, outcome reporting requirement eliminated, Ch 43.
  - Mental health considerations, Ch 209.
- Restorative justice programs.
  - Grants, Ch 237.
  - Participation, Ch 177.

**SEX OFFENDERS.**

- DNA sample for entry into state DNA database, Ch 101.
- Evaluations and designations.
  - Department making designation if sentencing judge did not, Ch 182.
- Registrant absent from county of residence more than 10 consecutive days.
  - Requirement to register at physical location, Ch 283.

**SEX OFFENSES.**

- Deviate sexual conduct, revision of definition and laws pertaining to, Ch 225.
- Prostitution.
  - Vacation of convictions for sex trafficking victims, Ch 193.
- Sexual intercourse without consent.
  - Child as result of, forfeiture of parental and custodial rights, Ch 149.

**SEXUAL SERVITUDE OF A CHILD, Ch 374.****SHERIFFS.**

- Retirement system.
  - Compensation used to determine benefits, limitations, Ch 386.
  - General amendments to retirement system provisions, Ch 178.
  - Retirees returning to work, contributions for, Ch 239.
  - Tax code compliance, provisions related to, Ch 240.

**SHOOTING PRESERVES.**

- Temporary holding pens for artificially propagated birds, Ch 132.

**SLAUGHTERHOUSES.**

- Regulation of equine carcasses or products, Ch 48.

**SMALL CLAIMS COURTS.**

- Fees of court, Ch 339.

**SOLID WASTE MANAGEMENT.**

- License fees.
  - Annual fee year, commencement of, Ch 229.
- Tort action for damages from violation of act.
  - Defense where ownership acquired through bankruptcy or foreclosure, Ch 159.

**SPECIAL DISTRICTS.**

Creation, governance or alteration of boundaries, Ch 171.

Elections, campaign finance requirements.

Exceptions for school districts and special districts, Ch 202.

**SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY.**

Telepractice, Ch 162.

**SPEED ZONES.**

Impact of engineering and traffic investigation, Ch 261.

**STATE LANDS.**

Mineral rights and reservations.

Repeal of provision regarding mineral royalties, Ch 17.

Sale of leased cabin or home sites, Ch 422.

School finance.

Deposits by state board of land commissioners, Ch 400.

Unlocking state lands program, Ch 346.

**SUBDIVISIONS.**

Buildings for lease or rent, alternative procedures and exemptions, Ch 379.

Review of applications.

Buildings for lease or rent, alternative procedures, Ch 379.

Timelines, Ch 109.

Tracts exempt from review but subject to survey requirements, Ch 351.

Wildlife or environmental comments or opinions submitted, Ch 112.

Water and wastewater systems.

Submission of information as to jurisdiction of public service commission, Ch 165.

Water well drilling.

Well isolation zone encroachment on adjacent private property, Ch 195.

**SUBSTANCE ABUSE AND CHEMICAL DEPENDENCY.**

Interim study of state-operated institutes caring for individuals with, HJ 16.

**SUICIDE.**

Suicide review team, Ch 353.

- T -

**TAIWAN.**

Reaffirmation of relationship between state and Taiwan and encouragement on trade talks with Taiwan and United States, HJ 12.

**TARGETED ECONOMIC DEVELOPMENT DISTRICT ACT, Ch 214.****TAXATION.**

Attorney license tax.

Report on authorized expenditures, elimination of requirement for, Ch 7.

Corporate income tax and alternative corporate income tax, Ch 268.

## TAXATION (Continued)

- Director of revenue.
  - Affirmation of appointment, SR 16.
- Electronic notice of levy to, or service of writ on department of revenue, Ch 200.
- Expanding industry taxable value decrease.
  - Repeal of provisions, Ch 37.
- Gasoline taxes.
  - Disposition of proceeds.
    - Local government projects funded with proceeds, when bidding required, Ch 170.
  - Special fuels, Ch 188.
    - Agricultural feed trucks, exemption, Ch 418.
- Income tax.
  - See INCOME TAX.
- Local government severance tax.
  - Removal of references to repealed provisions, Ch 46.
- Missoula tax increment financing district.
  - Entitlement share payment, Ch 22.
- Mobile home taxation.
  - Moving or transferring to mobile home or housetrailer, Ch 50.
- Property taxes.
  - See PROPERTY TAXES.
- Resort area districts.
  - Bond issues, authority for, Ch 232.
- Retirement systems.
  - Tax code compliance, provisions related to, Ch 240.
- Sales and use taxes.
  - Lodging facility use tax, distribution of proceeds and accounting for expenditures, Ch 32.
- State tax appeal board.
  - Appointment of member, SR 20.
  - Study of state tax appeals and hearing procedures and options for streamlining the process, SJ 23.
- Tax increment financing.
  - Targeted economic development district act, Ch 214.

## TEACHERS' RETIREMENT SYSTEM.

- Administrative and federal tax qualifications, changes to comply with, Ch 366.
- Break-in-service requirements, Ch 238.
- Contributions by employers and members, Ch 389.
- Eligibility for service retirement, Ch 389.
- Final average compensation, Ch 389.
- Guaranteed annual benefit adjustment, Ch 389.
- Reporting by board, Ch 389.
- Supplemental state contribution, Ch 389.
- Tiers, effect and changes based on, Ch 389.

## TECHNICAL CORRECTIONS, Ch 123.

## TELECOMMUNICATIONS.

- Locating electronic devices.
- Search warrant requirement, Ch 394.
- Portable electronics insurance, Ch 406.

## TELEMEDICINE.

- Health insurance for services provided using, Ch 164.

## TELEVISION.

- State-funded public affairs broadcasting, Ch 257.

## THEFT.

- Nonferrous metal, Ch 174.

## TITLE LOANS.

- Repeal of provisions, Ch 278.

## TOBACCO PRODUCTS.

- Cigarette ignition propensity standards, test method.
- Justice department review requirement eliminated, Ch 28.

## TRAFFIC OFFENSES.

- Strip search or body cavity search, reasonable suspicion required, Ch 192.

## TRANSPORTATION COMMISSION.

- Confirmation of appointments, SR 62.

## TRANSPORTATION DEPARTMENT.

- Appointment of director, SR 15.
- Highway contracts.
- Inspection prior to final payment, Ch 348.

## TRAVEL INSURANCE, Ch 359.

## TREES AND TIMBER.

- Distressed wood products industry, revolving loan program, Ch 205.
- Growing timber, parcels of.
- Classification for property tax purposes, Ch 243.
- Liability for forest or range fires, Ch 291.
- Sustainable yield determination for timber harvest on forested state lands, Ch 288.

## TRUSTS AND TRUSTEES.

- Uniform trust code, Ch 264.

## 24/7 SOBRIETY AND DRUG MONITORING PROGRAM, Ch 309.

- U -

## UNCLAIMED PROPERTY.

- Decedents' estates.
- Refund to successor of decedent, Ch 85.
- Life insurance benefits, Ch 119.

## UNDERGROUND STORAGE TANKS.

- Tort action for damages from violation of act.
- Defense where ownership acquired through bankruptcy or foreclosure, Ch 159.



**UNDERGROUND STORAGE TANKS (Continued)**

Underground pipes connected to aboveground tank at petroleum refinery.

Not included in definition, Ch 141.

**UNEMPLOYMENT INSURANCE.**

Child support interception of benefits, Ch 203.

Claimant leaving work with good cause.

Benefits not to be charged to employer with experience rating, Ch 167.

Disaster causing layoff of employees, Ch 81.

Employing unit, response to department requests for information, Ch 203.

False statements to obtain or increase benefits, penalty, Ch 203.

Fund, payments to, Ch 203.

Misconduct, definition, Ch 287.

**UNFAIR TRADE PRACTICES.**

Unfair or deceptive act committed against older or developmentally disabled person, Ch 217.

**UNIFORM PARTITION OF HEIRS PROPERTY ACT, Ch 263.****UNIFORM TRUST CODE, Ch 264.****UNIVERSITY AND POSTSECONDARY EDUCATION.**

Academic credit for prior learning through military service, Ch 77.

Board of regents.

Confirmation of appointments, SR 44, 45, 48.

Increase of college completion rates, adoption of goals and performance measures, SJ 13.

Local executive boards, elimination of, Ch 78.

Purple Heart recipient scholarship program, Ch 372.

Student loan advisory council eliminated, Ch 39.

Tuition waivers.

Members of recognized Indian tribes, Ch 280.

University system retirement program.

Renamed from optional retirement program, Ch 282.

**UNMANNED AERIAL VEHICLES.**

Limitations on use of, Ch 377.

**UPPER MISSOURI RIVER BREAKS NATIONAL MONUMENT.**

Compact between state and federal governments to settle claims regarding water rights, Ch 224.

- V -

**VETERANS.**

Award of valorous service to Montana's fallen heroes, Ch 290.

Board of veterans' affairs.

Confirmation of appointments, SR 23.

Designation on drivers' license and identification card, Ch 322.

Disabled veterans.

Hiring preferences, Ch 191.

## VETERANS (Continued)

- Grateful Nation Montana memorial.
- State Iraq and Afghanistan veterans' memorial, Ch 91.
- Hiring preferences, Ch 191.
- Home loan mortgage program.
  - Funds available from permanent coal tax trust fund, Ch 213.
- Hunting licenses.
  - Disabled veterans, eligibility for hunting licenses, Ch 70.
  - Donation of licenses to disabled veterans and disabled military personnel, Ch 54.
- Legislature to compile information regarding state and federal benefits for members of the military, national guard and veterans of both, HJ 30.
- State administration and veterans' affairs committee.
  - Banking division and financial institutions oversight, Ch 19.
  - Duties generally, Ch 20.
  - Reports to, Ch 155.
- World War II.
  - Commemorating 70th anniversary of battle of Sanananda, Papua New Guinea, SJ 21.

## VETERINARIANS.

- Board of veterinary medicine, appointment of members, SR 11.

- W -

## WAGES AND SALARIES.

- Overtime exclusions.
  - Computer informational technology professionals, Ch 150.
  - Prevailing wage rates for construction projects, Ch 373.

## WATER AND WASTEWATER SYSTEMS.

- Regional authorities.
  - Hearing on change in rates, fees or charges, Ch 187.
- Subdivisions.
  - Submission of information as to jurisdiction of public service commission, Ch 165.
- Water and sewer districts.
  - Dissolution by petition or special election, Ch 233.

## WATER JUDGES.

- Appointment of associate judge, SR 5.

## WATER QUALITY.

- Cooling water intake structures, rules for regulating, Ch 156.
- Tort action for damages from violation of clean water act.
  - Defense where ownership acquired through bankruptcy or foreclosure, Ch 159.

## WATER RIGHTS.

- Aquifer recharge or mitigation plans in closed basins, Ch 335.
- Charles M. Russell National Wildlife Refuge.
  - Compact between state and federal governments to settle claims regarding water rights, Ch 227.

**WATER RIGHTS (Continued)**

- Developed spring, definition, Ch 409.
- General revisions of water laws, Ch 335.
- Ground water appropriations exempt from permit requirements.
  - Stream depletion zones, Ch 421.
- Hydrogeologic reports, Ch 335.
- Ownership of certain islands, Ch 210.
- Permit process streamlining, Ch 335.
- Petition for judicial determination of water right, Ch 323.
- Removal of natural obstruction on another's property, Ch 408.
- Sudden change in river or stream as result of avulsion, Ch 210.
- Temporary lease of appropriation right, Ch 236.
- Upper Missouri River Breaks National Monument.
  - Compact between state and federal governments to settle claims regarding water rights, Ch 224.

**WATERSHEDS.**

- Risk for wildfire, Ch 403.

**WATER WELL CONTRACTORS.**

- Affirmation of board appointments by governor, SR 10.

**WATER WELLS.**

- Subdivisions.
  - Well isolation zone encroachment on adjacent private property, Ch 195.

**WEAPONS.**

- Concealed weapons permits.
  - Application information considered confidential criminal justice information, Ch 111.
- Discharging of firearm not included in definition of disorderly conduct, Ch 250.
- Firearms and firearms accessory manufacturing.
  - Inviting manufacturers threatened by hostile laws in other states to relocate to Montana, HR 5, SR 34.
- Health care facilities.
  - Services not to be conditioned on person's disclosure concerning firearm ownership, possession or use, Ch 231.

**WEEDS.**

- Noxious weed control.
  - Funds for administration of program and award of grants, Ch 326.
  - Noncompliance with requirements, Ch 301.
  - Payment of weed control expenses, Ch 301.

**WEIGHTS, MEASURES AND COMMODITY GRADES.**

- Licensing of weighing devices, fees, Ch 356.
- Split weighing of commodities, Ch 296.

**WILDLAND FIRES.**

- Forest management activities, Ch 401.
- Watersheds at risk for wildfire, Ch 403.

**WOLF HUNTING, Ch 13.**

WOLF MANAGEMENT, Ch 297.

WORKERS' COMPENSATION.

Appointment of Workers compensation court judges, SR 6.

Claims for intentional and deliberate acts.

Standard of proof, Ch 148.

Extraterritorial applicability of provisions.

Reciprocal agreements for coverage, Ch 74.

Prescription of schedule II or III drug for treatment of injury or disease.

Query of prescription drug registry, Ch 407.

Study regarding subrogation, the workers' compensation court, the compensation insurance fund and medical and safety components, HJ 25.

Volunteer firefighters, coverage, Ch 412.

WORLD WAR II.

Commemorating 70th anniversary of battle of Sanananda, Papua New Guinea, SJ 21.

WRESTLING.

Urging Olympic committee to keep wrestling as part of summer games, SR 55.

- Z -

ZONING.

Counties, interim zoning district or regulation, Ch 416.

Wholly surrounded county property.

Notice of change of use in county zoning districts, Ch 274.