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Volume III

CHAPTER NO. 452

[SB 166]

AN ACT REVISING LAWS RELATING TO FISH AND GAME LICENSURE; PROVIDING FOR THE ISSUANCE OF FREE WILDLIFE CONSERVATION LICENSES TO RESIDENT MINORS WHO ARE 12 YEARS OF AGE OR OLDER AND UNDER 15 YEARS OF AGE AND TO RESIDENTS 62 YEARS OF AGE OR OLDER; PROVIDING THAT RESIDENTS AND CERTAIN NONRESIDENTS WHO HAVE BEEN AWARDED A PURPLE HEART IN SERVICE WITH THE U.S. ARMED FORCES MAY FISH AND HUNT GAME BIRDS WITH ONLY A WILDLIFE CONSERVATION LICENSE; PROVIDING FOR THE TRANSFER OF MONEY FROM THE GENERAL FUND TO THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS GENERAL LICENSE ACCOUNT TO COMPENSATE FOR LICENSE REVENUE LOST THROUGH THE ISSUANCE OF THE FREE LICENSES AND EXTENSION OF PRIVILEGES TO RECIPIENTS OF A PURPLE HEART; AMENDING SECTIONS 87-2-202, 87-2-801, 87-2-805, AND 87-2-903, MCA; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE.

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

Section 1. Section 87-2-202, MCA, is amended to read:

"87-2-202. Application — fee — expiration. (1) Except as provided in 87-2-803(12) *and 87-2-805(5)*, a wildlife conservation license must be sold upon written application. The application must contain the applicant's name, age, [social security number,] occupation, street address of permanent residence, mailing address, qualifying length of time as a resident in the state of Montana, and status as a citizen of the United States or as an alien and must be signed by the applicant. The applicant shall present a valid Montana driver's license, a Montana driver's examiner's identification card, or other identification specified by the department to substantiate the required information when applying for a wildlife conservation license. It is the applicant's burden to provide documentation establishing the applicant's identity and qualifications to purchase a wildlife conservation license or to receive a free wildlife conservation license pursuant to 87-2-803(12) *or 87-2-805(5)*. It is unlawful and a misdemeanor for a license agent to sell *or give* a wildlife conservation license to an applicant who fails to produce the required identification at the time of application for licensure.

(2) Hunting, fishing, or trapping licenses issued in a form determined by the department must be recorded according to rules that the department may prescribe.

(3) (a) Resident wildlife conservation licenses may be purchased for a fee of $8, of which 25 cents is a search and rescue surcharge.

(b) Nonresident wildlife conservation licenses may be purchased for a fee of $10, of which 25 cents is a search and rescue surcharge.

(c) In addition to the fee in subsection (3)(a), the first time in any license year that a resident uses the wildlife conservation license as a prerequisite to purchase a hunting license, an additional hunting access enhancement fee of $2 is assessed. The additional fee may be used by the department only to encourage enhanced hunting access through the hunter management and hunting access enhancement programs established in 87-1-265 through 87-1-267. The wildlife conservation license must be marked appropriately when the hunting access

enhancement fee is paid. The resident hunting access enhancement fee is chargeable only once during any license year.

(d) In addition to the fee in subsection (3)(b), the first time in any license year that a nonresident uses the wildlife conservation license as a prerequisite to purchase a hunting license, except a variably priced outfitter-sponsored Class B-10 or Class B-11 license issued under 87-1-268, an additional hunting access enhancement fee of $10 is assessed. The additional fee may be used by the department only to encourage enhanced hunting access through the hunter management and hunting access enhancement programs established in 87-1-265 through 87-1-267. The wildlife conservation license must be marked appropriately when the hunting access enhancement fee is paid. The nonresident hunting access enhancement fee is chargeable only once during any license year.

(4) Licenses issued are void after the last day of February next succeeding their issuance.

[(5) The department shall keep the applicant's social security number confidential, except that the number may be provided to the department of public health and human services for use in administering Title IV-D of the Social Security Act.]

(6) The department shall delete the applicant's social security number in any electronic database [5 years after the date that application is made for the most recent license]. (Bracketed language terminates or is amended on occurrence of contingency—sec. 3, Ch. 321, L. 2001; the $2 wildlife conservation license fee increases in subsections (3)(a) and (3)(b) enacted by Ch. 596, L. 2003, are void on occurrence of contingency—sec. 8, Ch. 596, L. 2003.)"

Section 2. Section 87-2-801, MCA, is amended to read:

"87-2-801. Residents over sixty-two years of age — resident or nonresident legion of valor members — *purple heart awardees.* (1) A resident, as defined in 87-2-102, who is 62 years of age or older is entitled to fish and hunt game birds, not including wild turkeys, with a conservation license issued by the department. The form of the license must be prescribed by the department.

(2) A resident who is 62 years of age or older is also entitled to purchase a Class A-3 deer A tag for $10 and a Class A-5 elk tag for $12.

(3) Regardless of age, a resident, as defined in 87-2-102, or a nonresident who is a legion of valor member is entitled to fish with a conservation license issued by the department.

(4) Regardless of age, a resident, as defined in 87-2-102, who has been awarded a purple heart for service in the armed forces of the United States is entitled to fish and hunt game birds, not including wild turkeys, with a conservation license issued by the department.

(5) Regardless of age, a nonresident who has been awarded a purple heart for service in the armed forces of the United States is entitled to fish and hunt game birds, not including wild turkeys, with a conservation license issued by the department during expeditions arranged for the nonresident by a nonprofit organization that uses fishing and hunting as part of the rehabilitation of disabled veterans.

(6) 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 license costs associated with the fishing and game bird hunting privileges granted pursuant to subsections (4) and (5) during the preceding calendar quarter. Reimbursement costs must be designated as license revenue."

Section 3. Section 87-2-805, MCA, is amended to read:

"87-2-805. Persons under eighteen years of age — youth combination sports license — terminally ill youth under seventeen years of age — *free wildlife conservation license for resident seniors and certain minors.* (1) Resident minors who are 12 years of age or older and under 15 years of age may fish and may hunt upland game and migratory game birds during the open season with only a conservation license. Resident minors who are 15 years of age may hunt migratory game birds with only a conservation license. Resident minors who are under 12 years of age may fish without a license. A nonresident person under 15 years of age may not fish in or on any Montana waters without first having obtained a Class B, B-4, or B-5 fishing license unless the nonresident person under 15 years of age is in the company of an adult in possession of a valid Montana fishing license. The limit of fish for the nonresident person and the accompanying adult combined may not exceed the limit for one adult as established by law or by rule of the department.

(2) A resident, as defined by 87-2-102, who is 12 years of age or older and under 15 years of age may purchase a Class A-3 deer A tag for $6.50 and a Class A-5 elk tag for $8.

(3) (a) A resident who is 12 years of age or older and under 18 years of age may purchase a youth combination sports license for $25. A resident who is 12 years of age or older and under 18 years of age and who applies for any hunting license for the first time is entitled to receive a youth combination sports license free of charge.

(b) The youth combination sports license includes:

(i) a conservation license;

(ii) a fishing license;

(iii) an upland game bird license;

(iv) an elk license; and

(v) a deer license.

(c) A resident who is 15 years of age or older and under 18 years of age may purchase a Class A fishing license for $8.

(d) A resident who is 15 years of age or older and under 18 years of age may purchase a Class A-1 upland game bird license for $3.

(e) A person who lawfully purchases or is granted a free youth combination sports license at 17 years of age, but who reaches 18 years of age during that license year, may legally use the license during that license year. A person who hunts or fishes using a youth combination sports license purchased or granted free after the person reaches 18 years of age is guilty of a misdemeanor and shall be subject to any of the following penalties by the sentencing court:

(i) revocation of the person's hunting and fishing privileges for at least 5 years, revocation of the person's hunting and fishing privileges for more than 5 years, or revocation of the person's hunting and fishing privileges for life; and

(ii) a monetary fine of not less than $500 and not more than $5,000 in addition to the fine imposed on a person under this chapter for the specific hunting or fishing violation.

(f) This section does not prohibit a resident minor from purchasing any individual licenses for which the minor may be eligible under this chapter if the minor does not purchase the youth combination sports license.

(4) (a) The department may issue a free resident or nonresident big game combination license, as applicable, to a resident or nonresident youth under 17 years of age who has been diagnosed with a terminal illness. In order for a youth to qualify for the free license, the department must receive documentation from a licensed physician verifying that the youth is terminally ill. The free license may be issued to a youth on a one-time basis for only one hunting season.

(b) In exercising hunting privileges, the youth must be in the company of an adult in possession of a valid Montana hunting license or of a licensed Montana outfitter and conduct all hunting within the terms and conditions of the license issued.

(c) The department may waive hunter safety and education and bowhunter education requirements in 87-2-105 for a qualified youth under this subsection (4) and, in appropriate circumstances, may also allow the qualified youth to hunt from a vehicle in the manner described in 87-2-803.

(5) Resident minors who are 12 years of age or older and under 15 years of age and residents 62 years of age or older must, upon application and production of the documentation and information required by 87-2-202(1), be issued a resident wildlife conservation license without charge."

Section 4. Section 87-2-903, MCA, is amended to read:

"87-2-903. Compensation, fees, and duties of agents — penalty for late submission of license money. (1) License agents, except salaried employees of the department, must receive for all services rendered a commission of 50 cents for each transaction, plus any additional amount as determined by rules adopted pursuant to subsection (9).

(2) A license agent may charge a convenience fee of up to 3% of the total amount of a transaction if a purchase is made with a credit card or a debit card. A financial institution or credit card company may not prohibit collection of the convenience fee provided for in this subsection.

(3) Each license agent shall submit to the department the money received from the sale of licenses, less the appropriate commission and convenience fee.

(4) Each license agent shall submit to the department copies of each paper license sold *or issued pursuant to 87-2-805(5).*

(5) The department may charge license agents appointed after March 1, 1998, an electronic license system fee not to exceed actual costs.

(6) The department may designate classes of license agents and may establish a protocol for each class of agent. Each license agent shall keep the license account open at all reasonable hours to inspection by the department, the director, the wardens, or the legislative auditor.

(7) For purposes of this section, the term "transaction" includes the sale *or issuance* of any license or permit, collection of any data or fee, or issuance of any certificate prescribed by the department.

(8) If a license agent fails to submit to the department all money received from the declared sale of licenses, less the appropriate commission and convenience fee, by the deadline established by the department, an interest charge equal to the rate charged under 15-1-216 may be assessed. Acceptance of

late payments with interest does not preclude the department from summarily revoking the appointment of a license agent under 87-2-904.

(9) The department may adopt rules necessary to implement this section."

Section 5. Transfer of funds. The department of fish, wildlife, and parks shall notify the department of administration, on a quarterly basis, of the number of free wildlife conservation licenses that have been issued pursuant to 87-2-805(5) during the preceding calendar quarter. Upon receipt of the notice, the department of administration shall transfer from the general fund to the department of fish, wildlife, and parks for deposit into the general license account as license revenue $8 for each free wildlife conservation license issued pursuant to 87-2-805(5) during the preceding calendar quarter, to compensate for license revenue lost through the issuance of free licenses. The amount transferred from the general fund may not exceed the following in each fiscal year:

Fiscal Year 2007	$274,400
Fiscal Year 2008	392,000
Fiscal Year 2009	117,600

Section 6. Effective date. [This act] is effective March 1, 2007, or on passage and approval, whichever is later.

Section 7. Termination. [Sections 1, 3, and 4] terminate February 28, 2009.

Approved May 8, 2007

CHAPTER NO. 453

[SB 173]

AN ACT REVISING LAWS RELATED TO THE STATE-TRIBAL ECONOMIC DEVELOPMENT COMMISSION; TRANSFERRING ADMINISTRATIVE ATTACHMENT FOR THE STATE-TRIBAL ECONOMIC DEVELOPMENT COMMISSION FROM THE GOVERNOR'S OFFICE TO THE DEPARTMENT OF COMMERCE; ADDING A MEMBER TO THE COMMISSION; REPEALING THE TERMINATION DATE OF THE STATE-TRIBAL ECONOMIC DEVELOPMENT COMMISSION; AMENDING SECTIONS 90-1-131 AND 90-1-135, MCA; REPEALING SECTION 19, CHAPTER 512, LAWS OF 1999, SECTION 5, CHAPTER 69, LAWS OF 2001, AND SECTIONS 3 AND 4, CHAPTER 460, LAWS OF 2005; AND PROVIDING AN EFFECTIVE DATE.

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

Section 1. Section 90-1-131, MCA, is amended to read:

"90-1-131. ~~(Temporary)~~ State-tribal economic development commission — composition — compensation for members. (1) There is a state-tribal economic development commission administratively attached to the ~~office of the governor~~ *department of commerce* as prescribed in 2-15-121.

(2) The commission is composed of ~~10~~ *11* members, each appointed by the governor to 3-year staggered terms commencing on July 1 of each year of appointment, and must include:

(a) the state coordinator of Indian affairs;

(b) one member from the department of commerce;

(c) one member from the governor's office of economic development;

~~(c)~~*(d)* one member from each of the seven federally recognized tribes in Montana and one member from the Little Shell band of Chippewa Indians. A tribal government may advertise for individuals interested in serving on the commission and develop a list of applicants from which it may choose its nominee to recommend to the governor. In place of choosing from a list of applicants, a tribal government may select an elected tribal official to recommend for membership on the commission. If a tribal government nominates or otherwise recommends more than one person for membership on the commission, the governor shall select one individual from among those recommended persons.

(3) The members of the commission shall elect a presiding officer from among the members.

(4) Six members of the commission constitute a quorum, and the affirmative vote of the majority of the members present is sufficient for any action taken by the commission.

(5) Any vacancy on the commission must be filled in the same manner as the original appointment.

(6) Each member of the commission is entitled to reimbursement for expenses as provided in 2-18-501 through 2-18-503. ~~(Terminates June 30, 2009—secs. 3, 4, Ch. 460, L. 2005.)~~"

Section 2. Section 90-1-135, MCA, is amended to read:

"90-1-135. ~~(Temporary)~~ Special revenue accounts. (1) There is an account in the state treasury for the receipt of state and private funds and an account in the state treasury for the receipt of federal funds for expenditure by the state-tribal economic development commission established in 90-1-131.

(2) Money in the accounts established in subsection (1) must be used to pay:

(a) the commission's administrative costs;

(b) the salary, benefits, and administrative expenses of the tribal business center coordinator and the federal grants coordinator; and

(c) the costs of conducting or commissioning and periodically updating or otherwise modifying a comprehensive assessment of economic development needs and priorities on each of the Indian reservations in the state.

(3) Money in the accounts that is not expended for the purposes identified in subsection (2) may be used for other purposes that the commission considers prudent or necessary.

(4) Interest and income earned on the money in the accounts must be deposited in the accounts for the commission's use.

~~(5) Money in the accounts that is not expended by June 30, 2005, must remain in the accounts for the commission's use. (Terminates June 30, 2009—secs. 3, 4, Ch. 460, L. 2005.)~~"

Section 3. Repealer. (1) Section 19, Chapter 512, Laws of 1999, is repealed.

(2) Section 5, Chapter 69, Laws of 2001, is repealed.

(3) Sections 3 and 4, Chapter 460, Laws of 2005, are repealed.

Section 4. Notification to tribal governments. The secretary of state shall send a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell band of Chippewa.

Section 5. Effective date. [This act] is effective July 1, 2007.

Approved May 8, 2007

CHAPTER NO. 454

[SB 200]

AN ACT AUTHORIZING LITIGATION FOR NATURAL RESOURCE DAMAGES AND RESTORATION AT THE UPPER BLACKFOOT MINING COMPLEX, INCLUDING THE MIKE HORSE DAM AND MINE; ESTABLISHING THE NATURAL RESOURCE PROGRAM POLICY COMMITTEE TO OVERSEE THIS LITIGATION AND OTHER NATURAL RESOURCE DAMAGE LITIGATION; AUTHORIZING LEGISLATIVE OVERSIGHT; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

WHEREAS, mining and related operations and the release of hazardous substances at the Mike Horse Mine and Dam site near Lincoln, Montana, and in surrounding areas have resulted in significant contamination of lands in those areas, including the Blackfoot River and its flood plain, and as a consequence, have resulted in injuries to the state's natural resources, including its fishery resources; and

WHEREAS, the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980 authorizes the state, as trustee, to pursue litigation in order to recover damages for the restoration of state natural resources that have been injured by the release of hazardous substances; and

WHEREAS, the state's Comprehensive Environmental Cleanup and Responsibility Act allows the state to file claims and actions in order to recover damages for the restoration of natural resources located within the state that have been injured by the release of hazardous substances; and

WHEREAS, a state natural resource damage program exists within the department of justice and is charged with pursuing litigation in order to recover damages to be used to restore natural resources that have been injured by the release of hazardous substances; and

WHEREAS, a natural resource damage program policy committee consisting of the attorney general and four other members that have been appointed by the governor exists to oversee natural resource damage litigation in the state and to make policy recommendations regarding this type of litigation and should be statutorily established to continue this work.

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

Section 1. Authorization of natural resource damage litigation. Subject to appropriation, the department of justice is authorized to file on behalf of the state of Montana litigation seeking damages for injuries caused by the release of hazardous substances from the Upper Blackfoot mining complex, including the Mike Horse mine and dam, for the purpose of restoring the state's natural resources in and around these areas.

Section 2. Natural resource damage program policy committee. (1) There is a natural resource damage program policy committee.

(2) The committee membership consists of the governor's chief of staff, the directors of the departments of environmental quality, natural resources and conservation, and fish, wildlife, and parks, and the attorney general.

(3) The purpose of this committee is to oversee the litigation authorized in [section 1] and other natural resource damage litigation.

Section 3. Legislative oversight. The speaker of the house and the president of the senate shall each appoint two members of their respective bodies, one from the majority party and one from the minority party, to a committee that shall meet twice a year for briefings on the progress of the natural resource damages litigation pursuant to [section 1] and any related settlement negotiations. The department of justice shall provide staff assistance for the committee.

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

Approved May 8, 2007

CHAPTER NO. 455

[SB 201]

AN ACT GENERALLY REVISING LAND USE LAWS; ALLOWING LOCAL GOVERNMENTS TO ADOPT GROWTH POLICIES THAT ADDRESS INFRASTRUCTURE PLANNING; ALLOWING CERTAIN GOVERNING BODIES TO ASSESS PLANNING FEES; EXEMPTING CERTAIN LAND DIVISIONS FROM REVIEW; AMENDING SECTIONS 76-1-103, 76-1-601, 76-3-605, 76-3-608, AND 76-3-609, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

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

Section 1. Section 76-1-103, MCA, is amended to read:

"76-1-103. Definitions. As used in this chapter, the following definitions apply:

(1) "City" includes incorporated cities and towns.

(2) "City council" means the chief legislative body of a city or incorporated town.

(3) "Governing body" or "governing bodies" means the governing body of any governmental unit represented on a planning board.

(4) "Growth policy" means a comprehensive development plan, master plan, or comprehensive plan that was adopted pursuant to this chapter before October 1, 1999, or a policy that was adopted pursuant to this chapter on or after October 1, 1999.

(5) *"Land use management techniques and incentives" include but are not limited to zoning regulations, subdivision regulations, and market incentives.*

(6) "Mayor" means mayor of a city.

(7) "Market incentives" may include but are not limited to an expedited subdivision review process authorized by 76-3-609, reductions in parking requirements, and a sliding scale of development review fees.

~~(6)~~*(8)* "Neighborhood plan" means a plan for a geographic area within the boundaries of the jurisdictional area that addresses one or more of the elements of the growth policy in more detail.

~~(7)~~*(9)* "Person" means any individual, firm, or corporation.

~~(8)~~*(10)* "Planning board" means a city planning board, a county planning board, or a joint city-county planning board.

~~(9)~~*(11)* "Plat" means a subdivision of land into lots, streets, and areas, marked on a map or plan, and includes replats or amended plats.

~~(10)~~*(12)* "Public place" means any tract owned by the state or its subdivisions.

~~(11)~~*(13)* "Streets" includes streets, avenues, boulevards, roads, lanes, alleys, and all public ways.

~~(12)~~*(14)* "Utility" means any facility used in rendering service that the public has a right to demand."

Section 2. Section 76-1-601, MCA, is amended to read:

"76-1-601. Growth policy — contents. (1) A growth policy may cover all or part of the jurisdictional area.

(2) A growth policy must include the elements listed in subsection (3) ~~by October 1, 2006~~. The extent to which a growth policy addresses the elements ~~of a growth policy that are~~ listed in subsection (3) is at the full discretion of the governing body.

(3) A growth policy must include:

(a) community goals and objectives;

(b) maps and text describing an inventory of the existing characteristics and features of the jurisdictional area, including:

(i) land uses;

(ii) population;

(iii) housing needs;

(iv) economic conditions;

(v) local services;

(vi) public facilities;

(vii) natural resources; and

~~(viii)~~*(viii)* other characteristics and features proposed by the planning board and adopted by the governing bodies;

(c) projected trends for the life of the growth policy for each of the following elements:

(i) land use;

(ii) population;

(iii) housing needs;

(iv) economic conditions;

(v) local services;

(vi) natural resources; and

~~(vii)~~*(vii)* other elements proposed by the planning board and adopted by the governing bodies;

(d) a description of policies, regulations, and other measures to be implemented in order to achieve the goals and objectives established pursuant to subsection (3)(a);

(e) a strategy for development, maintenance, and replacement of public infrastructure, including drinking water systems, wastewater treatment facilities, sewer systems, solid waste facilities, fire protection facilities, roads, and bridges;

(f) an implementation strategy that includes:

(i) a timetable for implementing the growth policy;

(ii) a list of conditions that will lead to a revision of the growth policy; and

(iii) a timetable for reviewing the growth policy at least once every 5 years and revising the policy if necessary;

(g) a statement of how the governing bodies will coordinate and cooperate with other jurisdictions that explains:

(i) if a governing body is a city or town, how the governing body will coordinate and cooperate with the county in which the city or town is located on matters related to the growth policy;

(ii) if a governing body is a county, how the governing body will coordinate and cooperate with cities and towns located within the county's boundaries on matters related to the growth policy;

(h) a statement explaining how the governing bodies will:

(i) define the criteria in 76-3-608(3)(a); and

(ii) evaluate and make decisions regarding proposed subdivisions with respect to the criteria in 76-3-608(3)(a); and

(i) a statement explaining how public hearings regarding proposed subdivisions will be conducted.

(4) A growth policy may:

(a) include one or more neighborhood plans. A neighborhood plan must be consistent with the growth policy.

(b) establish minimum criteria defining the jurisdictional area for a neighborhood plan;

~~(c) address the criteria in 76-3-608(3)(a);~~

~~(d) evaluate the effect of subdivision on the criteria in 76-3-608(3)(a);~~

~~(e) describe zoning regulations that will be implemented to address the criteria in 76-3-608(3)(a); and~~

~~(f) identify geographic areas where the governing body intends to authorize an exemption from review of the criteria in 76-3-608(3)(a) for proposed subdivisions pursuant to 76-3-608.~~

(c) establish an infrastructure plan that, at a minimum, includes:

(i) projections, in maps and text, of the jurisdiction's growth in population and number of residential, commercial, and industrial units over the next 20 years;

(ii) for a city, a determination regarding if and how much of the city's growth is likely to take place outside of the city's existing jurisdictional area over the next 20 years and a plan of how the city will coordinate infrastructure planning with the county or counties where growth is likely to take place;

(iii) for a county, a plan of how the county will coordinate infrastructure planning with each of the cities that project growth outside of city boundaries and into the county's jurisdictional area over the next 20 years;

(iv) for cities, a land use map showing where projected growth will be guided and at what densities within city boundaries;

(v) for cities and counties, a land use map that designates infrastructure planning areas adjacent to cities showing where projected growth will be guided and at what densities;

(vi) using maps and text, a description of existing and future public facilities necessary to efficiently serve projected development and densities within infrastructure planning areas, including, whenever feasible, extending interconnected municipal street networks, sidewalks, trail systems, public transit facilities, and other municipal public facilities throughout the infrastructure planning area. For the purposes of this subsection (4)(c)(vi), public facilities include but are not limited to drinking water treatment and distribution facilities, sewer systems, wastewater treatment facilities, solid waste disposal facilities, parks and open space, schools, public access areas, roads, highways, bridges, and facilities for fire protection, law enforcement, and emergency services;

(vii) a description of proposed land use management techniques and incentives that will be adopted to promote development within cities and in an infrastructure planning area, including land use management techniques and incentives that address issues of housing affordability;

(viii) a description of how and where projected development inside municipal boundaries for cities and inside designated joint infrastructure planning areas for cities and counties could adversely impact:

(A) threatened or endangered wildlife and critical wildlife habitat and corridors;

(B) water available to agricultural water users and facilities;

(C) the ability of public facilities, including schools, to safely and efficiently service current residents and future growth;

(D) a local government's ability to provide adequate local services, including but not limited to emergency, fire, and police protection;

(E) the safety of people and property due to threats to public health and safety, including but not limited to wildfire, flooding, erosion, water pollution, hazardous wildlife interactions, and traffic hazards;

(F) natural resources, including but not limited to forest lands, mineral resources, streams, rivers, lakes, wetlands, and ground water; and

(G) agricultural lands and agricultural production; and

(ix) a description of measures, including land use management techniques and incentives, that will be adopted to avoid, significantly reduce, or mitigate the adverse impacts identified under subsection (4)(c)(viii).

(5) The planning board may propose and the governing bodies may adopt additional elements of a growth policy in order to fulfill the purpose of this chapter."

Section 3. Planning fees — limit. (1) Governing bodies that have committed in a resolution to adopting or that have adopted a growth policy that includes the provisions of 76-1-601(4)(c) may assess planning fees to pay for services that fulfill the purposes of Title 76, chapter 1. The planning fees are in addition to any other fees authorized by law and may be collected as part of either subdivision applications or zoning permits.

(2) Planning fees may not exceed $50 for each residential lot or unit or $250 for each commercial, industrial, or other type of lot or unit.

Section 4. Exemption for certain subdivisions. (1) A subdivision that meets the criteria in subsection (2) is exempt from the following requirements:

(a) preparation of an environmental assessment as required by 76-3-603;

(b) a public hearing on the subdivision application pursuant to 76-3-605; and

(c) review of the subdivision for the criteria listed in 76-3-608(3)(a).

(2) To qualify for the exemptions in subsection (1), a subdivision must meet the following criteria:

(a) the proposed subdivision is entirely within an area inside or adjacent to an incorporated city or town where the governing body has adopted a growth policy that includes the provisions of 76-1-601(4)(c);

(b) the proposed subdivision is entirely within an area subject to zoning adopted pursuant to 76-2-203 or 76-2-304 that avoids, significantly reduces, or mitigates adverse impacts identified in a growth policy that includes the provisions of 76-1-601(4)(c); and

(c) the subdivision proposal includes a description of future public facilities and services, using maps and text, that are necessary to efficiently serve the projected development.

Section 5. Section 76-3-605, MCA, is amended to read:

"76-3-605. Hearing on subdivision application. (1) Except as provided in 76-3-609 *[and section 4]* and subject to the regulations adopted pursuant to 76-3-504(1)(o) and 76-3-615, at least one public hearing on the subdivision application must be held by the governing body, its authorized agent or agency, or both and the governing body, its authorized agent or agency, or both shall consider all relevant evidence relating to the public health, safety, and welfare, including the environmental assessment if required, to determine whether the subdivision application should be approved, conditionally approved, or denied by the governing body.

(2) When a proposed subdivision is also proposed to be annexed to a municipality, the governing body of the municipality shall hold joint hearings on the subdivision application and annexation whenever possible.

(3) Notice of the hearing must be given by publication in a newspaper of general circulation in the county not less than 15 days prior to the date of the hearing. The subdivider, each property owner of record whose property is immediately adjoining the land included in the preliminary plat, and each purchaser under contract for deed of property immediately adjoining the land included in the preliminary plat must also be notified of the hearing by registered or certified mail not less than 15 days prior to the date of the hearing.

(4) When a hearing is held by an agent or agency designated by the governing body, the agent or agency shall act in an advisory capacity and recommend to the governing body the approval, conditional approval, or denial of the proposed subdivision. This recommendation must be submitted to the governing body in writing not later than 10 working days after the public hearing."

Section 6. Section 76-3-608, MCA, is amended to read:

"76-3-608. Criteria for local government review. (1) The basis for the governing body's decision to approve, conditionally approve, or deny a proposed subdivision is whether the subdivision application, preliminary plat, applicable environmental assessment, public hearing, planning board recommendations, or additional information demonstrates that development of the proposed subdivision meets the requirements of this chapter. A governing body may not deny approval of a proposed subdivision based solely on the subdivision's impacts on educational services.

(2) The governing body shall issue written findings of fact that weigh the criteria in subsection (3), as applicable.

(3) A subdivision proposal must undergo review for the following primary criteria:

(a) ~~except when the governing body has established an exemption pursuant to subsection (6) of this section or~~ *except when the governing body has established an exemption pursuant to subsection (6) of this section or* except as provided in 76-3-509 ~~or in~~*, [section 4], or* 76-3-609(2) or (4), ~~the impact~~ *the impact* on agriculture, agricultural water user facilities, local services, the natural environment, wildlife and wildlife habitat, and public health and safety;

(b) compliance with:

(i) the survey requirements provided for in part 4 of this chapter;

(ii) the local subdivision regulations provided for in part 5 of this chapter; and

(iii) the local subdivision review procedure provided for in this part;

(c) the provision of easements for the location and installation of any planned utilities; and

(d) the provision of legal and physical access to each parcel within the proposed subdivision and the required notation of that access on the applicable plat and any instrument of transfer concerning the parcel.

(4) The governing body may require the subdivider to design the proposed subdivision to reasonably minimize potentially ~~significant~~ *significant* adverse impacts identified through the review required under subsection (3). The governing body shall issue written findings to justify the reasonable mitigation required under this subsection (4).

(5) (a) In reviewing a proposed subdivision under subsection (3) and when requiring mitigation under subsection (4), a governing body may not unreasonably restrict a landowner's ability to develop land, but it is recognized that in some instances the unmitigated impacts of a proposed development may be unacceptable and will preclude approval of the subdivision.

(b) When requiring mitigation under subsection (4), a governing body shall consult with the subdivider and shall give due weight and consideration to the expressed preference of the subdivider.

~~(6) The governing body may exempt proposed subdivisions that are entirely within the boundaries of designated geographic areas from the review criteria in subsection (3)(a) if all of the following requirements have been met:~~

~~(a) the governing body has adopted a growth policy pursuant to chapter 1 that:~~

~~(i) addresses the criteria in subsection (3)(a);~~

~~(ii) evaluates the impact of development on the criteria in subsection (3)(a);~~

~~(iii) describes zoning regulations that will be implemented to address the criteria in subsection (3)(a); and~~

~~(iv) identifies one or more geographic areas where the governing body intends to authorize an exemption from review of the criteria in subsection (3)(a); and~~

~~(b) the governing body has adopted zoning regulations pursuant to chapter 2, part 2 or 3, that:~~

~~(i) apply to the entire area subject to the exemption; and~~

~~(ii) address the criteria in subsection (3)(a), as described in the growth policy.~~

(6) The governing body may exempt proposed subdivisions that are entirely within the boundaries of designated geographic areas from the review criteria in subsection (3)(a) if all of the following requirements have been met:

(a) the governing body has adopted a growth policy pursuant to chapter 1 that:

(i) addresses the criteria in subsection (3)(a);

(ii) evaluates the impact of development on the criteria in subsection (3)(a);

(iii) describes zoning regulations that will be implemented to address the criteria in subsection (3)(a); and

(iv) identifies one or more geographic areas where the governing body intends to authorize an exemption from review of the criteria in subsection (3)(a); and

(b) the governing body has adopted zoning regulations pursuant to chapter 2, part 2 or 3, that:

(i) apply to the entire area subject to the exemption; and

(ii) address the criteria in subsection (3)(a), as described in the growth policy.

~~(7)~~*(7)* A governing body may conditionally approve or deny a proposed subdivision as a result of the water and sanitation information provided pursuant to 76-3-622 or public comment received pursuant to 76-3-604 on the information provided pursuant to 76-3-622 only if the conditional approval or denial is based on existing subdivision, zoning, or other regulations that the governing body has the authority to enforce."

Section 7. Section 76-3-609, MCA, is amended to read:

"76-3-609. Review procedure for minor subdivisions — determination of sufficiency of application — governing body to adopt regulations. (1) Minor subdivisions must be reviewed as provided in this section and subject to the applicable local regulations adopted pursuant to 76-3-504.

(2) If the tract of record proposed to be subdivided has not been subdivided or created by a subdivision under this chapter or has not resulted from a tract of record that has had more than five parcels created from that tract of record

under 76-3-201 or 76-3-207 since July 1, 1973, then the proposed subdivision is a first minor subdivision from a tract of record and, when legal and physical access to all lots is provided, must be reviewed as follows:

(a) Except as provided in subsection (2)(b), the governing body shall approve, conditionally approve, or deny the first minor subdivision from a tract of record within 35 working days of a determination by the reviewing agent or agency that the application contains required elements and sufficient information for review. The determination and notification to the subdivider must be made in the same manner as is provided in 76-3-604(1) through (3).

(b) The subdivider and the reviewing agent or agency may agree to an extension or suspension of the review period, not to exceed 1 year.

(c) Except as provided in subsection (2)(d)(iii), an application must include a summary of the probable impacts of the proposed subdivision based on the criteria described in 76-3-608(3).

(d) The following requirements do not apply to the first minor subdivision from a tract of record as provided in subsection (2):

(i) the requirement to prepare an environmental assessment;

(ii) the requirement to hold a hearing on the subdivision application pursuant to 76-3-605; and

(iii) the requirement to review the subdivision for the criteria contained in 76-3-608(3)(a) if the minor subdivision is proposed in the portion of a jurisdictional area that has adopted zoning regulations that address the criteria in 76-3-608(3)(a).

(e) The governing body may adopt regulations that establish requirements for the expedited review of the first minor subdivision from a tract of record. The following apply to a proposed subdivision reviewed under the regulations:

(i) 76-3-608(3); and

(ii) the provisions of Title 76, chapter 4, part 1, whenever approval is required by those provisions.

(3) Except as provided in *[section 4] and* subsection (4) *of this section*, any minor subdivision that is not a first minor subdivision from a tract of record, as provided in subsection (2), is a subsequent minor subdivision and must be reviewed as provided in 76-3-601 through 76-3-605, 76-3-608, 76-3-610 through 76-3-614, and 76-3-620.

(4) The governing body may adopt subdivision regulations that establish requirements for review of subsequent minor subdivisions that meet or exceed the requirements that apply to the first minor subdivision, as provided in subsection (2) and this chapter.

(5) (a) Review and approval, conditional approval, or denial of a subdivision under this chapter may occur only under those regulations in effect at the time that a subdivision application is determined to contain sufficient information for review as provided in subsection (2).

(b) If regulations change during the period that the application is reviewed for required elements and sufficient information, the determination of whether the application contains the required elements and sufficient information must be based on the new regulations."

Section 8. Codification instruction. (1) [Section 3] is intended to be codified as an integral part of Title 76, chapter 1, part 4, and the provisions of Title 76, chapter 1, part 4, apply to [section 3].

(2) [Section 4] is intended to be codified as an integral part of Title 76, chapter 3, part 6, and the provisions of Title 76, chapter 3, part 6, apply to [section 4].

Section 9. Effective date. [This act] is effective on passage and approval.

Approved May 8, 2007

CHAPTER NO. 456

[SB 213]

AN ACT PROVIDING THAT THE ESTIMATED FAIR MARKET VALUE MUST BE DETERMINED BY A MONTANA-LICENSED AND MONTANA-CERTIFIED APPRAISER; AMENDING SECTIONS 77-2-213, 77-2-363, AND 77-2-364, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

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

Section 1. Section 77-2-213, MCA, is amended to read:

"77-2-213. Department to investigate. *(1)* When a proposal for an exchange pursuant to 77-2-211 is made and the owners of the respective tracts involved seem agreeable to negotiate ~~such~~ exchanges, the proposal ~~shall~~ *must* be referred to the department and the department shall thoroughly investigate all the lands involved in the proposal*,* ~~and~~ estimate the value of all of the lands*,* and consider every factor in connection with the proposal ~~as~~ *that* may affect the public interest.

(2) The estimated fair market value must be determined by a Montana-licensed and Montana-certified appraiser."

Section 2. Section 77-2-363, MCA, is amended to read:

"77-2-363. Land banking land sales and limitations. (1) *(a)* The board may not cumulatively sell or dispose of more than 100,000 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 45 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 50% 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.

(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 30 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, the lessee of the land must be afforded all the rights and privileges to match the high bid, as provided in 77-2-324."

Section 3. Section 77-2-364, MCA, is amended to read:

"77-2-364. Land banking purchases. (1) The board may select and purchase, lease, receive by donation, hold in trust, or in any manner acquire for and in the name of the state of Montana, in trust for the beneficiaries specified in sections 10 through 19 of The Enabling Act of Congress (approved February 22, 1889, 25 Stat. 676), as amended, any interest in real property and improvements, tracts, and leaseholds of land that the board considers proper in order to best provide prudent, maximum, long-term revenue for the beneficiaries.

(2) Sales of state land may be initiated only by the board, the department, or at the request of a lessee, pursuant to 77-1-202, 77-1-301, 77-2-301, or 77-2-308. The board shall ensure that the full market value of the land sold is realized for each trust by using the appraisal, sale, advertising, and competitive bid procedures contained within 77-2-303, 77-2-321, 77-2-322, 77-2-323, and 77-2-324. *The estimated fair market value must be determined by a Montana-licensed and Montana-certified appraiser.*

(3) When it is not inconsistent with the purpose of the trust, the board shall purchase land possessing legal access for all legal purposes.

(4) When purchasing land, easements, or improvements for the existing trusts, the board shall develop and apply appraisal and revenue projection procedures to ensure that the land or easements proposed for purchase or that the improvements proposed to be acquired are likely to produce more net revenue for the affected trust than the revenue that was produced from the land that was sold. The board may not purchase land, easements, or improvements pursuant to 77-2-361 through 77-2-367 unless it has first prudently determined that the land, easements, or improvements are likely to produce a greater or equal annual rate of return, as may be reasonably expected over a 20-year accounting period, with an acceptable level of risk for the affected trust, than the current annual rate of return from the state land that has been sold pursuant to 77-2-363. As guidance, the board shall use generally accepted accounting standards and the Uniform Appraisal Standards for Federal Land Acquisitions published by the U.S. department of justice and the appraisal institute.

(5) Prior to purchasing any land, easements, or improvements, the board shall determine that the financial risks and benefits of the purchase are prudent, financially productive investments that are consistent with the board's

fiduciary duty as a reasonably prudent trustee of a perpetual trust. For the purposes of implementing 77-2-361 through 77-2-367, that duty requires the board to:

(a) discharge its duties with the care, skill, prudence, and diligence that a prudent person acting in a similar capacity with the same resources and familiar with similar matters should exercise in the conduct of an enterprise of similar character and aims;

(b) diversify the land holdings of each trust to minimize the risk of loss and maximize the sustained rate of return;

(c) discharge its duties and powers solely in the interest of and for the benefit of the trust managed;

(d) discharge its duties subject to the fiduciary standards set forth in 72-34-114; and

(e) maintain, as closely as possible, the existing land base of each trust, consistent with the state's fiduciary duty.

(6) Prior to purchasing a parcel of land in excess of 160 acres in any particular county, the board shall consult with the county commissioners of the county in which the parcel is located."

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

Approved May 8, 2007

CHAPTER NO. 457

[SB 227]

AN ACT PROVIDING THAT A JUSTICE'S COURT WRIT OF EXECUTION MAY BE SERVED ANYWHERE IN THE STATE; REVISING THE PROCEDURE FOR A JUDGMENT DEBTOR TO CLAIM AN EXEMPTION FROM EXECUTION ON CERTAIN PROPERTY; PROVIDING A PROCEDURE FOR A LEVY ON A TAX REFUND OR OTHER STATE FUNDS THAT ARE DUE TO A JUDGMENT DEBTOR; PROVIDING THAT A LEVYING OFFICER MAY PERFORM CERTAIN TASKS THAT MAY BE PERFORMED BY A SHERIFF OR CONSTABLE; INCREASING THE TIME WHEN A JUSTICE MAY ISSUE AN ALIAS SUMMONS FROM 1 YEAR TO 2 YEARS FROM THE DATE OF THE FILING OF THE COMPLAINT; PROVIDING THAT A PARTY AT THE PARTY'S DISCRETION MAY APPEAR IN CERTAIN JUSTICE'S COURT PRETRIAL PROCEEDINGS BY TELEPHONE CONFERENCE; AND AMENDING SECTIONS 3-10-304, 25-13-212, 25-13-402, 25-14-101, 25-31-409, 25-31-710, AND 25-31-1104, MCA.

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

Section 1. Section 3-10-304, MCA, is amended to read:

"3-10-304. Territorial extent of civil jurisdiction. *(1)* The civil jurisdiction of a justice's court extends to the limits of the county in which it is held, and *except as provided in subsection (2),* intermediate and final process of a justice's court in a county may be issued to and served in any part of the county.

(2) A summons *or a writ of execution* of a justice's court may be served in any county of the state."

Section 2. Section 25-13-212, MCA, is amended to read:

"25-13-212. Claiming exemption — process — time for hearing. (1) To claim an exemption from execution, a judgment debtor shall file a *written* request for a hearing with the court that issued the execution *accompanied by a written statement that describes the property that the judgment debtor claims is exempt and the reasons for the claim that the property is exempt and accompanied by copies of any documentation upon which the judgment debtor is relying for the exemption claim*. ~~The request must be in writing, and a~~ *A* copy of the request*, statement, and any documentation* must be mailed by the judgment debtor on the date of filing to the judgment creditor or the judgment creditor's attorney and to the sheriff or levying officer. The request*, statement, and any documentation* must be filed within 10 days, excluding weekends and holidays, of the date of:

(a) the judgment debtor's receipt of notification of execution~~,~~ if notification was by personal service; or

(b) the date notification was mailed to the judgment debtor pursuant to 25-13-211(2).

(2) If the judgment debtor does not file ~~a~~ *the* request*, statement, and any documentation* ~~for~~ *claiming* an exemption ~~hearing~~ within the period provided for in subsection (1), the judgment debtor may not claim an exemption in the seized property.

(3) A court that receives a request for an exemption hearing*, along with the statement and any documentation,* shall conduct the hearing within 10 days, excluding weekends and holidays, from the date of receipt of the request.

(4) The court shall forward the order determining the judgment debtor's exemption claim to the sheriff or levying officer."

Section 3. Section 25-13-402, MCA, is amended to read:

"25-13-402. How writ executed. (1) (a) The sheriff or levying officer shall, subject to ~~subsection~~ *subsections* (6) *and (7)*, execute the writ against the property of the judgment debtor not later than 120 days after receipt of the writ by:

(i) levying on a sufficient amount of property~~,~~ if there is sufficient property;

(ii) collecting or selling the things in action; and

(iii) selling the other property and paying to the judgment creditor or the judgment creditor's attorney as much of the proceeds as will satisfy the judgment.

(b) (i) If the third party is a corporation or other legal entity, service must be accomplished by personally serving the writ upon an officer or supervising employee of the third party or upon a department or person designated by the third party or by serving the writ by mail, as provided in subsection (1)(b)(ii).

(ii) Service by mail upon a corporation or other legal entity must be consented to in writing by the corporation or other legal entity and may be made by mailing a copy of the writ to an officer or supervising employee of the third party or to a department or person designated by the third party. Service may be mailed out of state, at the direction of the third party, if the third party processes garnishments or levies from a location outside the state. If service is by mail, it must be accompanied by a notice that the officer or employee receiving the writ is required to forward the writ to the person responsible for processing the levy for the third party if the officer or employee initially receiving the writ is not the proper party to process the levy. The writ must be considered served on the date

and time that the writ is received by the officer, supervising employee, or designee of the third party, but not later than 5 business days after it is mailed.

(c) A levy under subsection (1)(b) is effective when the writ is served by personal service or by mail, as provided in subsection (1)(b)(ii).

(2) Any proceeds in excess of the judgment and accruing costs must be returned to the judgment debtor unless otherwise directed by the judgment or order of the court. When the sheriff or levying officer determines that there is more property of the judgment debtor than is sufficient to satisfy the judgment and accruing costs, the sheriff or levying officer shall levy only on the part of the property that the judgment debtor may indicate if the property indicated is sufficient to satisfy the judgment and costs.

(3) With respect to property held by a third party, including but not limited to banks, credit unions, and other financial institutions and those parties identified in 25-13-306, the third party shall respond to the levy based on the assets held at the time of levy. Response must be made within 10 business days following the date of the levy by delivering the assets or payments to the sheriff or levying officer.

(4) Except for perishable property, the sheriff or levying officer shall hold any property or money levied upon for 10 days, excluding weekends and holidays, following notification of execution upon the judgment debtor. After that time, the sheriff or levying officer may sell the property and pay the money to the judgment creditor.

(5) If the first levy is not sufficient to satisfy the writ, the sheriff or levying officer may levy, from time to time and as often as necessary, within the 120 days until the judgment is satisfied or the writ expires.

(6) (a) A levy upon the earnings of a judgment debtor continues in effect for 120 days or until the judgment is satisfied, whichever occurs first. The levy applies to earnings due on or after the date of service through the expiration of the writ. Earnings withheld from a judgment debtor must be remitted to the sheriff or levying officer within 5 days of the day the earnings are withheld.

(b) The sheriff or levying officer shall clearly mark the expiration date upon all served copies of the writ and notice.

(c) Except as provided in subsection ~~(7)~~ *(8)*, multiple levies served under this subsection (6) have priority according to the date and time of service upon the employer.

(d) The return of service on a levy upon the earnings of a judgment debtor is returned in the same manner provided for in 25-13-404.

(7) A levy upon a state tax refund or any other funds that are due to the judgment debtor from a Montana state agency continues in effect for 120 days or until the judgment is satisfied, whichever occurs first. The levy applies to any funds due on or after the date of service through the expiration of the writ. Payment of funds withheld from a judgment debtor must be remitted to the sheriff or levying officer within 10 days of the date the funds would have been sent to the judgment debtor in the normal course of business. Any levy on state funds is subordinate to the department of revenue's right of offset for delinquent taxes or other debt as provided in 15-30-149, 15-30-310, 15-31-404, 15-36-315, 15-39-106, 15-39-109, 15-68-516, 15-70-110, 15-72-113, Title 17, chapter 4, and 39-51-1307.

~~(7)~~*(8)* This section is not intended to supersede any state or federal laws regarding priority that must be given to certain levies and executions."

Section 4. Section 25-14-101, MCA, is amended to read:

"25-14-101. Debtor to answer concerning ~~his~~ *debtor's* property when execution unsatisfied. When an execution against property of the judgment debtor or of any one of several debtors in the same judgment, issued to *a levying officer or* the sheriff of the county where ~~he~~ *the judgment debtor* resides or, if ~~he~~ *the judgment debtor* does not reside in this state, to *a levying officer or* the sheriff of the county where the judgment is docketed, is returned unsatisfied in whole or in part, the judgment creditor, at any time after ~~such~~ *the* return is made, is entitled to an order from a judge of the court requiring ~~such~~ *the* judgment debtor to appear and answer concerning ~~his~~ *the judgment debtor's* property before ~~such~~ *the* judge or a referee appointed by ~~him~~ *the judge* at a time and place specified in the order~~;~~. ~~but no~~ *However, a* judgment debtor who is a *state* resident may *not* be required to attend before a judge or referee ~~out of~~ *outside* the county in which ~~he~~ *the judgment debtor* resides."

Section 5. Section 25-31-409, MCA, is amended to read:

"25-31-409. Alias summons. If the summons is returned without being served upon any or all of the defendants, the justice, upon the demand of the plaintiff, may issue an alias summons in the same form as the original. The justice may, within ~~a year~~ *2 years* from the date of *the* filing *of* the complaint, issue as many alias summonses as may be demanded by the plaintiff."

Section 6. Section 25-31-710, MCA, is amended to read:

"25-31-710. Pretrial conferences or hearings — appearance by telephone conference. (1) ~~At the discretion of the court, a~~ *A* party or the party's attorney may make an appearance by telephone conference in a pretrial conference or other hearing under this chapter if:

(a) the party does not need to or intend to offer evidence at the pretrial conference or hearing; ~~and~~

(b) the party does not reside within the county in which the case is filed or the party's or the party's attorney's principal place of business is not located in that county*; and*

(c) at least 10 days before the pretrial conference or other hearing, the party or the party's attorney intending to appear by telephone conference provides written notice to the court and to all parties or the attorneys for the parties.

(2) The party requesting the telephone conference is responsible for arranging the telephone conference and paying the associated costs."

Section 7. Section 25-31-1104, MCA, is amended to read:

"25-31-1104. Manner of execution. The sheriff*,* ~~or~~ constable*, or levying officer* to whom the execution is directed ~~must~~ *shall* execute the ~~same~~ *the execution* in the same manner as the sheriff *or levying officer* is required by the provisions of *Title 25,* chapter 13*,* to proceed upon executions ~~directed to him;~~. ~~and the~~ *When an execution is directed to a* constable, ~~when the execution is directed to him,~~ *the constable* is vested for that purpose with all the powers of the sheriff *or levying officer*."

Approved May 8, 2007

CHAPTER NO. 458

[SB 270]

AN ACT REVISING THE FILING DEADLINE FOR INDEPENDENT CANDIDATES AND POLITICAL PARTIES NOT PARTICIPATING IN PRIMARY ELECTIONS; AND AMENDING SECTION 13-10-503, MCA.

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

Section 1. 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 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. ~~In the event~~ *If* there are insufficient signatures on the petition, additional signatures may be submitted before the deadline for filing.

(2) Except as provided in 13-10-504, each petition must be filed ~~before the scheduled primary election or the filing deadline for the special or general election if a primary election is not scheduled~~ *by the deadline established in 13-10-201(6)*."

Section 2. Coordination instruction. If both House Bill No. 520 and [this act] are passed and approved and both amend 13-10-503, then the sections amending 13-10-503 are void and 13-10-503 must read as follows:

"13-10-503. Filing deadlines. (1) A petition for nomination and the affidavits of circulation required by 13-27-302, accompanied by 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. ~~In the event~~ *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 the required filing fee,* must be filed ~~before the scheduled primary election or the filing deadline for the special or general election if a primary election is not scheduled~~ *by the deadline established in 13-10-201(6)*."

Approved May 8, 2007

CHAPTER NO. 459

[SB 309]

AN ACT PROHIBITING THE CONFISCATION OF PRIVATELY OWNED FIREARMS WITHIN THE STATE FOLLOWING THE DECLARATION OF AN EMERGENCY OR DISASTER; AND PROVIDING FOR ENFORCEMENT.

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

Section 1. Confiscation of firearm by government prohibited — private right of action — costs and expenses. (1) Following a declaration of an emergency or disaster pursuant to Title 10, chapter 3, a peace officer or other person acting or purporting to act on behalf of the state or a political subdivision of the state may not take a confiscation action.

(2) After a violation of subsection (1) has occurred, the party injured by a confiscation action may bring an action for damages in a court having jurisdiction.

(3) A party awarded damages pursuant to this section must also be awarded the party's costs and expenses in bringing the action, including reasonable attorney fees.

(4) (a) As used in this section, "confiscation action" means the intentional deprivation by a person in Montana of a privately owned firearm.

(b) The term does not include the taking of a firearm from a person:

(i) in self-defense;

(ii) possessing a firearm while the person is committing a felony or misdemeanor; or

(iii) who may not lawfully possess the firearm because of a prior criminal conviction.

Section 2. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 10, chapter 3, and the provisions of Title 10, chapter 3, apply to [section 1].

Approved May 8, 2007

CHAPTER NO. 460

[SB 342]

AN ACT REQUIRING APPLICANTS FOR LICENSURE AS SOCIAL WORKERS AND PROFESSIONAL COUNSELORS TO SUBMIT FINGERPRINTS FOR CRIMINAL BACKGROUND CHECKS PRIOR TO THE ISSUANCE OF A LICENSE; AMENDING SECTIONS 37-22-101, 37-22-301, 37-23-101, AND 37-23-202, MCA; AND PROVIDING AN APPLICABILITY DATE.

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

Section 1. Section 37-22-101, MCA, is amended to read:

"37-22-101. Purpose. *(1)* The legislature finds and declares that because the profession of social work profoundly affects the lives of people of this state, it is the purpose of this chapter to provide for the common good by*:*

(a) ~~insuring~~ *ensuring the* ethical, qualified, and professional practice of social work*; and*

(b) instituting an effective mechanism for obtaining accurate public information regarding an applicant's criminal background:

(i) to prevent convicted criminal offenders who committed crimes relevant to working with children, the elderly, the mentally ill, or other vulnerable persons from obtaining a Montana social work license as an attempt to gain access to and perpetrate crimes against new victims; and

(ii) to protect the state from claims of negligence.

(2) This chapter and the rules promulgated under 37-22-201 set standards of qualification, education, training, and experience and ~~will~~ establish professional ethics for those who seek to engage in the practice of social work as licensed social workers."

Section 2. Section 37-22-301, MCA, is amended to read:

"37-22-301. License requirements — exemptions. (1) A license applicant shall satisfactorily complete an examination prescribed by the board.

(2) Before an applicant may take the examination, the applicant shall present three letters of reference from licensed social workers, licensed clinical social workers, psychiatrists, or psychologists who have knowledge of the applicant's professional performance and shall demonstrate to the board that the applicant:

(a) has a doctorate or master's degree in social work from a program accredited by the council on social work education or approved by the board;

(b) has completed at least 24 months of supervised post master's degree work experience in psychotherapy, which included 3,000 hours of social work experience, of which at least 1,500 hours were in direct client contact, within the past 5 years; and

(c) abides by the social work ethical standards adopted under 37-22-201.

(3) An applicant who fails the examination may reapply to take the examination.

(4) An applicant is exempt from the examination requirement if the applicant satisfies the board that the applicant is licensed, certified, or registered under the laws of a state or territory of the United States that imposes substantially the same requirements as this chapter and that the applicant has passed an examination similar to that required by the board.

(5) (a) As a prerequisite to the issuance of a license, the board shall require the applicant to submit fingerprints for the purpose of fingerprint checks by the Montana department of justice and the federal bureau of investigation.

(b) The applicant shall sign a release of information to the board and is responsible to the department of justice for the payment of all fees associated with the criminal background check.

(c) Upon completion of the criminal background check, the department of justice shall forward all criminal justice information, as defined in 44-5-103, concerning the applicant that involves the conviction of a criminal offense in any jurisdiction to the board, as authorized in 44-5-303.

(d) At the conclusion of any background check required by this section, the board must receive the criminal background check report but may not receive the fingerprint card of the applicant. Upon receipt of the criminal background check report, the department of justice shall promptly destroy the fingerprint card of the applicant.

(6) If an applicant has a history of criminal convictions, then pursuant to 37-1-203, the applicant has the opportunity to demonstrate to the board that the applicant is sufficiently rehabilitated to warrant the public trust, and if the board determines that the applicant is not, the license may be denied."

Section 3. Section 37-23-101, MCA, is amended to read:

"37-23-101. Purpose. *(1)* The legislature finds and declares that because the profession of professional counseling profoundly affects the lives of people of this state, it is the purpose of this chapter to provide for the common good by*:*

(a) ensuring *the* ethical, qualified, and professional practice of professional counseling*; and*

(b) instituting an effective mechanism for obtaining accurate public information regarding an applicant's criminal background:

(i) to prevent convicted criminal offenders who committed crimes relevant to working with children, the elderly, the mentally ill, or other vulnerable persons from obtaining a Montana professional counseling license as an attempt to gain access to and perpetrate crimes against new victims; and

(ii) to protect the state from claims of negligence.

(2) This chapter and the rules promulgated by the board under 37-22-201 set standards of qualification, education, training, and experience and establish professional ethics for those who seek to engage in the practice of professional counseling as licensed professional counselors."

Section 4. Section 37-23-202, MCA, is amended to read:

"37-23-202. Licensure requirements. (1) An applicant for licensure must have satisfactorily:

(a) completed a planned graduate program of 60 semester hours, primarily counseling in nature, 6 semester hours of which were earned in an advanced counseling practicum that resulted in a graduate degree from an institution accredited to offer a graduate program in counseling;

(b) completed 3,000 hours of counseling practice supervised by a licensed professional counselor or licensed member of an allied mental health profession, at least half of which was postdegree. The applicant must have each supervisor endorse the application for licensure, attesting to the number of hours supervised.

(c) passed an examination prepared and administered by:

(i) the national board of certified counselors; or

(ii) the national academy of certified clinical mental health counselors; and

(d) completed an application.

(2) The board shall provide by rule for licensure of a person who possesses a graduate degree that consists of a minimum of 45 semester hours primarily related to counseling and that is from an institution accredited to offer a graduate program in counseling, by specifying the additional graduate credit hours necessary to fulfill the requirements of subsection (1)(a) in counseling courses in an approved program within a period of 5 years.

(3) (a) As a prerequisite to the issuance of a license, the board shall require the applicant to submit fingerprints for the purpose of fingerprint checks by the Montana department of justice and the federal bureau of investigation.

(b) The applicant shall sign a release of information to the board and is responsible to the department of justice for the payment of all fees associated with the criminal background check.

(c) Upon completion of the criminal background check, the department of justice shall forward all criminal justice information, as defined in 44-5-103,

concerning the applicant that involves the conviction of a criminal offense in any jurisdiction to the board, as authorized in 44-5-303.

(d) At the conclusion of any background check required by this section, the board must receive the criminal background check report but may not receive the fingerprint card of the applicant. Upon receipt of the criminal background check report, the department of justice shall promptly destroy the fingerprint card of the applicant.

(4) If an applicant has a history of criminal convictions, then pursuant to 37-1-203, the applicant has the opportunity to demonstrate to the board that the applicant is sufficiently rehabilitated to warrant the public trust, and if the board determines that the applicant is not, the license may be denied."

Section 5. Coordination instruction. If House Bill No. 668 and [this act] are both passed and approved, then the section in [this act] amending 37-22-301 is void and 37-22-301 is amended to read as follows:

"37-22-301. License requirements — exemptions. (1) A license applicant shall satisfactorily complete an examination prescribed by the board.

(2) Before an applicant may take the examination, the applicant shall present three letters of reference from licensed social workers, licensed clinical social workers, psychiatrists, or psychologists who have knowledge of the applicant's professional performance and shall demonstrate to the board that the applicant:

(a) has a doctorate or master's degree in social work from a program accredited by the council on social work education or approved by the board;

(b) has completed at least 24 months of supervised post master's degree work experience in psychotherapy, which included 3,000 hours of social work experience, of which at least 1,500 hours were in direct client contact, within the past 5 years; and

(c) abides by the social work ethical standards adopted under 37-22-201.

(3) An applicant who fails the examination may reapply to take the examination.

(4) An applicant is exempt from the examination requirement if the applicant satisfies the board that the applicant is licensed, certified, or registered under the laws of a state or territory of the United States that imposes substantially the same requirements as this chapter and that the applicant has passed an examination similar to that required by the board.

(5) As a prerequisite to the issuance of a license, the board shall require the applicant to submit fingerprints for the purpose of fingerprint checks by the Montana department of justice and the federal bureau of investigation as provided in 37-1-307.

(6) If an applicant has a history of criminal convictions, then pursuant to 37-1-203, the applicant has the opportunity to demonstrate to the board that the applicant is sufficiently rehabilitated to warrant the public trust, and if the board determines that the applicant is not, the license may be denied."

Section 6. Coordination instruction. If House Bill No. 668 and [this act] are both passed and approved, then the section amending 37-23-202 in [this act] is void and 37-23-202 is amended to read as follows:

"37-23-202. Licensure requirements. (1) An applicant for licensure must have satisfactorily:

(a) completed a planned graduate program of 60 semester hours, primarily counseling in nature, 6 semester hours of which were earned in an advanced counseling practicum that resulted in a graduate degree from an institution accredited to offer a graduate program in counseling;

(b) completed 3,000 hours of counseling practice supervised by a licensed professional counselor or licensed member of an allied mental health profession, at least half of which was postdegree. The applicant must have each supervisor endorse the application for licensure, attesting to the number of hours supervised.

(c) passed an examination prepared and administered by:

(i) the national board of certified counselors; or

(ii) the national academy of certified clinical mental health counselors; and

(d) completed an application.

(2) The board shall provide by rule for licensure of a person who possesses a graduate degree that consists of a minimum of 45 semester hours primarily related to counseling and that is from an institution accredited to offer a graduate program in counseling, by specifying the additional graduate credit hours necessary to fulfill the requirements of subsection (1)(a) in counseling courses in an approved program within a period of 5 years.

(3) As a prerequisite to the issuance of a license, the board shall require the applicant to submit fingerprints for the purpose of fingerprint checks by the Montana department of justice and the federal bureau of investigation as provided in 37-1-307.

(4) If an applicant has a history of criminal convictions, then pursuant to 37-1-203, the applicant has the opportunity to demonstrate to the board that the applicant is sufficiently rehabilitated to warrant the public trust, and if the board determines that the applicant is not, the license may be denied."

Section 7. Applicability. [This act] applies to applications for licensure submitted on or after [the effective date of this act].

Approved May 8, 2007

CHAPTER NO. 461

[SB 384]

AN ACT ALLOWING A PRIVATE LANDOWNER TO HAVE AN ABANDONED VEHICLE REMOVED FROM THE LANDOWNER'S PROPERTY AFTER MEETING A 5-DAY WAITING PERIOD; AND AMENDING SECTION 61-12-401, MCA.

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

Section 1. Section 61-12-401, MCA, is amended to read:

"61-12-401. Taking vehicle into custody. (1) The following law enforcement agencies may take into custody any motor vehicle found abandoned for a period of 48 hours or more on a public highway or for a period of 5 days or more on a city street, public property, or private property:

(a) the Montana highway patrol if the vehicle is upon the right-of-way of any public highway other than a county road;

(b) the sheriff of the county if the vehicle is upon the right-of-way of any county road;

(c) the city police if the vehicle is upon a city street.

(2) The Montana highway patrol, sheriff of the county, or city police may use their personnel, equipment, and facilities for the removal and storage of the vehicle or may hire other personnel, equipment, and facilities for those purposes. The sheriff of the county or the chief of police of the city in which the vehicle is being stored may request reimbursement of the hired removal charge from the motor vehicle recycling and disposal program of the department of environmental quality in an amount and manner established by rules adopted by the department of environmental quality for this purpose.

(3) *(a)* At the request of the owner or person in lawful possession or control of the private property, the sheriff of the county in which the vehicle is located or the city police of the city in which the vehicle is located may remove and hold it in the manner and upon the conditions provided in subsections (1) and (2).

(b) A private landowner owning property considered to be part of ways of this state open to the public, as defined in 61-8-101, who can demonstrate meeting the 5-day waiting period in subsection (1) by calling one of the law enforcement agencies listed in subsection (1) at the start of the 5-day period may remove the abandoned vehicle within the conditions provided for in subsections (1) and (2)."

Approved May 8, 2007

CHAPTER NO. 462

[SB 386]

AN ACT INCREASING THE PENALTY FOR PERSONS WHO DRIVE ON PUBLIC HIGHWAYS WITHOUT OBTAINING A VALID DRIVER'S LICENSE; AND AMENDING SECTIONS 61-5-102 AND 61-5-212, MCA.

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

Section 1. Section 61-5-102, MCA, is amended to read:

"61-5-102. Drivers to be licensed — *penalties.* (1) *(a)* Except as provided in 61-5-104, a person may not drive a motor vehicle upon a highway in this state unless the person has a valid Montana driver's license. A person may not receive a Montana driver's license until the person surrenders to the department all valid driver's licenses issued by any other jurisdiction. A person may not have in the person's possession or under the person's control more than one valid Montana driver's license at any time.

(b) Except as provided in subsection (1)(c), the penalty for a first violation of this section is a fine of not more than $500 or imprisonment for not more than 6 months, or by both fine and imprisonment. The penalty for second and subsequent violations of this section is a fine of not more than $500 and imprisonment for not less than 2 days or more than 6 months.

(c) A person who is eligible to hold a driver's license and has obtained a valid driver's license but has not renewed the license as provided in 61-5-111(3)(c) is not subject to the penalties in subsection (1)(b).

(2) (a) A license is not valid for the operation of a motorcycle unless the holder of the license has completed the requirements of 61-5-110 and the license has been clearly marked with the words "motorcycle endorsement".

(b) A license is not valid for the operation of a commercial motor vehicle unless the holder of the license has completed the requirements of 61-5-110, the license has been clearly marked with the words "commercial driver's license", and the license bears the proper endorsement for:

(i) the specific vehicle type or types being operated; or

(ii) the passengers or type or types of cargo being transported.

(3) When a city or town requires a licensed driver to obtain a local driving license or permit, a license or permit may not be issued unless the applicant presents a state driver's license valid under the provisions of this chapter."

Section 2. Section 61-5-212, MCA, is amended to read:

"61-5-212. Driving while license suspended or revoked — penalty — *second offense of driving without valid license or licensing exemption* — seizure of vehicle or rendering vehicle inoperable. (1) (a) A person commits the offense of driving a motor vehicle *without a valid license or without statutory exemption or* during a suspension or revocation period if the person drives:

(i) a motor vehicle on any public highway of this state at a time when the person's privilege to do so is suspended or revoked in this state or any other state; ~~or~~

(ii) a commercial motor vehicle while the person's commercial driver's license is revoked, suspended, or canceled in this state or any other state or the person is disqualified from operating a commercial motor vehicle under federal regulations.*; or*

(iii) a motor vehicle on any public highway of this state without possessing a valid driver's license, as provided in 61-5-102, or without proof of a statutory exemption, as provided in 61-5-104.

(b) *(i) Except as provided in subsection (1)(b)(ii), a* ~~A~~ person convicted of the offense of driving a motor vehicle *without a valid driver's license or without proof of a statutory exemption for the second time or driving* during a suspension or revocation period shall be punished by imprisonment for not less than 2 days or more than 6 months and may be fined not more than $500~~, except that if~~.

(ii) If 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 person shall be punished by imprisonment for a term of not less than 2 days or more than 6 months or a fine not to exceed $2,000, or both, and in addition, the court may order the person to perform up to 40 hours of community service.

(2) (a) The department upon receiving a record of the conviction of any person under this section upon a charge of driving a noncommercial vehicle while the person's driver's license or privilege to drive was suspended or revoked shall extend the period of suspension or revocation for an additional 1-year period.

(b) Upon receiving a record of the conviction of any person under this section upon a charge of driving a commercial motor vehicle while the person's commercial driver's license was revoked, suspended, or canceled or the person was disqualified from operating a commercial motor vehicle under federal

regulations, the department shall suspend the person's commercial driver's license in accordance with 61-8-802.

(3) The vehicle owned and operated at the time of an offense under this section by a person whose driver's license is suspended for violating the provisions of 61-8-401, 61-8-402, 61-8-406, 61-8-409, or 61-8-410 must, upon a person's first conviction, be seized or rendered inoperable by the county sheriff of the convicted person's county of residence for a period of 30 days.

(4) The sentencing court shall order the action provided for under subsection (3) and shall specify the date on which the vehicle is to be returned or again rendered operable. The vehicle must be seized or rendered inoperable by the sheriff within 10 days after the conviction.

(5) A convicted person is responsible for all costs associated with actions taken under subsection (3). Joint ownership of the vehicle with another person does not prohibit the actions required by subsection (3) unless the sentencing court determines that those actions would constitute an extreme hardship on a joint owner who is determined to be without fault.

(6) A court may not suspend or defer imposition of penalties provided by this section."

Approved May 8, 2007

CHAPTER NO. 463

[SB 387]

AN ACT REQUIRING HEALTH INSURERS TO DISCLOSE INFORMATION ABOUT COVERED BENEFITS FOR CANCER SCREENING; AMENDING SECTIONS 2-18-704, 33-22-244, 33-22-262, 33-22-521, 33-31-102, AND 33-31-301, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE.

WHEREAS, early detection of cancer can save lives and improve and increase treatment options for patients; and

WHEREAS, screening tests for cancer are the main tool for early detection of cancer; and

WHEREAS, health insurers may not routinely provide information on the coverage provided for cancer screenings; and

WHEREAS, state law requires health insurers to provide a summary of benefits offered to consumers; and

WHEREAS, because of the importance of early detection, consumers deserve and will benefit from information about the types of cancer screenings that a policy covers.

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

Section 1. Section 2-18-704, MCA, is amended to read:

"2-18-704. Mandatory provisions. (1) An insurance contract or plan issued under this part must contain provisions that permit:

(a) the member of a group who retires from active service under the appropriate retirement provisions of a defined benefit plan provided by law or, in the case of the defined contribution plan provided in Title 19, chapter 3, part 21, a member with at least 5 years of service and who is at least age 50 while in covered employment to remain a member of the group until the member

becomes eligible for medicare under the federal Health Insurance for the Aged Act, 42 U.S.C. 1395, as amended, unless the member is a participant in another group plan with substantially the same or greater benefits at an equivalent cost or unless the member is employed and, by virtue of that employment, is eligible to participate in another group plan with substantially the same or greater benefits at an equivalent cost;

(b) the surviving spouse of a member to remain a member of the group as long as the spouse is eligible for retirement benefits accrued by the deceased member as provided by law unless the spouse is eligible for medicare under the federal Health Insurance for the Aged Act or unless the spouse has or is eligible for equivalent insurance coverage as provided in subsection (1)(a);

(c) the surviving children of a member to remain members of the group as long as they are eligible for retirement benefits accrued by the deceased member as provided by law unless they have equivalent coverage as provided in subsection (1)(a) or are eligible for insurance coverage by virtue of the employment of a surviving parent or legal guardian.

(2) An insurance contract or plan issued under this part must contain the provisions of subsection (1) for remaining a member of the group and also must permit:

(a) the spouse of a retired member the same rights as a surviving spouse under subsection (1)(b);

(b) the spouse of a retiring member to convert a group policy as provided in 33-22-508; and

(c) continued membership in the group by anyone eligible under the provisions of this section, notwithstanding the person's eligibility for medicare under the federal Health Insurance for the Aged Act.

(3) (a) A state insurance contract or plan must contain provisions that permit a legislator to remain a member of the state's group plan until the legislator becomes eligible for medicare under the federal Health Insurance for the Aged Act, 42 U.S.C. 1395, as amended, if the legislator:

(i) terminates service in the legislature and is a vested member of a state retirement system provided by law; and

(ii) notifies the department of administration in writing within 90 days of the end of the legislator's legislative term.

(b) A former legislator may not remain a member of the group plan under the provisions of subsection (3)(a) if the person:

(i) is a member of a plan with substantially the same or greater benefits at an equivalent cost; or

(ii) is employed and, by virtue of that employment, is eligible to participate in another group plan with substantially the same or greater benefits at an equivalent cost.

(c) A legislator who remains a member of the group under the provisions of subsection (3)(a) and subsequently terminates membership may not rejoin the group plan unless the person again serves as a legislator.

(4) (a) A state insurance contract or plan must contain provisions that permit continued membership in the state's group plan by a member of the judges' retirement system who leaves judicial office but continues to be an inactive vested member of the judges' retirement system as provided by

19-5-301. The judge shall notify the department of administration in writing within 90 days of the end of the judge's judicial service of the judge's choice to continue membership in the group plan.

(b) A former judge may not remain a member of the group plan under the provisions of this subsection (4) if the person:

(i) is a member of a plan with substantially the same or greater benefits at an equivalent cost;

(ii) is employed and, by virtue of that employment, is eligible to participate in another group plan with substantially the same or greater benefits at an equivalent cost; or

(iii) becomes eligible for medicare under the federal Health Insurance for the Aged Act, 42 U.S.C. 1395, as amended.

(c) A judge who remains a member of the group under the provisions of this subsection (4) and subsequently terminates membership may not rejoin the group plan unless the person again serves in a position covered by the state's group plan.

(5) A person electing to remain a member of the group under subsection (1), (2), (3), or (4) shall pay the full premium for coverage and for that of the person's covered dependents.

(6) An insurance contract or plan issued under this part that provides for the dispensing of prescription drugs by an out-of-state mail service pharmacy, as defined in 37-7-702:

(a) must permit any member of a group to obtain prescription drugs from a pharmacy located in Montana that is willing to match the price charged to the group or plan and to meet all terms and conditions, including the same professional requirements that are met by the mail service pharmacy for a drug, without financial penalty to the member; and

(b) may only be with an out-of-state mail service pharmacy that is registered with the board under Title 37, chapter 7, part 7, and that is registered in this state as a foreign corporation.

(7) An insurance contract or plan issued under this part must include coverage for treatment of inborn errors of metabolism, as provided for in 33-22-131.

(8) An insurance contract or plan issued under this part must include substantially equivalent or greater coverage for outpatient self-management training and education for the treatment of diabetes and certain diabetic equipment and supplies as provided in 33-22-129.

(9) Prior to issuance of an insurance contract or plan under this part, written informational materials describing the contract's or plan's cancer screening coverages must be provided to a prospective group or plan member."

Section 2. Section 33-22-244, MCA, is amended to read:

"33-22-244. Disclosure standards — individual policy. (1) In order to provide for full and fair disclosure in the sale of disability insurance, an individual disability insurance policy may not be delivered or issued for delivery in this state unless an outline of coverage is filed with and approved by the insurance commissioner in accordance with 33-1-501 and is delivered to the applicant at the time the application is made.

(2) The outline of coverage must include:

(a) a general description of the principal benefits and coverages provided by the policy;

~~(b)~~*(b)* a general description of the insured's financial responsibility under the policy, including, if applicable, the amount of the deductible, the amount or percentage of copayment, and the maximum annual out-of-pocket expenses to be paid by the insured;

~~(c)~~*(c)* a statement of the maximum lifetime benefit available under the policy;

~~(d)~~*(d)* a statement of the estimated periodic premium to be paid by the insured;

~~(e)~~*(e)* a general description of the factors or case characteristics that the insurer may consider in establishing or changing the premiums and, if applicable, in determining the insurability of the applicant;

~~(f)~~*(f)* a prominently displayed statement of the insured's responsibility for payment of billed charges beyond those charges reimbursed by the insurer when the insured uses health care services from a health care provider who is outside a network of health care providers used by the insurer; and

~~(g)~~*(g)* a general description of the trend of premium increases or decreases for comparable policies issued by the insurer during the preceding 5 years, if the trend data is available.

(3) The outline of coverage may include any other information that the insurer considers relevant to the applicant's selection of an appropriate individual disability policy.

(4) An insurer or producer shall provide to an individual, upon request, an outline of coverage for any health benefit product marketed to the general public. The outline of coverage provided under this subsection may exclude the statement of the estimated periodic premium to be paid by the insured.

(5) Prior to issuance of an individual disability insurance policy, written informational materials describing the policy's cancer screening coverages must be provided to a potential applicant. The informational materials are not subject to filing with and approval of the insurance commissioner."

Section 3. Section 33-22-262, MCA, is amended to read:

"33-22-262. (Temporary) Limited coverage individual health benefit plan or managed care plan — demonstration project — criteria — rulemaking. (1) The commissioner of insurance may approve a 12-month demonstration project that allows a health insurance issuer to offer a limited coverage individual health benefit plan or managed care plan. The criteria for approval of a 12-month demonstration project include but are not limited to the following:

(a) the plan must include significant outpatient services and may not consist of inpatient benefits only;

(b) the plan may be offered only to residents of Montana who have been uninsured for 90 days or longer, except that at the discretion of the health insurance issuer, the plan may be offered to residents of Montana if the applicant:

(i) lost eligibility for a health plan because of age; or

(ii) lost coverage under a federally funded health insurance program, such as medicare, medicaid, or the Montana children's health insurance program, because of age or failure to meet financial guidelines; and

(c) the commissioner may adopt rules that describe additional criteria to be used to determine approval of demonstration projects. Additional criteria must relate to the purpose as stated in 33-22-261(2).

(2) The health benefit plan or managed care plan must specify the health services that are included and must specifically list the health services that will be limited or not be covered from the partial list of state-required coverage in subsection (3). The limitations and exclusions of the plan must be prominently displayed on the application and on the outline of coverage required by 33-22-244.

(3) Subject to subsection (4), if specifically listed as a limitation or an exclusion of coverage in the proposal, a demonstration project may limit or exclude the following health services from its health benefit plan or managed care plan:

(a) coverage of a newborn, as provided in 33-22-301, 33-30-1001, and ~~33-31-301(3)(e)~~ *33-31-301(3)(e)*, which may be subject only to the same extent of the limitations and exclusions contained in the parent's policy;

(b) coverage for severe mental illness, as provided in 33-22-706;

(c) coverage for mental health services, as provided in ~~33-31-301(3)(g)(i)~~ *33-31-301(3)(g)(i)*;

(d) benefits for emergency services, as provided in 33-36-201 and 33-36-205;

(e) coverage for certain basic health care services described in 33-31-102(2)(b) and (2)(h)(v);

(f) services provided by a specific category of licensed health care practitioner to be provided to the covered person for a health-related condition in a health benefit plan or managed care plan, including services described in 33-22-125 and 33-30-1017;

(g) coverage for diabetic education, treatment, services, and supplies, as provided in 33-22-129; or

(h) coverage for treatment of inborn errors of metabolism, as provided in 33-22-131.

(4) All health benefit plan and managed care plan demonstration projects are subject to the following provisions:

(a) the requirement that any plan that covers physical illness generally must cover severe mental illness in a way that is no less favorable than that level provided for other physical illness generally as required by federal law;

(b) the prohibition against discrimination in 49-2-309;

(c) except as provided in subsection (3)(d), the provisions in Title 33, chapter 36, regarding network adequacy and quality assurance; and

(d) all other applicable provisions of Title 33, except those listed in subsection (3).

(5) Upon a renewal request and approval by the insurance commissioner, a demonstration project may be renewed for additional 12-month increments for a maximum total of 5 years. (Terminates June 30, 2009—sec. 14, Ch. 325, L. 2003.)"

Section 4. Section 33-22-521, MCA, is amended to read:

"33-22-521. Disclosure standards — group policy. (1) In order to provide for full and fair disclosure in the sale of disability insurance, a group disability insurance policy may not be delivered or issued for delivery in this state unless an outline of coverage is filed with and approved by the insurance commissioner in accordance with 33-1-501 and is delivered to the applicant at the time the application is made.

(2) The outline of coverage must include:

(a) a general description of the principal benefits and coverages provided by the policy;

~~(b)~~*(b)* a general description of the insured's financial responsibility under the policy, including, if applicable, the amount of the deductible, the amount or percentage of copayment, and the maximum annual out-of-pocket expenses to be paid by the insured;

~~(c)~~*(c)* a statement of the maximum lifetime benefit available under the policy;

~~(d)~~*(d)* a statement of the estimated periodic premium to be paid by the insured;

~~(e)~~*(e)* a general description of the factors or case characteristics that the insurer may consider in establishing or changing the premiums and, if applicable, in determining the insurability of the applicant;

~~(f)~~*(f)* a prominently displayed statement of the insured's responsibility for payment of billed charges beyond those charges reimbursed by the insurer when the insured uses health care services from a health care provider who is outside a network of health care providers used by the insurer; and

~~(g)~~*(g)* a general description of the trend of premium increases or decreases for comparable policies issued by the insurer during the preceding 5 years, if the trend data is available.

(3) If applicable, the outline of coverage must disclose that the policy does not contain coverage for mental illness or chemical dependency.

(4) The outline of coverage may include any other information that the insurer considers relevant to the applicant's selection of an appropriate group disability policy.

(5) An insurer or producer shall provide to an individual, upon request, an outline of coverage for any health benefit product marketed to the general public. The outline of coverage provided under this subsection may exclude the statement of the estimated periodic premium to be paid by the insured.

(6) An outline of coverage must also be sent to an employee when an employee is sent a certificate of insurance.

(7) Prior to issuance of a group disability insurance policy, written informational materials describing the policy's cancer screening coverages must be provided to a prospective applicant. The informational materials are not subject to filing with and approval of the insurance commissioner."

Section 5. Section 33-31-102, MCA, is amended to read:

"33-31-102. Definitions. As used in this chapter, unless the context requires otherwise, the following definitions apply:

(1) "Affiliation period" means a period that, under the terms of the health insurance coverage offered by a health maintenance organization, must expire before the health insurance coverage becomes effective.

(2) "Basic health care services" means:

(a) consultative, diagnostic, therapeutic, and referral services by a provider;

(b) inpatient hospital and provider care;

(c) outpatient medical services;

(d) medical treatment and referral services;

(e) accident and sickness services by a provider to each newborn infant of an enrollee pursuant to ~~33-31-301(3)(e)~~ *33-31-301(3)(e)*;

(f) care and treatment of mental illness, alcoholism, and drug addiction;

(g) diagnostic laboratory and diagnostic and therapeutic radiologic services;

(h) preventive health services, including:

(i) immunizations;

(ii) well-child care from birth;

(iii) periodic health evaluations for adults;

(iv) voluntary family planning services;

(v) infertility services; and

(vi) children's eye and ear examinations conducted to determine the need for vision and hearing correction;

(i) minimum mammography examination, as defined in 33-22-132;

(j) outpatient self-management training and education for the treatment of diabetes along with certain diabetic equipment and supplies as provided in 33-22-129; and

(k) treatment and medical foods for inborn errors of metabolism. "Medical foods" and "treatment" have the meanings provided for in 33-22-131.

(3) "Commissioner" means the commissioner of insurance of the state of Montana.

(4) "Enrollee" means a person:

(a) who enrolls in or contracts with a health maintenance organization;

(b) on whose behalf a contract is made with a health maintenance organization to receive health care services; or

(c) on whose behalf the health maintenance organization contracts to receive health care services.

(5) "Evidence of coverage" means a certificate, agreement, policy, or contract issued to an enrollee setting forth the coverage to which the enrollee is entitled.

(6) "Health care services" means:

(a) the services included in furnishing medical or dental care to a person;

(b) the services included in hospitalizing a person;

(c) the services incident to furnishing medical or dental care or hospitalization; or

(d) the services included in furnishing to a person other services for the purpose of preventing, alleviating, curing, or healing illness, injury, or physical disability.

(7) "Health care services agreement" means an agreement for health care services between a health maintenance organization and an enrollee.

(8) "Health maintenance organization" means a person who provides or arranges for basic health care services to enrollees on a prepaid basis, either directly through provider employees or through contractual or other arrangements with a provider or a group of providers. This subsection does not limit methods of provider payments made by health maintenance organizations.

(9) "Insurance producer" means an individual, partnership, or corporation appointed or authorized by a health maintenance organization to solicit applications for health care services agreements on its behalf.

(10) "Person" means:

(a) an individual;

(b) a group of individuals;

(c) an insurer, as defined in 33-1-201;

(d) a health service corporation, as defined in 33-30-101;

(e) a corporation, partnership, facility, association, or trust; or

(f) an institution of a governmental unit of any state licensed by that state to provide health care, including but not limited to a physician, hospital, hospital-related facility, or long-term care facility.

(11) "Plan" means a health maintenance organization operated by an insurer or health service corporation as an integral part of the corporation and not as a subsidiary.

(12) "Point-of-service option" means a delivery system that permits an enrollee of a health maintenance organization to receive health care services from a provider who is, under the terms of the enrollee's contract for health care services with the health maintenance organization, not on the provider panel of the health maintenance organization.

(13) "Provider" means a physician, hospital, hospital-related facility, long-term care facility, dentist, osteopath, chiropractor, optometrist, podiatrist, psychologist, licensed social worker, registered pharmacist, or advanced practice registered nurse, as specifically listed in 37-8-202, who treats any illness or injury within the scope and limitations of the provider's practice or any other person who is licensed or otherwise authorized in this state to furnish health care services.

(14) "Provider panel" means those providers with whom a health maintenance organization contracts to provide health care services to the health maintenance organization's enrollees.

(15) "Purchaser" means the individual, employer, or other entity, but not the individual certificate holder in the case of group insurance, that enters into a health care services agreement.

(16) "Uncovered expenditures" mean the costs of health care services that are covered by a health maintenance organization and for which an enrollee is liable if the health maintenance organization becomes insolvent."

Section 6. Section 33-31-301, MCA, is amended to read:

"33-31-301. (Temporary) Evidence of coverage — schedule of charges for health care services. (1) Each enrollee residing in this state is entitled to an evidence of coverage. The health maintenance organization shall issue the evidence of coverage, except that if the enrollee obtains coverage through an insurance policy issued by an insurer or a contract issued by a health service corporation, whether by option or otherwise, the insurer or the health service corporation shall issue the evidence of coverage.

(2) A health maintenance organization may not issue or deliver an enrollment form, an evidence of coverage, or an amendment to an approved enrollment form or evidence of coverage to a person in this state before a copy of the enrollment form, the evidence of coverage, or the amendment to the approved enrollment form or evidence of coverage is filed with and approved by the commissioner in accordance with 33-1-501.

(3) An evidence of coverage issued or delivered to a person residing in this state may not contain a provision or statement that is untrue, misleading, or deceptive as defined in 33-31-312(1). The evidence of coverage must contain:

(a) a clear and concise statement, if a contract, or a reasonably complete summary, if a certificate, of:

(i) the health care services and the insurance or other benefits, if any, to which the enrollee is entitled;

(ii) any limitations on the services, kinds of services, or benefits to be provided, including any deductible or copayment feature;

(iii) the location at which and the manner in which information is available as to how services may be obtained;

(iv) the total amount of payment for health care services and the indemnity or service benefits, if any, that the enrollee is obligated to pay with respect to individual contracts; and

(v) a clear and understandable description of the health maintenance organization's method for resolving enrollee complaints;

(b) definitions of geographical service area, emergency care, urgent care, out-of-area services, dependent, and primary provider if these terms or terms of similar meaning are used in the evidence of coverage and have an effect on the benefits covered by the plan. The definition of geographical service area need not be stated in the text of the evidence of coverage if the definition is adequately described in an attachment that is given to each enrollee along with the evidence of coverage.

(c) clear disclosure of each provision that limits benefits or access to service in the exclusions, limitations, and exceptions sections of the evidence of coverage. The exclusions, limitations, and exceptions that must be disclosed include but are not limited to:

(i) emergency and urgent care;

(ii) restrictions on the selection of primary or referral providers;

(iii) restrictions on changing providers during the contract period;

(iv) out-of-pocket costs, including copayments and deductibles;

(v) charges for missed appointments or other administrative sanctions;

(vi) restrictions on access to care if copayments or other charges are not paid; and

(vii) any restrictions on coverage for dependents who do not reside in the service area.

~~(d)~~*(d)* clear disclosure of any benefits for home health care, skilled nursing care, kidney disease treatment, diabetes, maternity benefits for dependent children, alcoholism and other drug abuse, and nervous and mental disorders;

~~(e)~~*(e)* except as provided in 33-22-262, a provision requiring immediate accident and sickness coverage, from and after the moment of birth, to each newborn infant of an enrollee or the enrollee's dependents;

~~(f)~~*(f)* a provision providing coverage as required in 33-22-133;

~~(g)~~*(g)* except as provided in 33-22-262, a provision requiring medical treatment and referral services to appropriate ancillary services for mental illness and for the abuse of or addiction to alcohol or drugs in accordance with the limits and coverage provided in Title 33, chapter 22, part 7; however:

(i) after the primary care physician refers an enrollee for treatment of and appropriate ancillary services for mental illness, alcoholism, or drug addiction, the health maintenance organization may not limit the enrollee to a health maintenance organization provider for the treatment of and appropriate ancillary services for mental illness, alcoholism, or drug addiction;

(ii) if an enrollee chooses a provider other than the health maintenance organization provider for treatment and referral services, the enrollee's designated provider shall limit treatment and services to the scope of the referral in order to receive payment from the health maintenance organization;

(iii) the amount paid by the health maintenance organization to the enrollee's designated provider may not exceed the amount paid by the health maintenance organization to one of its providers for equivalent treatment or services;

(iv) the provisions of this subsection ~~(3)(g)~~ *(3)(g)* do not apply to services for mental illness provided under the Montana medicaid program as established in Title 53, chapter 6;

~~(h)~~*(h)* a provision as follows:

"Conformity With State Statutes: Any provision of this evidence of coverage that on its effective date is in conflict with the statutes of the state in which the insured resides on that date is amended to conform to the minimum requirements of those statutes."

~~(i)~~*(i)* a provision that the health maintenance organization shall issue, without evidence of insurability, to the enrollee, dependents, or family members continuing coverage on the enrollee, dependents, or family members:

(i) if the evidence of coverage or any portion of it on an enrollee, dependents, or family members covered under the evidence of coverage ceases because of termination of employment or termination of membership in the class or classes eligible for coverage under the policy or because the employer discontinues the business or the coverage;

(ii) if the enrollee had been enrolled in the health maintenance organization for a period of 3 months preceding the termination of group coverage; and

(iii) if the enrollee applied for continuing coverage within 31 days after the termination of group coverage. The conversion contract may not exclude, as a

preexisting condition, any condition covered by the group contract from which the enrollee converts.

~~(j)~~*(j)* a provision that clearly describes the amount of money an enrollee shall pay to the health maintenance organization to be covered for basic health care services.

(4) A health maintenance organization may amend an enrollment form or an evidence of coverage in a separate document if the separate document is filed with and approved by the commissioner in accordance with 33-1-501 and issued to the enrollee.

(5) (a) Except as provided in 33-22-262, a health maintenance organization shall provide the same coverage for newborn infants, required by subsection ~~(3)(e)~~ *(3)(e)*, as it provides for enrollees, except that for newborn infants, there may be no waiting or elimination periods. A health maintenance organization may not assess a deductible or reduce benefits applicable to the coverage for newborn infants unless the deductible or reduction in benefits is consistent with the deductible or reduction in benefits applicable to all covered persons.

(b) Except as provided in 33-22-262, a health maintenance organization may not issue or amend an evidence of coverage in this state if it contains any disclaimer, waiver, or other limitation of coverage relative to the accident and sickness coverage or insurability of newborn infants of an enrollee or dependents from and after the moment of birth.

(c) If a health maintenance organization requires payment of a specific fee to provide coverage of a newborn infant beyond 31 days of the date of birth of the infant, the evidence of coverage may contain a provision that requires notification to the health maintenance organization, within 31 days after the date of birth, of the birth of an infant and payment of the required fee.

(6) The provisions of 33-1-501 govern the filing and approval of health maintenance organization forms.

(7) The commissioner may require a health maintenance organization to submit any relevant information considered necessary in determining whether to approve or disapprove a filing made pursuant to this section.

(8) Prior to issuance of an evidence of coverage, written informational materials describing the contract's cancer screening coverages must be provided to a prospective applicant. The informational materials are not subject to filing with and approval of the insurance commissioner. (Terminates June 30, 2009—sec. 14, Ch. 325, L. 2003.)

33-31-301. (Effective July 1, 2009) Evidence of coverage — schedule of charges for health care services. (1) Each enrollee residing in this state is entitled to an evidence of coverage. The health maintenance organization shall issue the evidence of coverage, except that if the enrollee obtains coverage through an insurance policy issued by an insurer or a contract issued by a health service corporation, whether by option or otherwise, the insurer or the health service corporation shall issue the evidence of coverage.

(2) A health maintenance organization may not issue or deliver an enrollment form, an evidence of coverage, or an amendment to an approved enrollment form or evidence of coverage to a person in this state before a copy of the enrollment form, the evidence of coverage, or the amendment to the approved enrollment form or evidence of coverage is filed with and approved by the commissioner in accordance with 33-1-501.

(3) An evidence of coverage issued or delivered to a person resident in this state may not contain a provision or statement that is untrue, misleading, or deceptive as defined in 33-31-312(1). The evidence of coverage must contain:

(a) a clear and concise statement, if a contract, or a reasonably complete summary, if a certificate, of:

(i) the health care services and the insurance or other benefits, if any, to which the enrollee is entitled;

(ii) any limitations on the services, kinds of services, or benefits to be provided, including any deductible or copayment feature;

(iii) the location at which and the manner in which information is available as to how services may be obtained;

(iv) the total amount of payment for health care services and the indemnity or service benefits, if any, that the enrollee is obligated to pay with respect to individual contracts; and

(v) a clear and understandable description of the health maintenance organization's method for resolving enrollee complaints;

(b) definitions of geographical service area, emergency care, urgent care, out-of-area services, dependent, and primary provider if these terms or terms of similar meaning are used in the evidence of coverage and have an effect on the benefits covered by the plan. The definition of geographical service area need not be stated in the text of the evidence of coverage if the definition is adequately described in an attachment that is given to each enrollee along with the evidence of coverage.

(c) clear disclosure of each provision that limits benefits or access to service in the exclusions, limitations, and exceptions sections of the evidence of coverage. The exclusions, limitations, and exceptions that must be disclosed include but are not limited to:

(i) emergency and urgent care;

(ii) restrictions on the selection of primary or referral providers;

(iii) restrictions on changing providers during the contract period;

(iv) out-of-pocket costs, including copayments and deductibles;

(v) charges for missed appointments or other administrative sanctions;

(vi) restrictions on access to care if copayments or other charges are not paid; and

(vii) any restrictions on coverage for dependents who do not reside in the service area.

~~(d)~~*(d)* clear disclosure of any benefits for home health care, skilled nursing care, kidney disease treatment, diabetes, maternity benefits for dependent children, alcoholism and other drug abuse, and nervous and mental disorders;

~~(e)~~*(e)* a provision requiring immediate accident and sickness coverage, from and after the moment of birth, to each newborn infant of an enrollee or the enrollee's dependents;

~~(f)~~*(f)* a provision providing coverage as required in 33-22-133;

~~(g)~~*(g)* a provision requiring medical treatment and referral services to appropriate ancillary services for mental illness and for the abuse of or addiction

to alcohol or drugs in accordance with the limits and coverage provided in Title 33, chapter 22, part 7; however:

(i) after the primary care physician refers an enrollee for treatment of and appropriate ancillary services for mental illness, alcoholism, or drug addiction, the health maintenance organization may not limit the enrollee to a health maintenance organization provider for the treatment of and appropriate ancillary services for mental illness, alcoholism, or drug addiction;

(ii) if an enrollee chooses a provider other than the health maintenance organization provider for treatment and referral services, the enrollee's designated provider shall limit treatment and services to the scope of the referral in order to receive payment from the health maintenance organization;

(iii) the amount paid by the health maintenance organization to the enrollee's designated provider may not exceed the amount paid by the health maintenance organization to one of its providers for equivalent treatment or services;

(iv) the provisions of this subsection ~~(3)(g)~~ *(3)(g)* do not apply to services for mental illness provided under the Montana medicaid program as established in Title 53, chapter 6;

~~(h)~~*(h)* a provision as follows:

"Conformity With State Statutes: Any provision of this evidence of coverage that on its effective date is in conflict with the statutes of the state in which the insured resides on that date is amended to conform to the minimum requirements of those statutes."

~~(i)~~*(i)* a provision that the health maintenance organization shall issue, without evidence of insurability, to the enrollee, dependents, or family members continuing coverage on the enrollee, dependents, or family members:

(i) if the evidence of coverage or any portion of it on an enrollee, dependents, or family members covered under the evidence of coverage ceases because of termination of employment or termination of membership in the class or classes eligible for coverage under the policy or because the employer discontinues the business or the coverage;

(ii) if the enrollee had been enrolled in the health maintenance organization for a period of 3 months preceding the termination of group coverage; and

(iii) if the enrollee applied for continuing coverage within 31 days after the termination of group coverage. The conversion contract may not exclude, as a preexisting condition, any condition covered by the group contract from which the enrollee converts.

~~(j)~~*(j)* a provision that clearly describes the amount of money an enrollee shall pay to the health maintenance organization to be covered for basic health care services.

(4) A health maintenance organization may amend an enrollment form or an evidence of coverage in a separate document if the separate document is filed with and approved by the commissioner in accordance with 33-1-501 and issued to the enrollee.

(5) (a) A health maintenance organization shall provide the same coverage for newborn infants, required by subsection ~~(3)(c)~~ *(3)(e)*, as it provides for enrollees, except that for newborn infants, there may be no waiting or elimination periods. A health maintenance organization may not assess a

deductible or reduce benefits applicable to the coverage for newborn infants unless the deductible or reduction in benefits is consistent with the deductible or reduction in benefits applicable to all covered persons.

(b) A health maintenance organization may not issue or amend an evidence of coverage in this state if it contains any disclaimer, waiver, or other limitation of coverage relative to the accident and sickness coverage or insurability of newborn infants of an enrollee or dependents from and after the moment of birth.

(c) If a health maintenance organization requires payment of a specific fee to provide coverage of a newborn infant beyond 31 days of the date of birth of the infant, the evidence of coverage may contain a provision that requires notification to the health maintenance organization, within 31 days after the date of birth, of the birth of an infant and payment of the required fee.

(6) The provisions of 33-1-501 govern the filing and approval of health maintenance organization forms.

(7) The commissioner may require a health maintenance organization to submit any relevant information considered necessary in determining whether to approve or disapprove a filing made pursuant to this section.

(8) Prior to issuance of evidence of coverage, written informational materials describing the contract's cancer screening coverages must be provided to a potential applicant. The informational materials are not subject to filing with and approval of the insurance commissioner."

Section 7. Effective date. [This act] is effective January 1, 2008.

Approved May 8, 2007

CHAPTER NO. 464

[SB 404]

AN ACT CLARIFYING LIABILITY FOR FIREFIGHTERS; PROVIDING FOR LEGAL REPRESENTATION OF FIREFIGHTERS; REQUIRING THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION AND LOCAL GOVERNMENTAL FIRE AGENCIES TO PAY ATTORNEY FEES; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

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

Section 1. Liability of firefighters. (1) A firewarden, firefighter, or officer or employee of a state or governmental fire agency is not criminally liable for acts or omissions while fighting fires other than acts or omissions committed with demonstrable criminal intent.

(2) For the purposes of this section, "governmental fire agency" means a fire protection entity organized under Title 7, chapter 33.

Section 2. Legal representation for state firefighters. (1) The department shall pay reasonable attorney fees and costs for outside legal counsel to defend a firefighter employed by the department against a criminal prosecution for a good faith act or omission by the firefighter arising from the firefighter's performance of duties during a wildfire. The department may determine whether the firefighter's act or omission was in good faith and arising from the performance of the firefighter's duties during a wildfire. The

requirement to pay attorney fees and costs does not apply to any postconviction legal proceedings.

(2) The department shall adopt rules to implement this section.

Section 3. Legal representation for firewarden, firefighter, or employee — local governmental fire agency. A local governmental fire agency shall pay reasonable attorney fees and costs for outside legal counsel to defend a firewarden, firefighter, or paid or volunteer employee of a local governmental fire agency against a criminal prosecution arising from an act or omission in the performance of duties on a fire or in fire training that is made in good faith and within the course and scope of employment of the firewarden, firefighter, or paid or volunteer employee. The local governmental fire agency may determine whether the act or omission of the firewarden, firefighter, or paid or volunteer employee was in good faith and arising from the performance of the employee's duties in a fire or in fire training. The requirement to pay attorney fees and costs does not apply to any postconviction legal proceedings.

Section 4. Codification instruction. (1) [Section 1] is intended to be codified as an integral part of Title 45, chapter 2, part 2, and the provisions of Title 45, chapter 2, part 2, apply to [section 1].

(2) [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].

(3) [Section 3] is intended to be codified as an integral part of Title 7, chapter 33, and the provisions of Title 7, chapter 33, apply to [section 3].

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

Approved May 8, 2007

CHAPTER NO. 465

[SB 411]

AN ACT REVISING ELIGIBILITY FOR ORDERS OF PROTECTION; PROVIDING THAT A VICTIM OF ASSAULT, AGGRAVATED ASSAULT, OR ASSAULT ON A MINOR IS ELIGIBLE FOR AN ORDER OF PROTECTION REGARDLESS OF THE INDIVIDUAL'S RELATIONSHIP TO THE OFFENDER; AMENDING SECTION 40-15-102, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

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

Section 1. Section 40-15-102, MCA, is amended to read:

"40-15-102. Eligibility for order of protection. (1) A person may file a petition for an order of protection if:

(a) the petitioner is in reasonable apprehension of bodily injury by the petitioner's partner or family member as defined in 45-5-206; or

(b) the petitioner is a victim of one of the following offenses committed by a partner or family member:

(i) assault as defined in 45-5-201;

(ii) aggravated assault as defined in 45-5-202;

(iii) intimidation as defined in 45-5-203;

(iv) partner or family member assault as defined in 45-5-206;

(v) criminal endangerment as defined in 45-5-207;

(vi) negligent endangerment as defined in 45-5-208;

(vii) assault on a minor as defined in 45-5-212;

(viii) assault with a weapon as defined in 45-5-213;

(ix) unlawful restraint as defined in 45-5-301;

(x) kidnapping as defined in 45-5-302;

(xi) aggravated kidnapping as defined in 45-5-303; or

(xii) arson as defined in 45-6-103.

(2) The following individuals are eligible to file a petition for an order of protection against the offender regardless of the individual's relationship to the offender:

(a) a victim of *assault as defined in 45-5-201, aggravated assault as defined in 45-5-202, assault on a minor as defined in 45-5-212,* stalking as defined in 45-5-220, incest as defined in 45-5-507, sexual assault as defined in 45-5-502, or sexual intercourse without consent as defined in 45-5-503; or

(b) a partner or family member of a victim of deliberate homicide as defined in 45-5-102 or mitigated deliberate homicide as defined in 45-5-103.

(3) A parent, guardian ad litem, or other representative of the petitioner may file a petition for an order of protection on behalf of a minor petitioner against the petitioner's abuser. At its discretion, a court may appoint a guardian ad litem for a minor petitioner.

(4) A guardian must be appointed for a minor respondent when required by Rule 17(c), Montana Rules of Civil Procedure, or by 25-31-602. An order of protection is effective against a respondent regardless of the respondent's age.

(5) A petitioner is eligible for an order of protection whether or not:

(a) the petitioner reports the abuse to law enforcement;

(b) charges are filed; or

(c) the petitioner participates in a criminal prosecution.

(6) If a petitioner is otherwise entitled to an order of protection, the length of time between the abusive incident and the petitioner's application for an order of protection is irrelevant."

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

Approved May 8, 2007

CHAPTER NO. 466

[SB 417]

AN ACT AMENDING THE DEFINITION OF SPECIALTY HOSPITAL; PROVIDING FOR ATTESTATION FOR LICENSING SPECIALTY HOSPITALS; PROVIDING FOR DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES RULEMAKING AUTHORITY; EXTENDING AND REVISING THE MORATORIUM ON LICENSING SPECIALTY HOSPITALS; AMENDING SECTIONS 50-5-101, 50-5-203, AND 50-5-245, MCA;

REPEALING SECTION 6, CHAPTER 365, LAWS OF 2005; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE.

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

Section 1. Section 50-5-101, MCA, is amended to read:

"50-5-101. ~~(Temporary)~~ Definitions. As used in parts 1 through 3 of this chapter, unless the context clearly indicates otherwise, the following definitions apply:

(1) "Accreditation" means a designation of approval.

(2) "Accreditation association for ambulatory health care" means the organization nationally recognized by that name that surveys ambulatory surgical centers upon their requests and grants accreditation status to the ambulatory surgical centers that it finds meet its standards and requirements.

(3) "Activities of daily living" means tasks usually performed in the course of a normal day in a resident's life that include eating, walking, mobility, dressing, grooming, bathing, toileting, and transferring.

(4) "Adult day-care center" means a facility, freestanding or connected to another health care facility, that provides adults, on a regularly scheduled basis, with the care necessary to meet the needs of daily living but that does not provide overnight care.

(5) (a) "Adult foster care home" means a private home or other facility that offers, except as provided in 50-5-216, only light personal care or custodial care to four or fewer disabled adults or aged persons who are not related to the owner or manager of the home by blood, marriage, or adoption or who are not under the full guardianship of the owner or manager.

(b) As used in this subsection (5), the following definitions apply:

(i) "Aged person" means a person as defined by department rule as aged.

(ii) "Custodial care" means providing a sheltered, family-type setting for an aged person or disabled adult so as to provide for the person's basic needs of food and shelter and to ensure that a specific person is available to meet those basic needs.

(iii) "Disabled adult" means a person who is 18 years of age or older and who is defined by department rule as disabled.

(iv) (A) "Light personal care" means assisting the aged person or disabled adult in accomplishing such personal hygiene tasks as bathing, dressing, and hair grooming and supervision of prescriptive medicine administration.

(B) The term does not include the administration of prescriptive medications.

(6) "Affected person" means an applicant for a certificate of need, a health care facility located in the geographic area affected by the application, an agency that establishes rates for health care facilities, or a third-party payer who reimburses health care facilities in the area affected by the proposal.

(7) "Assisted living facility" means a congregate residential setting that provides or coordinates personal care, 24-hour supervision and assistance, both scheduled and unscheduled, and activities and health-related services.

(8) "Capital expenditure" means:

(a) an expenditure made by or on behalf of a health care facility that, under generally accepted accounting principles, is not properly chargeable as an expense of operation and maintenance; or

(b) a lease, donation, or comparable arrangement that would be a capital expenditure if money or any other property of value had changed hands.

(9) "Certificate of need" means a written authorization by the department for a person to proceed with a proposal subject to 50-5-301.

(10) "Chemical dependency facility" means a facility whose function is the treatment, rehabilitation, and prevention of the use of any chemical substance, including alcohol, that creates behavioral or health problems and endangers the health, interpersonal relationships, or economic function of an individual or the public health, welfare, or safety.

(11) "Clinical laboratory" means a facility for the microbiological, serological, chemical, hematological, radiobioassay, cytological, immunohematological, pathological, or other examination of materials derived from the human body for the purpose of providing information for the diagnosis, prevention, or treatment of a disease or assessment of a medical condition.

(12) "College of American pathologists" means the organization nationally recognized by that name that surveys clinical laboratories upon their requests and accredits clinical laboratories that it finds meet its standards and requirements.

(13) "Commission on accreditation of rehabilitation facilities" means the organization nationally recognized by that name that surveys rehabilitation facilities upon their requests and grants accreditation status to a rehabilitation facility that it finds meets its standards and requirements.

(14) "Comparative review" means a joint review of two or more certificate of need applications that are determined by the department to be competitive in that the granting of a certificate of need to one of the applicants would substantially prejudice the department's review of the other applications.

(15) "Congregate" means the provision of group services designed especially for elderly or disabled persons who require supportive services and housing.

(16) "Construction" means the physical erection of a health care facility and any stage of the physical erection, including groundbreaking, or remodeling, replacement, or renovation of an existing health care facility.

(17) "Council on accreditation" means the organization nationally recognized by that name that surveys behavioral treatment programs, chemical dependency treatment programs, residential treatment facilities, and mental health centers upon their requests and grants accreditation status to programs and facilities that it finds meet its standards and requirements.

(18) "Critical access hospital" means a facility that is located in a rural area, as defined in 42 U.S.C. 1395ww(d)(2)(D), and that has been designated by the department as a critical access hospital pursuant to 50-5-233.

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

(20) "End-stage renal dialysis facility" means a facility that specializes in the treatment of kidney diseases and includes freestanding hemodialysis units.

(21) "Federal acts" means federal statutes for the construction of health care facilities.

(22) "Governmental unit" means the state, a state agency, a county, municipality, or political subdivision of the state, or an agency of a political subdivision.

(23) (a) "Health care facility" or "facility" means all or a portion of an institution, building, or agency, private or public, excluding federal facilities, whether organized for profit or not, that is used, operated, or designed to provide health services, medical treatment, or nursing, rehabilitative, or preventive care to any individual. The term includes chemical dependency facilities, critical access hospitals, end-stage renal dialysis facilities, home health agencies, home infusion therapy agencies, hospices, hospitals, infirmaries, long-term care facilities, intermediate care facilities for the developmentally disabled, medical assistance facilities, mental health centers, outpatient centers for primary care, outpatient centers for surgical services, rehabilitation facilities, residential care facilities, and residential treatment facilities.

(b) The term does not include offices of private physicians, dentists, or other physical or mental health care workers regulated under Title 37, including licensed addiction counselors.

(24) "Home health agency" means a public agency or private organization or subdivision of the agency or organization that is engaged in providing home health services to individuals in the places where they live. Home health services must include the services of a licensed registered nurse and at least one other therapeutic service and may include additional support services.

(25) "Home infusion therapy agency" means a health care facility that provides home infusion therapy services.

(26) "Home infusion therapy services" means the preparation, administration, or furnishing of parenteral medications or parenteral or enteral nutritional services to an individual in that individual's residence. The services include an educational component for the patient, the patient's caregiver, or the patient's family member.

(27) "Hospice" means a coordinated program of home and inpatient health care that provides or coordinates palliative and supportive care to meet the needs of a terminally ill patient and the patient's family arising out of physical, psychological, spiritual, social, and economic stresses experienced during the final stages of illness and dying and that includes formal bereavement programs as an essential component. The term includes:

(a) an inpatient hospice facility, which is a facility managed directly by a medicare-certified hospice that meets all medicare certification regulations for freestanding inpatient hospice facilities; and

(b) a residential hospice facility, which is a facility managed directly by a licensed hospice program that can house three or more hospice patients.

(28) (a) "Hospital" means a facility providing, by or under the supervision of licensed physicians, services for medical diagnosis, treatment, rehabilitation, and care of injured, disabled, or sick individuals. Except as otherwise provided by law, services provided may or may not include obstetrical care, emergency care, or any other service allowed by state licensing authority. A hospital has an organized medical staff that is on call and available within 20 minutes, 24 hours a day, 7 days a week, and provides 24-hour nursing care by licensed registered nurses. The term includes:

(i) hospitals specializing in providing health services for psychiatric, developmentally disabled, and tubercular patients; and

(ii) specialty hospitals.

(b) The term does not include critical access hospitals.

(29) "Infirmary" means a facility located in a university, college, government institution, or industry for the treatment of the sick or injured, with the following subdefinitions:

(a) an "infirmary—A" provides outpatient and inpatient care;

(b) an "infirmary—B" provides outpatient care only.

(30) (a) "Intermediate care facility for the developmentally disabled" means a facility or part of a facility that provides intermediate developmental disability care for two or more persons.

(b) The term does not include community homes for persons with developmental disabilities that are licensed under 53-20-305 or community homes for persons with severe disabilities that are licensed under 52-4-203.

(31) "Intermediate developmental disability care" means the provision of intermediate nursing care services, health-related services, and social services for persons with a developmental disability, as defined in 53-20-102, or for persons with related problems.

(32) "Intermediate nursing care" means the provision of nursing care services, health-related services, and social services under the supervision of a licensed nurse to patients not requiring 24-hour nursing care.

(33) "Joint commission on accreditation of healthcare organizations" means the organization nationally recognized by that name that surveys health care facilities upon their requests and grants accreditation status to a health care facility that it finds meets its standards and requirements.

(34) "Licensed health care professional" means a licensed physician, physician assistant, advanced practice registered nurse, or registered nurse who is practicing within the scope of the license issued by the department of labor and industry.

(35) (a) "Long-term care facility" means a facility or part of a facility that provides skilled nursing care, residential care, intermediate nursing care, or intermediate developmental disability care to a total of two or more individuals or that provides personal care.

(b) The term does not include community homes for persons with developmental disabilities licensed under 53-20-305; community homes for persons with severe disabilities, licensed under 52-4-203; youth care facilities, licensed under 52-2-622; hotels, motels, boardinghouses, roominghouses, or similar accommodations providing for transients, students, or individuals who do not require institutional health care; or juvenile and adult correctional facilities operating under the authority of the department of corrections.

(36) "Medical assistance facility" means a facility that meets both of the following:

(a) provides inpatient care to ill or injured individuals before their transportation to a hospital or that provides inpatient medical care to individuals needing that care for a period of no longer than 96 hours unless a longer period is required because transfer to a hospital is precluded because of inclement weather or emergency conditions. The department or its designee may, upon request, waive the 96-hour restriction retroactively and on a case-by-case basis if the individual's attending physician, physician assistant,

or nurse practitioner determines that the transfer is medically inappropriate and would jeopardize the health and safety of the individual.

(b) either is located in a county with fewer than six residents a square mile or is located more than 35 road miles from the nearest hospital.

(37) "Mental health center" means a facility providing services for the prevention or diagnosis of mental illness, the care and treatment of mentally ill patients, the rehabilitation of mentally ill individuals, or any combination of these services.

(38) "Nonprofit health care facility" means a health care facility owned or operated by one or more nonprofit corporations or associations.

(39) "Offer" means the representation by a health care facility that it can provide specific health services.

(40) (a) "Outdoor behavioral program" means a program that provides treatment, rehabilitation, and prevention for behavioral problems that endanger the health, interpersonal relationships, or educational functions of a youth and that:

(i) serves either adjudicated or nonadjudicated youth;

(ii) charges a fee for its services; and

(iii) provides all or part of its services in the outdoors.

(b) "Outdoor behavioral program" does not include recreational programs such as boy scouts, girl scouts, 4-H clubs, or other similar organizations.

(41) "Outpatient center for primary care" means a facility that provides, under the direction of a licensed physician, either diagnosis or treatment, or both, to ambulatory patients and that is not an outpatient center for surgical services.

(42) "Outpatient center for surgical services" means a clinic, infirmary, or other institution or organization that is specifically designed and operated to provide surgical services to patients not requiring hospitalization and that may include recovery care beds.

(43) "Patient" means an individual obtaining services, including skilled nursing care, from a health care facility.

(44) "Person" means an individual, firm, partnership, association, organization, agency, institution, corporation, trust, estate, or governmental unit, whether organized for profit or not.

(45) "Personal care" means the provision of services and care for residents who need some assistance in performing the activities of daily living.

(46) "Practitioner" means an individual licensed by the department of labor and industry who has assessment, admission, and prescription authority.

(47) "Recovery care bed" means, except as provided in 50-5-235, a bed occupied for less than 24 hours by a patient recovering from surgery or other treatment.

(48) "Rehabilitation facility" means a facility that is operated for the primary purpose of assisting in the rehabilitation of disabled individuals by providing comprehensive medical evaluations and services, psychological and social services, or vocational evaluation and training or any combination of these services and in which the major portion of the services is furnished within the facility.

(49) "Resident" means an individual who is in a long-term care facility or in a residential care facility.

(50) "Residential care facility" means an adult day-care center, an adult foster care home, an assisted living facility, or a retirement home.

(51) "Residential psychiatric care" means active psychiatric treatment provided in a residential treatment facility to psychiatrically impaired individuals with persistent patterns of emotional, psychological, or behavioral dysfunction of such severity as to require 24-hour supervised care to adequately treat or remedy the individual's condition. Residential psychiatric care must be individualized and designed to achieve the patient's discharge to less restrictive levels of care at the earliest possible time.

(52) "Residential treatment facility" means a facility operated for the primary purpose of providing residential psychiatric care to individuals under 21 years of age.

(53) "Retirement home" means a building or buildings in which separate living accommodations are rented or leased to individuals who use those accommodations as their primary residence.

(54) "Skilled nursing care" means the provision of nursing care services, health-related services, and social services under the supervision of a licensed registered nurse on a 24-hour basis.

(55) *(a)* "Specialty hospital" means a ~~specialty hospital as defined in 50-5-245~~ *subclass of hospital that is exclusively engaged in the diagnosis, care, or treatment of one or more of the following categories:*

(i) patients with a cardiac condition;

(ii) patients with an orthopedic condition;

(iii) patients undergoing a surgical procedure; or

(iv) patients treated for cancer-related diseases and receiving oncology services.

(b) For purposes of this subsection (55), a specialty hospital may provide other services for medical diagnosis, treatment, rehabilitation, and care of injured, disabled, or sick individuals as otherwise provided by law if the care encompasses 35% or less of the hospital services.

(c) The term "specialty hospital" does not include:

(i) psychiatric hospitals;

(ii) rehabilitation hospitals;

(iii) children's hospitals;

(iv) long-term care hospitals; or

(v) critical access hospitals.

(56) "State health care facilities plan" means the plan prepared by the department to project the need for health care facilities within Montana and approved by the governor and a statewide health coordinating council appointed by the director of the department.

(57) "Swing bed" means a bed approved pursuant to 42 U.S.C. 1395tt to be used to provide either acute care or extended skilled nursing care to a patient. ~~(Terminates July 1, 2007—sec. 6, Ch. 365, L. 2005.)~~

~~**50-5-101. (Effective July 1, 2007) Definitions.** As used in parts 1 through 3 of this chapter, unless the context clearly indicates otherwise, the following definitions apply:~~

~~(1) "Accreditation" means a designation of approval.~~

~~(2) "Accreditation association for ambulatory health care" means the organization nationally recognized by that name that surveys ambulatory surgical centers upon their requests and grants accreditation status to the ambulatory surgical centers that it finds meet its standards and requirements.~~

~~(3) "Activities of daily living" means tasks usually performed in the course of a normal day in a resident's life that include eating, walking, mobility, dressing, grooming, bathing, toileting, and transferring.~~

~~(4) "Adult day-care center" means a facility, freestanding or connected to another health care facility, that provides adults, on a regularly scheduled basis, with the care necessary to meet the needs of daily living but that does not provide overnight care.~~

~~(5) (a) "Adult foster care home" means a private home or other facility that offers, except as provided in 50-5-216, only light personal care or custodial care to four or fewer disabled adults or aged persons who are not related to the owner or manager of the home by blood, marriage, or adoption or who are not under the full guardianship of the owner or manager.~~

~~(b) As used in this subsection (5), the following definitions apply:~~

~~(i) "Aged person" means a person as defined by department rule as aged.~~

~~(ii) "Custodial care" means providing a sheltered, family-type setting for an aged person or disabled adult so as to provide for the person's basic needs of food and shelter and to ensure that a specific person is available to meet those basic needs.~~

~~(iii) "Disabled adult" means a person who is 18 years of age or older and who is defined by department rule as disabled.~~

~~(iv) (A) "Light personal care" means assisting the aged person or disabled adult in accomplishing such personal hygiene tasks as bathing, dressing, and hair grooming and supervision of prescriptive medicine administration.~~

~~(B) The term does not include the administration of prescriptive medications.~~

~~(6) "Affected person" means an applicant for a certificate of need, a health care facility located in the geographic area affected by the application, an agency that establishes rates for health care facilities, or a third-party payer who reimburses health care facilities in the area affected by the proposal.~~

~~(7) "Assisted living facility" means a congregate residential setting that provides or coordinates personal care, 24-hour supervision and assistance, both scheduled and unscheduled, and activities and health-related services.~~

~~(8) "Capital expenditure" means:~~

~~(a) an expenditure made by or on behalf of a health care facility that, under generally accepted accounting principles, is not properly chargeable as an expense of operation and maintenance; or~~

~~(b) a lease, donation, or comparable arrangement that would be a capital expenditure if money or any other property of value had changed hands.~~

~~(9) "Certificate of need" means a written authorization by the department for a person to proceed with a proposal subject to 50-5-301.~~

~~(10) "Chemical dependency facility" means a facility whose function is the treatment, rehabilitation, and prevention of the use of any chemical substance, including alcohol, that creates behavioral or health problems and endangers the health, interpersonal relationships, or economic function of an individual or the public health, welfare, or safety.~~

~~(11) "Clinical laboratory" means a facility for the microbiological, serological, chemical, hematological, radiobioassay, cytological, immunohematological, pathological, or other examination of materials derived from the human body for the purpose of providing information for the diagnosis, prevention, or treatment of a disease or assessment of a medical condition.~~

~~(12) "College of American pathologists" means the organization nationally recognized by that name that surveys clinical laboratories upon their requests and accredits clinical laboratories that it finds meet its standards and requirements.~~

~~(13) "Commission on accreditation of rehabilitation facilities" means the organization nationally recognized by that name that surveys rehabilitation facilities upon their requests and grants accreditation status to a rehabilitation facility that it finds meets its standards and requirements.~~

~~(14) "Comparative review" means a joint review of two or more certificate of need applications that are determined by the department to be competitive in that the granting of a certificate of need to one of the applicants would substantially prejudice the department's review of the other applications.~~

~~(15) "Congregate" means the provision of group services designed especially for elderly or disabled persons who require supportive services and housing.~~

~~(16) "Construction" means the physical erection of a health care facility and any stage of the physical erection, including groundbreaking, or remodeling, replacement, or renovation of an existing health care facility.~~

~~(17) "Council on accreditation" means the organization nationally recognized by that name that surveys behavioral treatment programs, chemical dependency treatment programs, residential treatment facilities, and mental health centers upon their requests and grants accreditation status to programs and facilities that it finds meet its standards and requirements.~~

~~(18) "Critical access hospital" means a facility that is located in a rural area, as defined in 42 U.S.C. 1395ww(d)(2)(D), and that has been designated by the department as a critical access hospital pursuant to 50-5-233.~~

~~(19) "Department" means the department of public health and human services provided for in 2-15-2201.~~

~~(20) "End-stage renal dialysis facility" means a facility that specializes in the treatment of kidney diseases and includes freestanding hemodialysis units.~~

~~(21) "Federal acts" means federal statutes for the construction of health care facilities.~~

~~(22) "Governmental unit" means the state, a state agency, a county, municipality, or political subdivision of the state, or an agency of a political subdivision.~~

~~(23) (a) "Health care facility" or "facility" means all or a portion of an institution, building, or agency, private or public, excluding federal facilities,~~

~~whether organized for profit or not, that is used, operated, or designed to provide health services, medical treatment, or nursing, rehabilitative, or preventive care to any individual. The term includes chemical dependency facilities, critical access hospitals, end-stage renal dialysis facilities, home health agencies, home infusion therapy agencies, hospices, hospitals, infirmaries, long-term care facilities, intermediate care facilities for the developmentally disabled, medical assistance facilities, mental health centers, outpatient centers for primary care, outpatient centers for surgical services, rehabilitation facilities, residential care facilities, and residential treatment facilities.~~

~~(b) The term does not include offices of private physicians, dentists, or other physical or mental health care workers regulated under Title 37, including licensed addiction counselors.~~

~~(24) "Home health agency" means a public agency or private organization or subdivision of the agency or organization that is engaged in providing home health services to individuals in the places where they live. Home health services must include the services of a licensed registered nurse and at least one other therapeutic service and may include additional support services.~~

~~(25) "Home infusion therapy agency" means a health care facility that provides home infusion therapy services.~~

~~(26) "Home infusion therapy services" means the preparation, administration, or furnishing of parenteral medications or parenteral or enteral nutritional services to an individual in that individual's residence. The services include an educational component for the patient, the patient's caregiver, or the patient's family member.~~

~~(27) "Hospice" means a coordinated program of home and inpatient health care that provides or coordinates palliative and supportive care to meet the needs of a terminally ill patient and the patient's family arising out of physical, psychological, spiritual, social, and economic stresses experienced during the final stages of illness and dying and that includes formal bereavement programs as an essential component. The term includes:~~

~~(a) an inpatient hospice facility, which is a facility managed directly by a medicare-certified hospice that meets all medicare certification regulations for freestanding inpatient hospice facilities; and~~

~~(b) a residential hospice facility, which is a facility managed directly by a licensed hospice program that can house three or more hospice patients.~~

~~(28) (a) "Hospital" means a facility providing, by or under the supervision of licensed physicians, services for medical diagnosis, treatment, rehabilitation, and care of injured, disabled, or sick individuals. Services provided may or may not include obstetrical care, emergency care, or any other service allowed by state licensing authority. A hospital has an organized medical staff that is on call and available within 20 minutes, 24 hours a day, 7 days a week, and provides 24-hour nursing care by licensed registered nurses. The term includes hospitals specializing in providing health services for psychiatric, developmentally disabled, and tubercular patients.~~

~~(b) The term does not include critical access hospitals.~~

~~(29) "Infirmary" means a facility located in a university, college, government institution, or industry for the treatment of the sick or injured, with the following subdefinitions:~~

~~(a) an "infirmary—A" provides outpatient and inpatient care;~~

~~(b) an "infirmary—B" provides outpatient care only.~~

~~(30) (a) "Intermediate care facility for the developmentally disabled" means a facility or part of a facility that provides intermediate developmental disability care for two or more persons.~~

~~(b) The term does not include community homes for persons with developmental disabilities that are licensed under 53-20-305 or community homes for persons with severe disabilities that are licensed under 52-4-203.~~

~~(31) "Intermediate developmental disability care" means the provision of intermediate nursing care services, health-related services, and social services for persons with a developmental disability, as defined in 53-20-102, or for persons with related problems.~~

~~(32) "Intermediate nursing care" means the provision of nursing care services, health-related services, and social services under the supervision of a licensed nurse to patients not requiring 24-hour nursing care.~~

~~(33) "Joint commission on accreditation of healthcare organizations" means the organization nationally recognized by that name that surveys health care facilities upon their requests and grants accreditation status to a health care facility that it finds meets its standards and requirements.~~

~~(34) "Licensed health care professional" means a licensed physician, physician assistant, advanced practice registered nurse, or registered nurse who is practicing within the scope of the license issued by the department of labor and industry.~~

~~(35) (a) "Long-term care facility" means a facility or part of a facility that provides skilled nursing care, residential care, intermediate nursing care, or intermediate developmental disability care to a total of two or more individuals or that provides personal care.~~

~~(b) The term does not include community homes for persons with developmental disabilities licensed under 53-20-305; community homes for persons with severe disabilities, licensed under 52-4-203; youth care facilities, licensed under 52-2-622; hotels, motels, boardinghouses, roominghouses, or similar accommodations providing for transients, students, or individuals who do not require institutional health care; or juvenile and adult correctional facilities operating under the authority of the department of corrections.~~

~~(36) "Medical assistance facility" means a facility that meets both of the following:~~

~~(a) provides inpatient care to ill or injured individuals before their transportation to a hospital or that provides inpatient medical care to individuals needing that care for a period of no longer than 96 hours unless a longer period is required because transfer to a hospital is precluded because of inclement weather or emergency conditions. The department or its designee may, upon request, waive the 96-hour restriction retroactively and on a case-by-case basis if the individual's attending physician, physician assistant, or nurse practitioner determines that the transfer is medically inappropriate and would jeopardize the health and safety of the individual.~~

~~(b) either is located in a county with fewer than six residents a square mile or is located more than 35 road miles from the nearest hospital.~~

~~(37) "Mental health center" means a facility providing services for the prevention or diagnosis of mental illness, the care and treatment of mentally ill~~

~~patients, the rehabilitation of mentally ill individuals, or any combination of these services.~~

~~(38) "Nonprofit health care facility" means a health care facility owned or operated by one or more nonprofit corporations or associations.~~

~~(39) "Offer" means the representation by a health care facility that it can provide specific health services.~~

~~(40) (a) "Outdoor behavioral program" means a program that provides treatment, rehabilitation, and prevention for behavioral problems that endanger the health, interpersonal relationships, or educational functions of a youth and that:~~

~~(i) serves either adjudicated or nonadjudicated youth;~~

~~(ii) charges a fee for its services; and~~

~~(iii) provides all or part of its services in the outdoors.~~

~~(b) "Outdoor behavioral program" does not include recreational programs such as boy scouts, girl scouts, 4-H clubs, or other similar organizations.~~

~~(41) "Outpatient center for primary care" means a facility that provides, under the direction of a licensed physician, either diagnosis or treatment, or both, to ambulatory patients and that is not an outpatient center for surgical services.~~

~~(42) "Outpatient center for surgical services" means a clinic, infirmary, or other institution or organization that is specifically designed and operated to provide surgical services to patients not requiring hospitalization and that may include recovery care beds.~~

~~(43) "Patient" means an individual obtaining services, including skilled nursing care, from a health care facility.~~

~~(44) "Person" means an individual, firm, partnership, association, organization, agency, institution, corporation, trust, estate, or governmental unit, whether organized for profit or not.~~

~~(45) "Personal care" means the provision of services and care for residents who need some assistance in performing the activities of daily living.~~

~~(46) "Practitioner" means an individual licensed by the department of labor and industry who has assessment, admission, and prescription authority.~~

~~(47) "Recovery care bed" means, except as provided in 50-5-235, a bed occupied for less than 24 hours by a patient recovering from surgery or other treatment.~~

~~(48) "Rehabilitation facility" means a facility that is operated for the primary purpose of assisting in the rehabilitation of disabled individuals by providing comprehensive medical evaluations and services, psychological and social services, or vocational evaluation and training or any combination of these services and in which the major portion of the services is furnished within the facility.~~

~~(49) "Resident" means an individual who is in a long-term care facility or in a residential care facility.~~

~~(50) "Residential care facility" means an adult day-care center, an adult foster care home, an assisted living facility, or a retirement home.~~

~~(51) "Residential psychiatric care" means active psychiatric treatment provided in a residential treatment facility to psychiatrically impaired~~

~~individuals with persistent patterns of emotional, psychological, or behavioral dysfunction of such severity as to require 24-hour supervised care to adequately treat or remedy the individual's condition. Residential psychiatric care must be individualized and designed to achieve the patient's discharge to less restrictive levels of care at the earliest possible time.~~

~~(52) "Residential treatment facility" means a facility operated for the primary purpose of providing residential psychiatric care to individuals under 21 years of age.~~

~~(53) "Retirement home" means a building or buildings in which separate living accommodations are rented or leased to individuals who use those accommodations as their primary residence.~~

~~(54) "Skilled nursing care" means the provision of nursing care services, health-related services, and social services under the supervision of a licensed registered nurse on a 24-hour basis.~~

~~(55) "State health care facilities plan" means the plan prepared by the department to project the need for health care facilities within Montana and approved by the governor and a statewide health coordinating council appointed by the director of the department.~~

~~(56) "Swing bed" means a bed approved pursuant to 42 U.S.C. 1395tt to be used to provide either acute care or extended skilled nursing care to a patient.~~"

Section 2. Section 50-5-203, MCA, is amended to read:

"50-5-203. Application for license. The procedure to apply for a license is as follows:

(1) At least 30 days prior to the opening of a facility and after that no later than the expiration date of the license, application is made to the department accompanied by the license fee.

(2) The application shall contain:

(a) the name and address of the applicant if an individual, the name and address of each member if a firm, partnership, or association, or the name and address of each officer if a corporation;

(b) the location of the facility;

(c) the name of the person or persons who will manage or supervise the facility;

(d) the number and type of patients or residents for which care is provided;

(e) any information which the department may require pertaining to the number, experience, and training of employees;

(f) information on ownership, contract, or lease agreement if operated by a person other than the owner.

(3) Applications must include attestation or supporting documentation required by the department pertaining to the licensure of specialty hospitals using the procedures provided in parts 1 and 2 of this chapter. The attestation may be used as the basis for the issuance of a provisional or temporary license."

Section 3. Section 50-5-245, MCA, is amended to read:

"50-5-245. ~~(Temporary)~~ Department to license specialty hospitals — standards — ~~definition~~ *rulemaking* — moratorium. (1) ~~The~~ *Subject to subsection (4), the* department shall license specialty hospitals using the

requirements for licensure of hospitals and the procedure provided for in parts 1 and 2 of this chapter.

(2) ~~As used in this section, "specialty hospital" means a specialty hospital as defined in 42 U.S.C. 1395nn~~ *The department shall adopt rules that are necessary to implement and administer this section.*

(3) Notwithstanding the requirements of subsection (1), the department may not license a specialty hospital until July 1, ~~2007~~ *2009*.

(4) A health care facility licensed by the department and in existence on [the effective date of this act] may not change its licensure status in order to qualify for licensure as a specialty hospital unless the health care facility is licensed as a hospital. ~~(Terminates July 1, 2007 — sec. 6, Ch. 365, L. 2005.)~~"

Section 4. Repealer. Section 6, Chapter 365, Laws of 2005, is repealed.

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

Section 6. Applicability. [This act] does not apply to a hospital existing prior to [the effective date of this act].

Approved May 8, 2007

CHAPTER NO. 467

[SB 436]

AN ACT ALLOWING A BOARD OF COUNTY COMMISSIONERS TO LEVY A FEE ON PROPERTY WITHIN A FIRE SERVICE AREA TO FUND WILDLAND FIRE PROTECTION SERVICES; AND AMENDING SECTION 7-33-2404, MCA.

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

Section 1. Section 7-33-2404, MCA, is amended to read:

"7-33-2404. Financing of fire service area — fee on structures — *fee on undeveloped land.* (1) In the resolution creating the fire service area and by resolution as necessary after creation of the fire service area, the board of county commissioners shall establish a schedule of rates to be charged to owners of structures *and owners of undeveloped land* that are benefited by the services offered by the fire service area.

(2) *(a)* The rates *for structures* must be applied on a fair and equal basis to all classes of structures benefited by the fire service area. *The fee charged to owners of structures is intended to be primarily used for structural fire prevention and suppression.*

(b) The rates for undeveloped land must be applied on a fair and equal basis to all classes of undeveloped land benefited by the fire service area. Undeveloped land does not include land located under structures subject to a fee under subsection (2)(a). The excluded land may not exceed 1 acre. The fee charged to owners of undeveloped land is intended to be primarily used for wildland fire prevention and suppression. The fee may not exceed 15 cents an acre up to a maximum of $250 for undeveloped land under single ownership. The fee may not be assessed on undeveloped land for which the owner pays a fee or tax to another public agency for wildland fire prevention and suppression.

(3) The board of county commissioners shall collect the funds necessary to operate the fire service area by charging the area rate as a special assessment on

the owners of structures *and undeveloped land* and shall collect the assessments with the general taxes of the county. The assessments are a lien on the assessed property.

(4) The board of county commissioners or the trustees, if the fire service area is governed by trustees under 7-33-2403, may pledge the income of the fire service area to secure financing necessary to procure equipment and buildings to house the equipment. The outstanding amount of the indebtedness may not exceed 1.1% of the total assessed value of taxable property, determined as provided in 15-8-111, within the area, as ascertained by the last assessment for state and county taxes prior to the incurring of the indebtedness.

(5) If a fire service area is reduced or eliminated by annexation of all or a portion of the fire service area into a municipality, then the county commissioners or trustees of the fire service area shall notify the annexing municipality in order to prevent the property owners of the area to be annexed from assuming financial responsibility to both the municipality and the fire service area."

Approved May 8, 2007

CHAPTER NO. 468

[SB 439]

AN ACT CREATING THE MINERAL ROYALTY BACKUP WITHHOLDING ACT; PROVIDING DEFINITIONS; REQUIRING REMITTORS TO WITHHOLD TAXES ON ROYALTY PAYMENTS MADE TO ROYALTY OWNERS; PROVIDING EXCEPTIONS TO THE WITHHOLDING TAX; MAKING REMITTORS LIABLE FOR PAYMENT OF WITHHOLDING TAXES; PROVIDING A WITHHOLDING TAX RATE AND REMITTANCE SCHEDULE; PROVIDING FOR PENALTIES AND INTEREST FOR FAILURE TO REMIT TAX; REQUIRING REMITTORS TO PROVIDE ANNUAL STATEMENTS TO ROYALTY OWNERS AND THE DEPARTMENT OF REVENUE; AND PROVIDING A DELAYED EFFECTIVE DATE AND AN APPLICABILITY DATE.

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

Section 1. Short title. [Sections 1 through 12] may be cited as the "Mineral Royalty Backup Withholding Act".

Section 2. Definitions. As used in [sections 1 through 12], the following definitions apply:

(1) "Mineral" has the same meaning as provided in 15-38-103.

(2) "Publicly traded partnership" means a publicly traded partnership as defined in section 7704 of the Internal Revenue Code, 26 U.S.C. 7704, that is not treated as a corporation.

(3) "Remittor" means an individual, entity, or trust that makes royalty payments to royalty owners.

(4) "Royalty owner" means a person or entity entitled to receive periodic payments for a nonworking interest in the production of oil or gas or in the severance of other minerals from the mineral estate.

Section 3. Withholding required on mineral royalty payments. Except as provided in [section 4], each remittor shall withhold from each royalty

payment made to a royalty owner an amount equal to 6% of the net amount payable to the royalty owner.

Section 4. Withholding — no application under certain conditions. (1) The provisions of [sections 1 through 12] do not apply to royalty payments made to a royalty owner if the royalty owner is:

(a) the United States or an agency of the federal government, this state or a political subdivision of this state, or another state or a political subdivision of another state;

(b) a federally recognized Indian tribe with respect to on-reservation oil and gas production pursuant to a lease entered into under the Indian Mineral Leasing Act of 1938, 25 U.S.C. 396a through 396g;

(c) the United States as trustee for individual Indians;

(d) a publicly traded partnership;

(e) an organization that is exempt from taxation under 15-31-102; or

(f) the same person or entity as the remittor.

(2) (a) The provisions of [sections 1 through 12] do not apply to a remittor that produces less than 100,000 barrels of oil and less than 500 million cubic feet of gas annually. The department shall determine a remittor's annual production of oil and gas based upon a 3-year rolling average of the remittor's annual production as reported by the remittor to the Montana board of oil and gas conservation.

(b) Each producer that is exempted from withholding under subsection (2)(a) shall make an annual return to report royalty payments that exceed the dollar amounts in subsection (3). The return must be made under rules adopted by the department and be as nearly identical as possible to federal rules for internal revenue service form 1099 under section 6041, et seq., of the Internal Revenue Code, 26 U.S.C. 6041, et seq.

(c) Each year, a publicly traded partnership that is exempt from withholding under subsection (1)(d) shall transmit to the department, in an electronic format approved by the department, each partner's U.S. department of the treasury schedule K-1, form 1065 or 1065-B, as applicable, filed electronically for the year with the internal revenue service.

(d) A royalty owner that is a publicly traded partnership or an organization that is exempt from taxation under 15-31-102 shall report to the remittor and department under oath, on a form prescribed by the department, all information necessary to establish that the remittor is not required under [section 3] to withhold royalty payments made to the partnership or organization.

(3) If the royalty payment made to a royalty owner subject to withholding under the provisions of [sections 1 through 12] is less than $166 for the current withholding period or is less than $2,000 if the payment is annualized, then the department may grant a remittor's request to forego withholding the tax from the royalty payment made to that royalty owner for the current withholding period or, if applicable, the royalty payments for the annual period.

(4) The department may, by rule, establish minimum royalty amounts subject to withholding under the provisions of [sections 1 through 12], other than for oil and gas production, if the department determines that the withholding against the minimal amount of royalties is inefficient.

Section 5. Remittor liable for withholding taxes and statements — liability mitigation — sufficiency of mailing address. (1) Each remittor is liable for the payment required by [section 6], the amount required to be deducted and withheld under [sections 1 through 12], and the annual statements required by [sections 8 and 9]. The payments required by [section 6] and the amounts required to be deducted and withheld, plus penalty and interest due, are a tax. With respect to the tax, the remittor is the taxpayer.

(2) The officer of a corporation whose responsibility it is to collect, truthfully account for, and pay to the state the amounts withheld from mineral royalty payments and who fails to pay the withholdings is liable to the state for the amounts withheld and the penalty and interest due on the amounts.

(3) (a) Subject to subsections (3)(b) and (6), each officer of the corporation is individually liable, along with the corporation, for filing statements, to the extent that the officer has access to the requisite records, and for unpaid taxes, penalties, and interest upon a determination that the officer:

(i) possessed the responsibility to file statements and pay taxes on behalf of the corporation; and

(ii) possessed the responsibility on behalf of the corporation for directing the filing of tax statements or the payment of other corporate obligations and exercised that responsibility, resulting in the corporation's failure to file statements required by [sections 1 through 12] or to pay taxes due as required by [sections 1 through 12].

(b) If a corporate remittor violates the provisions of [sections 1 through 12], the department shall first apply the provisions of [section 11] against the corporation. If the corporation fails to remedy the violation, then the department shall apply the provisions of [section 11] against each responsible corporate officer as determined in subsections (3)(a) and (3)(c).

(c) In determining which corporate officer is liable, the department is not limited to considering the elements set forth in subsection (3)(a) to establish individual liability and may consider any other available information.

(4) In the case of a corporate bankruptcy, the liability of the individual remains unaffected by the discharge of penalty and interest against the corporation. The individual remains liable for any statements and the amount of taxes, penalties, and interest unpaid by the corporation.

(5) Subject to subsection (6), for the purpose of determining liability for the filing of statements and the payment of taxes, penalties, and interest owed under [sections 1 through 12]:

(a) each partner of a partnership is jointly and severally liable, along with the partnership, for any statements, taxes, penalties, and interest due while a partner;

(b) each member of a limited liability company that is treated as a partnership or as a corporation for income tax purposes is jointly and severally liable, along with the limited liability company, for any statements, taxes, penalties, and interest due while a member;

(c) the member of a single-member limited liability company that is disregarded for income tax purposes is jointly and severally liable, along with the limited liability company, for any statements, taxes, penalties, and interest due while a member; and

(d) each manager of a manager-managed limited liability company is jointly and severally liable, along with the limited liability company, for any statements, taxes, penalties, and interest due while a manager.

(6) The liability of an individual described in subsection (3) or (5) for taxes, penalties, and interest is released if and to the extent that the amount required to be deducted and withheld under [sections 1 through 12] is deposited in a separate account that is:

(a) established in a bank, as defined in 32-1-102, located in Montana;

(b) designated as a special fund in trust for the state; and

(c) payable to the department.

(7) If the remittor fails to deduct and withhold the amounts specified in [section 3] and the tax, against which the deducted and withheld amounts would have been credited, is paid, the amounts required to be deducted and withheld may not be collected from the remittor.

Section 6. Royalty withholding tax remittance schedule — alternative schedules and methods — records. (1) Except as provided in subsection (2), each remittor is required to file a quarterly return, on a form prescribed by the department, and remit to the department the amount of tax withheld on royalty payments according to the following schedule:

(a) for royalty payments made during January, February, and March of each calendar year, the amount withheld is due on or before April 30 of the year;

(b) for royalty payments made during April, May, and June of each calendar year, the amount withheld is due on or before July 31 of the year;

(c) for royalty payments made during July, August, and September of each calendar year, the amount withheld is due on or before October 31 of the year; and

(d) for royalty payments made during October, November, and December of each calendar year, the amount withheld is due on or before January 31 of the following year.

(2) A remittor may request an alternative remittance schedule than is required by subsection (1). The department may consider situations such as administrative and taxpayer convenience and frequency of royalty payments in determining whether to approve an alternative remittance schedule.

(3) A remittor may elect to remit and file mineral backup withholding electronically in any format established and approved by the department if the remittor obtains prior approval from the department before remitting the tax by electronic fund transfer.

(4) If a remittor remits withholding taxes electronically, the remittance is considered timely if made within 5 days after the due date of the payment.

(5) If the department has reason to believe that collection of the amount of any tax withheld is in jeopardy, it may proceed as provided under 15-1-703.

(6) Each remittor shall keep accurate royalty payment and withholding records containing the information that the department may prescribe by rule. Those records must be open to inspection and audit and may be copied by the department or its authorized representative at any reasonable time and as often as may be necessary. A remittor that maintains its records outside of Montana shall furnish copies of those records to the department at the remittor's expense.

Section 7. Amount of royalty payment withheld considered taxes collected. The amounts deducted and withheld from royalty payments are considered taxes collected under the provisions of [sections 1 through 12]. A royalty owner does not have a right of action against the remittor for any amount deducted and withheld from the royalty owner's royalty and paid to the state in compliance or intended compliance with [sections 1 through 12]. The amounts deducted and withheld and paid to the state in compliance or intended compliance with [sections 1 through 12] are not subject to the provisions of section 82-10-103.

Section 8. Annual withholding statement to royalty owner. Before January 31 of each year, each remittor shall furnish to each royalty owner a statement, on a form prescribed by the department, showing the total royalties paid by the remittor to the royalty owner during the preceding calendar year and showing the amount of the tax deducted and withheld from the royalty payments. The royalty owner shall file a duplicate of the statement with the royalty owner's state income tax return.

Section 9. Remittor to furnish annual statement to department. (1) On or before February 28 of each year, each remittor shall file with the department a royalty and tax statement, on a form provided by the department, that shows the total royalties paid to each royalty owner subject to withholding during the preceding calendar year or any portion of the preceding calendar year and the total amount of the tax deducted and withheld from the royalty payments under the provisions of [sections 1 through 12] for the same period.

(2) The annual statement filed by a remittor under this section complies with the requirements of 15-30-301 relating to the duties of information agents. An additional information return is not required with respect to the royalty payments.

(3) The department shall make the forms described in [section 6] and this section available no later than November 15, 2007.

Section 10. Withheld taxes held in trust for state. Each remittor that deducts and withholds the amounts under the provisions of [sections 1 through 12] shall hold the amounts in trust for the state.

Section 11. Violations by remittor — penalties — interest — remedies. (1) The department shall, as provided in 15-1-216, add penalty and interest to the amount of all delinquent withholding taxes.

(2) A remittor that purposely fails to furnish the royalty and tax statement required by [section 9] is subject to a penalty of $50 for each failure, with a minimum of $1,000. The penalties imposed by this subsection are in addition to the penalties imposed by 15-1-216.

(3) All remedies available to the state for the administration, enforcement, and collection of income taxes are available and apply to the tax required to be deducted and withheld under the provisions of [sections 1 through 12] unless otherwise specifically provided for in this part.

Section 12. Rulemaking authority. The department shall adopt rules that may be necessary to administer and enforce the provisions of [sections 1 through 12].

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 12] are intended to be codified as an integral part of Title 15, chapter 30, part 2, and the provisions of Title 15, chapter 30, part 2, apply to [sections 1 through 12].

Section 15. Effective date. [This act] is effective January 1, 2008.

Section 16. Applicability. [This act] applies to royalty payments made after December 31, 2007.

Approved May 8, 2007

CHAPTER NO. 469

[SB 448]

AN ACT REQUIRING THE DEPARTMENT OF ENVIRONMENTAL QUALITY TO NOTIFY THE OFFICE OF CONSUMER COUNSEL OF PERMIT APPLICATIONS FOR NEW ELECTRICAL GENERATION FACILITIES AND FACILITIES AND UPGRADES PERMITTED UNDER THE MONTANA MAJOR FACILITY SITING ACT; REQUIRING THE OFFICE OF THE CONSUMER COUNSEL TO COMPLETE A CUSTOMER FISCAL IMPACT ANALYSIS FOR NEW ELECTRICAL GENERATION FACILITIES AND FACILITIES AND UPGRADES PERMITTED UNDER THE MONTANA MAJOR FACILITY SITING ACT; PROVIDING FOR THE USE OF THE ANALYSIS; REQUIRING THAT AN APPLICANT PAY COSTS INCURRED BY THE OFFICE OF CONSUMER COUNSEL IN PREPARING A FISCAL IMPACT ANALYSIS; AMENDING SECTIONS 75-1-201, 75-1-205, 75-20-216, AND 75-20-223, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.

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

Section 1. Customer fiscal impact analysis — requirements. (1) Within 10 days of receiving an application pursuant to subsection (1)(a) or (1)(b), the department of environmental quality shall notify the office of consumer counsel that it is in receipt of:

(a) a permit application pursuant to Title 75, chapter 2, 5, or 10, for a new electrical generation facility; or

(b) an application for a certificate under the Montana Major Facility Siting Act for a new facility or upgrade, as defined in 75-20-104.

(2) The office of consumer counsel shall complete an analysis outlining the fiscal impacts of the project on electricity customers in Montana. The analysis must include an estimation of how customers' rates may be impacted.

(3) (a) Except as provided in subsection (3)(b), the analysis must be completed within 30 days of receipt of the notice from the department.

(b) The department shall extend the 30-day deadline if compliance with the deadline is not necessary to comply with the requirements of subsection (4).

(4) The analysis must be provided to the department and incorporated into the department's environmental review, including draft documents released for public comment.

(5) (a) Within 5 days of the close of the public comment period for an application referred to in subsection (1)(a) or (1)(b), the department shall forward public comments related to the analysis to the consumer counsel.

(b) The consumer counsel shall respond to the comments and return the responses to the department within 30 days, and the responses must be included in the final environmental reviews.

Section 2. Exemptions. Projects proposed by utilities, as defined in 69-8-103, are exempt from the analysis required by [section 1].

Section 3. Section 75-1-201, MCA, is amended to read:

"75-1-201. General directions — environmental impact statements. (1) The legislature authorizes and directs that, to the fullest extent possible:

(a) the policies, regulations, and laws of the state must be interpreted and administered in accordance with the policies set forth in parts 1 through 3;

(b) under this part, all agencies of the state, except the legislature and except as provided in subsection (2), shall:

(i) use a systematic, interdisciplinary approach that will ensure:

(A) the integrated use of the natural and social sciences and the environmental design arts in planning and in decisionmaking that may have an impact on the human environment; and

(B) that in any environmental review that is not subject to subsection (1)(b)(iv), when an agency considers alternatives, the alternative analysis will be in compliance with the provisions of subsections (1)(b)(iv)(C)(I) through (1)(b)(iv)(C)(III) and, if requested by the project sponsor or if determined by the agency to be necessary, subsection (1)(b)(iv)(C)(IV);

(ii) identify and develop methods and procedures that will ensure that presently unquantified environmental amenities and values may be given appropriate consideration in decisionmaking, along with economic and technical considerations;

(iii) identify and develop methods and procedures that will ensure that state government actions that may impact the human environment are evaluated for regulatory restrictions on private property, as provided in subsection (1)(b)(iv)(D);

(iv) include in each recommendation or report on proposals for projects, programs, and other major actions of state government significantly affecting the quality of the human environment a detailed statement on:

(A) the environmental impact of the proposed action;

(B) any adverse environmental effects that cannot be avoided if the proposal is implemented;

(C) alternatives to the proposed action. An analysis of any alternative included in the environmental review must comply with the following criteria:

(I) any alternative proposed must be reasonable, in that the alternative must be achievable under current technology and the alternative must be economically feasible as determined solely by the economic viability for similar projects having similar conditions and physical locations and determined without regard to the economic strength of the specific project sponsor;

(II) the agency proposing the alternative shall consult with the project sponsor regarding any proposed alternative, and the agency shall give due weight and consideration to the project sponsor's comments regarding the proposed alternative;

(III) if the project sponsor believes that an alternative is not reasonable as provided in subsection (1)(b)(iv)(C)(I), the project sponsor may request a review by the appropriate board, if any, of the agency's determination regarding the reasonableness of the alternative. The appropriate board may, at its discretion, submit an advisory recommendation to the agency regarding the issue. The agency may not charge the project sponsor for any of its activities associated with any review under this section. The period of time between the request for a review and completion of a review under this subsection may not be included for the purposes of determining compliance with the time limits established for environmental review in 75-1-208.

(IV) the agency shall complete a meaningful no-action alternative analysis. The no-action alternative analysis must include the projected beneficial and adverse environmental, social, and economic impact of the project's noncompletion.

(D) any regulatory impacts on private property rights, including whether alternatives that reduce, minimize, or eliminate the regulation of private property rights have been analyzed. The analysis in this subsection (1)(b)(iv)(D) need not be prepared if the proposed action does not involve the regulation of private property.

(E) the relationship between local short-term uses of the human environment and the maintenance and enhancement of long-term productivity;

(F) any irreversible and irretrievable commitments of resources that would be involved in the proposed action if it is implemented; ~~and~~

(G) the customer fiscal impact analysis, if required by [section 1]; and

~~(G)~~*(H)* the details of the beneficial aspects of the proposed project, both short-term and long-term, and the economic advantages and disadvantages of the proposal;

(v) in accordance with the criteria set forth in subsection (1)(b)(iv)(C), study, develop, and describe appropriate alternatives to recommend courses of action in any proposal that involves unresolved conflicts concerning alternative uses of available resources;

(vi) recognize the national and long-range character of environmental problems and, when consistent with the policies of the state, lend appropriate support to initiatives, resolutions, and programs designed to maximize national cooperation in anticipating and preventing a decline in the quality of the world environment;

(vii) make available to counties, municipalities, institutions, and individuals advice and information useful in restoring, maintaining, and enhancing the quality of the environment;

(viii) initiate and use ecological information in the planning and development of resource-oriented projects; and

(ix) assist the environmental quality council established by 5-16-101;

(c) prior to making any detailed statement as provided in subsection (1)(b)(iv), the responsible state official shall consult with and obtain the comments of any state agency that has jurisdiction by law or special expertise with respect to any environmental impact involved and with any local government, as defined in 7-12-1103, that may be directly impacted by the project. The responsible state official shall also consult with and obtain comments from any state agency with respect to any regulation of private

property involved. Copies of the statement and the comments and views of the appropriate state, federal, and local agencies that are authorized to develop and enforce environmental standards must be made available to the governor, the environmental quality council, and the public and must accompany the proposal through the existing agency review processes.

(d) a transfer of an ownership interest in a lease, permit, license, certificate, or other entitlement for use or permission to act by an agency, either singly or in combination with other state agencies, does not trigger review under subsection (1)(b)(iv) if there is not a material change in terms or conditions of the entitlement or unless otherwise provided by law.

(2) The department of public service regulation, in the exercise of its regulatory authority over rates and charges of railroads, motor carriers, and public utilities, is exempt from the provisions of parts 1 through 3.

(3) (a) In any action challenging or seeking review of an agency's decision that a statement pursuant to subsection (1)(b)(iv) is not required or that the statement is inadequate, the burden of proof is on the person challenging the decision. Except as provided in subsection (3)(b), in a challenge to the adequacy of a statement, a court may not consider any issue relating to the adequacy or content of the agency's environmental review document or evidence that was not first presented to the agency for the agency's consideration prior to the agency's decision. A court may not set aside the agency's decision unless it finds that there is clear and convincing evidence that the decision was arbitrary or capricious or not in compliance with law. *A customer fiscal impact analysis pursuant to [section 1] or an allegation that the customer fiscal impact analysis is inadequate may not be used as the basis of any action challenging or seeking review of the agency's decision.*

(b) When new, material, and significant evidence or issues relating to the adequacy or content of the agency's environmental review document are presented to the district court that had not previously been presented to the agency for its consideration, the district court shall remand the new evidence or issue relating to the adequacy or content of the agency's environmental review document back to the agency for the agency's consideration and an opportunity to modify its findings of fact and administrative decision before the district court considers the evidence or issue relating to the adequacy or content of the agency's environmental review document within the administrative record under review. Immaterial or insignificant evidence or issues relating to the adequacy or content of the agency's environmental review document may not be remanded to the agency. The district court shall review the agency's findings and decision to determine whether they are supported by substantial, credible evidence within the administrative record under review.

(4) To the extent that the requirements of subsections (1)(b)(iv)(C)(I) and (1)(b)(iv)(C)(III) are inconsistent with federal requirements, the requirements of subsections (1)(b)(iv)(C)(I) and (1)(b)(iv)(C)(III) do not apply to an environmental review that is being prepared by a state agency pursuant to this part and a federal agency pursuant to the National Environmental Policy Act or to an environmental review that is being prepared by a state agency to comply with the requirements of the National Environmental Policy Act.

(5) (a) The agency may not withhold, deny, or impose conditions on any permit or other authority to act based on parts 1 through 3 of this chapter.

(b) Nothing in this subsection (5) prevents a project sponsor and an agency from mutually developing measures that may, at the request of a project sponsor, be incorporated into a permit or other authority to act.

(c) Parts 1 through 3 of this chapter do not confer authority to an agency that is a project sponsor to modify a proposed project or action.

(6) (a) (i) A challenge to an agency action under this part may only be brought against a final agency action and may only be brought in district court or in federal court, whichever is appropriate.

(ii) Any action or proceeding challenging a final agency action alleging failure to comply with or inadequate compliance with a requirement under this part must be brought within 60 days of the action that is the subject of the challenge.

(iii) For an action taken by the board of land commissioners or the department of natural resources and conservation under Title 77, "final agency action" means the date that the board of land commissioners or the department of natural resources and conservation issues a final environmental review document under this part or the date that the board approves the action that is subject to this part, whichever is later.

(b) Any action or proceeding under subsection (6)(a)(ii) must take precedence over other cases or matters in the district court unless otherwise provided by law.

(7) The director of the agency responsible for the determination or recommendation shall endorse in writing any determination of significance made under subsection (1)(b)(iv) or any recommendation that a determination of significance be made.

(8) A project sponsor may request a review of the significance determination or recommendation made under subsection (7) by the appropriate board, if any. The appropriate board may, at its discretion, submit an advisory recommendation to the agency regarding the issue. The period of time between the request for a review and completion of a review under this subsection may not be included for the purposes of determining compliance with the time limits established for environmental review in 75-1-208."

Section 4. Section 75-1-205, MCA, is amended to read:

"75-1-205. Collection and use of fees and costs. (1) A person who applies to a state agency for a permit, license, or other authorization that the agency determines requires preparation of an environmental impact statement is responsible for paying:

(a) the agency's costs of preparing the environmental impact statement and conducting the environmental impact statement process if the agency makes a written determination, based on material evidence identified in the determination, that there will be a significant environmental impact or a potential for a significant environmental impact~~; or~~. *If a customer fiscal impact analysis is required under [section 1], the applicant shall also pay the staff and consultant costs incurred by the office of consumer counsel in preparing the analysis.*

(b) a fee as provided in 75-1-202 if the agency does not make the determination provided for in subsection (1)(a).

(2) Costs payable under subsection (1) include:

(a) the costs of generating, gathering, and compiling data and information that is not available from the applicant to prepare the draft environmental impact statement, any supplemental draft environmental impact statement, and the final environmental impact statement;

(b) the costs of writing, reviewing, editing, printing, and distributing a reasonable number of copies of the draft environmental impact statement;

(c) the costs of attending meetings and hearings on the environmental impact statement, including meetings and hearings held to determine the scope of the environmental impact statement; and

(d) the costs of preparing, printing, and distributing a reasonable number of copies of any supplemental draft environmental impact statement and the final environmental impact statement, including the cost of reviewing and preparing responses to public comment.

(3) Costs payable under subsection (1) include:

(a) payments to contractors hired to work on the environmental impact statement;

(b) salaries and expenses of an agency employee who is designated as the agency's coordinator for preparation of the environmental impact statement for time spent performing the activities described in subsection (2) or for managing those activities; and

(c) travel and per diem expenses for other agency personnel for attendance at meetings and hearings on the environmental impact statement.

(4) (a) Whenever the agency makes the determination in subsection (1)(a), it shall notify the applicant of the cost of conducting the process to determine the scope of the environmental impact statement. The applicant shall pay that cost, and the agency shall then conduct the scoping process. The timeframe in 75-1-208(4)(a)(i) and any statutory timeframe for a decision on the application are tolled until the applicant pays the cost of the scoping process.

(b) If the agency decides to hire a third-party contractor to prepare the environmental impact statement, the agency shall prepare a list of no fewer than four contractors acceptable to the agency and shall provide the applicant with a copy of the list. If fewer than four acceptable contractors are available, the agency shall include all acceptable contractors on the list. The applicant shall provide the agency with a list of at least 50% of the contractors from the agency's list. The agency shall select its contractor from the list provided by the applicant.

(c) Upon completion of the scoping process and subject to subsection (1)(d), the agency and the applicant shall negotiate an agreement for the preparation of the environmental impact statement. The agreement must provide that:

(i) the applicant shall pay the cost of the environmental impact statement as determined by the agency after consultation with the applicant. In determining the cost, the agency shall identify and consult with the applicant regarding the data and information that must be gathered and studies that must be conducted.

(ii) the agency shall prepare the environmental impact statement within a reasonable time determined by the agency after consultation with the applicant and set out in the agreement. This timeframe supersedes any timeframe in statute or rule. If the applicant and the agency cannot agree on a timeframe, the

agency shall prepare the environmental impact statement within any timeframe provided by statute or rule.

(iii) the applicant shall make periodic advance payments to cover work to be performed;

(iv) the agency may order work on the environmental impact statement to stop if the applicant fails to make advance payment as required by the agreement. The time for preparation of the environmental impact statement is tolled for any period during which a stop-work order is in effect for failure to make advance payment.

(v) (A) if the agency determines that the actual cost of preparing the environmental impact statement will exceed the cost set out in the agreement or that more time is necessary to prepare the environmental impact statement, the agency shall submit proposed modifications to the agreement to the applicant;

(B) if the applicant does not agree to an extension of the time for preparation of the environmental impact statement, the agency may initiate the informal review process under subsection (4)(d). Upon completion of the informal review process, the agreement may be amended only with the consent of the applicant.

(C) if the applicant does not agree with the increased costs proposed by the agency, the applicant may refuse to agree to the modification and may also provide the agency with a written statement providing the reason that payment of the increased cost is not justified or, if applicable, the reason that a portion of the increased cost is not justified. The applicant may also request an informal review as provided in subsection (4)(d). If the applicant provides a written statement pursuant to this subsection (4)(c)(v)(C), the agreement must be amended to require the applicant to pay all undisputed increased cost and 75% of the disputed increased cost and to provide that the agency is responsible for 25% of the disputed increased cost. If the applicant does not provide the statement, the agreement must be amended to require the applicant to pay all increased costs.

(d) If the applicant does not agree with costs determined under subsection (4)(c)(i) or proposed under subsection (4)(c)(v), the applicant may initiate the informal review process pursuant to 75-1-208(3). If the applicant does not agree to a time extension proposed by the agency under subsection (4)(c)(v), the agency may initiate an informal review by an appropriate board under 75-1-208(3). The period of time for completion of the environmental impact statement provided in the agreement is tolled from the date of submission of a request for a review by the appropriate board until the date of completion of the review by the appropriate board. However, the agency shall continue to work on preparation of the environmental impact statement during this period if the applicant has advanced money to pay for this work.

(5) All fees and costs collected under this part must be deposited in the state special revenue fund as provided in 17-2-102. All fees and costs paid pursuant to this part must be used as provided in this part. Upon completion of the necessary work, each agency shall make an accounting to the applicant of the funds expended and refund all unexpended funds without interest."

Section 5. Section 75-20-216, MCA, is amended to read:

"75-20-216. Study, evaluation, and report on proposed facility — assistance by other agencies. (1) After receipt of an application, the department shall within 30 days notify the applicant in writing that:

(a) the application is in compliance and is accepted as complete; or

(b) the application is not in compliance and shall list the deficiencies. Upon correction of these deficiencies and resubmission by the applicant, the department shall within 15 days notify the applicant in writing that the application is in compliance and is accepted as complete.

(2) Upon receipt of an application complying with 75-20-211 through 75-20-213, 75-20-215, and this section, the department shall commence an evaluation of the proposed facility and its effects, considering all applicable criteria listed in 75-20-301, and shall issue a decision, opinion, order, certification, or permit as provided in subsection (3). The department shall use, to the extent that it considers applicable, valid and useful existing studies and reports submitted by the applicant or compiled by a state or federal agency.

(3) Except as provided in 75-1-205(4), 75-1-208(4)(b), and 75-20-231, the department shall issue, within 9 months following the date of acceptance of an application, any decision, opinion, order, certification, or permit required under the laws, other than those contained in this chapter, administered by the department. A decision, opinion, order, certification, or permit, with or without conditions, must be made under those laws. Nevertheless, the department retains authority to make the determination required under 75-20-301(1)(c) or (3). The decision, opinion, order, certification, or permit must be used in the final site selection process. Prior to the issuance of a preliminary decision by the board and pursuant to rules adopted by the department, the department shall provide an opportunity for public review and comment.

(4) Except as provided in 75-1-205(4), 75-1-208(4)(b), and 75-20-231, within 9 months following acceptance of an application for a facility, the department shall issue a report that must contain the department's studies, evaluations, recommendations, *customer fiscal impact analysis, if required pursuant to [section 1], and* other pertinent documents resulting from its study and evaluation. An environmental impact statement or analysis prepared pursuant to the Montana Environmental Policy Act may be included in the department findings if compelling evidence indicates that adverse environmental impacts are likely to result due to the construction and operation of a proposed facility. If the application is for a combination of two or more facilities, the department shall issue its report within the greater of the lengths of time provided for in this subsection for either of the facilities.

(5) For projects subject to joint review by the department and a federal land management agency, the department's certification decision may be timed to correspond to the record of decision issued by the participating federal agency.

(6) The departments of transportation; fish, wildlife, and parks; natural resources and conservation; revenue; and public service regulation *and the consumer counsel* shall report to the department information relating to the impact of the proposed site on each department's area of expertise. The report may include opinions as to the advisability of granting, denying, or modifying the certificate. The department shall allocate funds obtained from filing fees to the departments making reports *and to the office of consumer counsel* to reimburse them for the costs of compiling information and issuing the required report."

Section 6. Section 75-20-223, MCA, is amended to read:

"75-20-223. Board review of department decisions. (1) A person aggrieved by the final decision of the department on an application for a certificate or the issuance of an air or water quality decision, opinion, order, certification, or permit under this chapter may within 30 days appeal the

decision to the board under the contested case procedures of Title 2, chapter 4, part 6.

(2) A person aggrieved by the final decision of the department on an application for amendment of a certificate may within 15 days appeal the decision to the board under the contested case procedures of Title 2, chapter 4, part 6.

(3) A person aggrieved by the department's decision not to include an environmental impact statement or analysis in the department's findings pursuant to 75-20-216 may within 30 days appeal the decision to the board under the contested case procedures of Title 2, chapter 4, part 6.

(4) A customer fiscal impact analysis required by [section 1] may not be used as the basis of an appeal of a final decision by the department."

Section 7. Codification instruction. [Sections 1 and 2] are intended to be codified as an integral part of Title 69, chapter 2, and the provisions of Title 69, chapter 2, apply to [sections 1 and 2].

Section 8. Coordination instruction. If both House Bill No. 610 and [this act] are passed and approved, then the amendments to 75-1-201(3) in [this act] are void.

Section 9. Effective date. [This act] is effective on passage and approval.

Section 10. Applicability. [This act] applies to applications received by the department of environmental quality on or after [the effective date of this act].

Approved May 8, 2007

CHAPTER NO. 470

[SB 449]

AN ACT REQUIRING FUEL EFFICIENCY STANDARDS FOR CERTAIN STATE-OWNED VEHICLES; REQUIRING A PLAN FOR FUEL AND TRAVEL REDUCTION BY STATE AGENCIES; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, state agencies in Montana should lead by example in adopting, implementing, and promoting energy efficiency; and

WHEREAS, the State of Montana is a significant economic actor and substantial consumer of transportation fuels; and

WHEREAS, the increased use of high fuel efficiency vehicles will provide a direct benefit to the citizens of Montana through reducing pollution from Montana's beautiful landscape and reducing the nation's dependence on foreign fuel sources.

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) "Agency" has the meaning provided in 2-15-102, but does not include the office of the governor, the attorney general, or the highway patrol.

(2) "CAFE standard" means the average fuel economy standard as provided in 49 U.S.C. 32904.

(3) "Department" means the department of administration provided for in 2-15-1001.

(4) "Director" means the director of the department.

(5) "Vehicle fleet" means all state vehicles that are owned by the state of Montana except those used in the service of the governor, the attorney general, or the highway patrol.

Section 2. Fuel economy standards — exceptions. (1) The department shall, in coordination with a designated representative in each agency that purchases new vehicles, develop a plan to ensure that each vehicle purchased on or after January 1, 2008, meets or exceeds the CAFE standard.

(2) The director may exempt certain vehicles from the CAFE standard that meet any one of the following conditions:

(a) vehicles that are used primarily in off-road use;

(b) vehicles used for road construction and maintenance;

(c) vehicles used for maintenance, construction, or groundskeeping;

(d) vehicles used primarily for moving and distributing large items or a large quantity of items;

(e) vehicles with a manufacturer-stated seating capacity of more than six persons; or

(f) vehicles using alternative fuels.

Section 3. Vehicle fleet energy conservation plan. (1) Before January 1, 2008, each agency shall develop and implement a program to reduce the fuel consumption of any agency vehicle, other than those vehicles listed in [section 2(2)], including:

(a) fuel consumption, miles traveled, and vehicle fleet fuel economy;

(b) car pooling and van pooling requirements for state employees when feasible; and

(c) options for cost-effective use of technologies that allow for a reduction in the number of car and van trips.

(2) Each agency shall include materials relating to travel conservation measures in new employee orientation and training materials.

Section 4. Agency records on fuel efficiency measures. Each agency shall keep adequate records to demonstrate compliance with the provisions of [sections 2 and 3].

Section 5. Codification instruction. [Sections 1 through 4] are intended to be codified as an integral part of Title 2, chapter 17, part 4, and the provisions of Title 2, chapter 17, part 4, apply to [sections 1 through 4].

Section 6. Effective date. [This act] is effective July 1, 2007.

Approved May 8, 2007

CHAPTER NO. 471

[SB 478]

AN ACT REQUIRING THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES TO IMPLEMENT A COMPREHENSIVE SUICIDE

PREVENTION PROGRAM, INCLUDING A SUICIDE PREVENTION OFFICER, A COMPREHENSIVE SUICIDE REDUCTION PLAN, AND A 24-HOUR SUICIDE PREVENTION HOTLINE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the State of Montana has, according to 2003 federal data, the second highest rate of suicide in the nation, which is almost twice the national rate; and

WHEREAS, those Montanans completing suicides include children, adolescents, adults, and the elderly and residents of urban, rural, and frontier areas; and

WHEREAS, the vast majority of individuals that complete suicide suffer from a diagnosed or undiagnosed mental illness that prevents them from making a "rational" choice to end their life; and

WHEREAS, Montana's high rate of suicide is attributable to the complex interaction of many factors, including but not limited to lack of access to both crisis mental health services and noncrisis mental health care, including psychosocial interventions, effective supports and medication, and the barriers that often prevent youth and adults from seeking treatment because of stigma, myths, and misunderstandings about mental illnesses; and

WHEREAS, past statewide efforts to reduce suicide have lacked sufficient cohesiveness and resources to be effective.

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

Section 1. Suicide prevention officer — duties. (1) The department of public health and human services shall implement a suicide prevention program by January 1, 2008. The program must be administered by a suicide prevention officer attached to the office of the director of the department.

(2) The suicide prevention officer shall:

(a) coordinate all suicide prevention activities being conducted by the department, including activities in the addictive and mental disorders division, the health resources division, and the public health and safety division, and coordinate with any suicide prevention activities that are conducted by other state agencies, including the office of the superintendent of public instruction, the department of corrections, department of military affairs, and the university system;

(b) develop a biennial suicide reduction plan that addresses reducing suicides by Montanans of all ages;

(c) direct a statewide suicide prevention program whose activities include but are not limited to:

(i) conducting statewide public awareness campaigns utilizing both paid and free media and including input from government agencies, school representatives from elementary schools through higher education, mental health advocacy groups, and other relevant nonprofit organizations;

(ii) initiating, in partnership with Montana's tribes and tribal organizations, a public awareness program that is culturally appropriate and that utilizes the modalities best suited for Indian country;

(iii) seeking opportunities for research that will improve understanding of suicide in Montana and provide increased suicide-related services;

(iv) training for medical professionals, military personnel, school personnel, social service providers, and the general public on recognizing the early warning signs of suicidality, depression, and other mental illnesses; and

(v) providing grants to communities or other government, nonprofit, or tribal entities to start new or sustain existing suicide prevention activities.

Section 2. 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 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 3. Suicide hotline. (1) The department of public health and human services is required to have a suicide crisis hotline available, staffed by paid, trained employees 24 hours a day and 365 days a year.

(2) The hotline may be operated by the department or by a qualified Montana-based, nonprofit organization.

(3) The department shall conduct an annual review of hotline utilization and operator performance.

Section 4. Notification to tribal governments. The secretary of state shall send a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell Chippewa tribe.

Section 5. Codification instruction. [Sections 1 through 3] are intended to be codified as an integral part of Title 53, chapter 21, and the provisions of Title 53, chapter 21, apply to [sections 1 through 3].

Section 6. Effective date. [This act] is effective July 1, 2007.

Approved May 8, 2007

CHAPTER NO. 472

[SB 486]

AN ACT REVISING THE OFFENSE OF AGGRAVATED ASSAULT BY INCLUDING IN THE OFFENSE CAUSING REASONABLE APPREHENSION OF SERIOUS BODILY INJURY OR DEATH IN ANOTHER; REVISING THE PENALTY; AND AMENDING SECTION 45-5-202, MCA.

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

Section 1. Section 45-5-202, MCA, is amended to read:

"45-5-202. Aggravated assault. (1) A person commits the offense of aggravated assault if the person purposely or knowingly causes serious bodily injury to another *or purposely or knowingly, with the use of physical force or contact, causes reasonable apprehension of serious bodily injury or death in another*.

(2) A person convicted of aggravated assault shall be imprisoned in the state prison for a term ~~of not less than 2 years or more than~~ *not to exceed* 20 years and may be fined not more than $50,000, except as provided in 46-18-219 and 46-18-222."

Approved May 8, 2007

CHAPTER NO. 473

[SB 505]

AN ACT RENEWING THE CERVICAL CANCER TASK FORCE; ADDING A PEDIATRICIAN TO THE TASK FORCE; IDENTIFYING STRATEGIES FOR EDUCATING THE PUBLIC REGARDING AVAILABILITY AND EFFICACY OF HUMAN PAPILLOMAVIRUS VACCINE; AMENDING SECTION 50-1-211, MCA, AND SECTION 4, CHAPTER 404, LAWS OF 2005; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

WHEREAS, human papillomavirus (HPV) disease is a communicable disease that can be transmitted from person to person through intimate sexual contact and is a significant cause of cervical cancer, and recently, the United States Food and Drug Administration has approved a vaccine that is effective in women in preventing the occurrence of some HPV disease and, thereby, in reducing the occurrence of cervical cancer; and

WHEREAS, as with all vaccines, HPV vaccine is most effective if given prior to exposure to the HPV virus, and accordingly, many states, school districts, public health authorities, and parents are contemplating the advisability of providing HPV vaccinations as a precautionary measure; and

WHEREAS, there has been a task force on cervical cancer established in the State of Montana under the Department of Public Health and Human Services that, when initiated, was charged with providing a report to the Children, Families, Health, and Human Services Interim Committee on August 1, 2006, and was to terminate as of June 30, 2007; and

WHEREAS, because the task force is ideally situated to consider key issues related to HPV vaccination and to advise the Department and the Legislature regarding those issues, it is advisable to extend the tenure of the task force.

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

Section 1. Section 50-1-211, MCA, is amended to read:

"50-1-211. (Temporary) Task force on cervical cancer. (1) There is a task force on cervical cancer established in the department of public health and human services.

(2) The task force must be composed of at least ~~6~~ *7* and no more than 10 members and must include:

(a) an obstetrician-gynecologist;

(b) a registered nurse;

(c) a physician in family practice;

(d) a member from the cancer research community;

(e) ~~the~~ *a* state epidemiologist; ~~and~~

(f) a cervical cancer survivor~~.~~*; and*

(g) a pediatrician.

(3) The task force members must be appointed by the director to 2-year terms. The task force shall meet quarterly as needed. The task force members ~~must~~ *may* be reimbursed for expenses as provided in 2-18-501 through 2-18-503. Additional members may be added to the task force upon a majority vote of the members.

(4) The task force shall:

(a) review statistical and qualitative data on the ~~prevalence and burden of cervical cancer in Montana~~ *use and effectiveness of the human papillomavirus vaccine*;

~~(b) raise public awareness on the causes and nature of cervical cancer;~~

~~(c)~~*(b)* identify strategies ~~and new technologies that are effective in preventing and controlling the risk of cervical cancer~~ *for educating the public regarding the availability and efficacy of human papillomavirus vaccine, including appropriate methods for informing and educating parents and adolescents about the risks of human papillomavirus disease, modes of transmission, and availability of vaccine*;

~~(d)~~*(c)* identify and examine the limitations of existing laws, regulations, programs, and services with regard to ~~coverage and awareness issues for cervical cancer~~ *immunizations*;

(d) consider the medical, social, financial, and ethical implications of requiring human papillomavirus vaccination of adolescents for continued enrollment in school;

~~(e) include information and strategies relating to cervical cancer in a state comprehensive cancer control program;~~

~~(f)~~*(e)* facilitate coordination of and communication between state and local agencies and organizations;

~~(g)~~*(f)* receive and consider reports and testimony from individuals, including cervical cancer survivors, from leaders ~~in~~ *on* the issue of cervical cancer, *and from* local health departments, community-based organizations, and voluntary health organizations~~, and from other public and private organizations statewide to learn more about contributions to prognosis, prevention, treatment, and~~

~~improvement of cervical cancer prevention, diagnosis, and treatment in Montana~~.

(5) The task force shall issue a report to the children, families, health, and human services interim committee by August 1, ~~2006~~ *2008*:

~~(a) identifying the full impact of cervical cancer in Montana;~~

~~(b) recommending strategies or actions to the department to reduce the occurrence of and burden and costs caused by cervical cancer; and~~

~~(c) identifying how to increase public awareness of cervical cancer and the options for prevention.~~

(a) detailing its findings regarding the use and efficacy of human papillomavirus vaccine in adolescents;

(b) recommending strategies or actions regarding vaccination of adolescents; and

(c) recommending strategies or actions for the education of the public regarding human papillomavirus disease, modes of transmission, and availability of vaccine. (Terminates June 30, ~~2007~~ *2009* ~~— sec. 4, Ch. 404, L. 2005~~.)"

Section 2. Section 4, Chapter 404, Laws of 2005, is amended to read:

"**Section 4. Termination.** [This act] terminates June 30, ~~2007~~ *2009*."

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

Approved May 8, 2007

CHAPTER NO. 474

[SB 518]

AN ACT PROVIDING FOR A CERTIFICATE OF BIRTH RESULTING IN A STILLBIRTH; AMENDING SECTION 50-15-101, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE.

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

Section 1. Birth registration for stillbirth — requirements. (1) The department shall establish a certificate of birth resulting in a stillbirth on a form adopted by the department when the birth results in a stillbirth. Upon request by a parent, a certificate of birth resulting in a stillbirth must be filed in addition to the fetal death certificate provided for in 50-15-403. Upon request, a certificate of birth resulting in a stillbirth must be provided to a parent.

(2) A certificate of birth resulting in a stillbirth may be filed by:

(a) the physician, the physician's designee, or the direct-entry midwife licensed pursuant to Title 37, chapter 27, in attendance at a stillbirth;

(b) the person in attendance at a stillbirth;

(c) the father or the mother;

(d) in the absence of the father and the inability of the mother, the person in charge of the premises where the stillbirth occurred; or

(e) the local registrar if 50-15-202 applies.

(3) The department shall adopt rules providing for:

(a) the time by which the certificate of birth resulting in a stillbirth must be filed after the stillbirth;

(b) the evidence required to establish the facts of a stillbirth; and

(c) the information required on a certificate of birth resulting in a stillbirth.

Section 2. Section 50-15-101, MCA, is amended to read:

"50-15-101. Definitions. Unless the context requires otherwise, in parts 1 through 4, the following definitions apply:

(1) "Advanced practice registered nurse" means an individual who has been certified as an advanced practice registered nurse as provided in 37-8-202.

(2) "Authorized representative" means a person:

(a) designated by an individual, in a notarized written document, to have access to the individual's vital records;

(b) who has a general power of attorney for an individual; or

(c) appointed by a court to manage the personal or financial affairs of an individual.

(3) "Dead body" means a human body or parts of a human body from which it reasonably may be concluded that death occurred.

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

(5) "Dissolution of marriage" means a marriage terminated pursuant to Title 40, chapter 4, part 1.

(6) "Fetal death" means death of the fetus prior to the complete expulsion or extraction from its mother as a product of conception, notwithstanding the duration of pregnancy. The death is indicated by the fact that after expulsion or extraction, the fetus does not breathe or show any other evidence of life, such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles. Heartbeats are distinguished from transient cardiac contractions. Respirations are distinguished from fleeting respiratory efforts or gasps.

(7) "Final disposition" means the burial, interment, cremation, removal from the state, or other authorized disposition of a dead body or fetus.

(8) "Invalid marriage" means a marriage decreed by a district court to be invalid for the reasons contained in 40-1-402.

(9) "Live birth" means the complete expulsion or extraction from the mother as a product of conception, notwithstanding the duration of pregnancy. The birth is indicated by the fact that after expulsion or extraction, the child breathes or shows any other evidence of life, such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles. Heartbeats are distinguished from transient cardiac contractions. Respirations are distinguished from fleeting respiratory efforts or gasps.

(10) "Local registrar" means a person appointed by the department to act as its agent in administering this chapter in the area set forth in the letter of appointment.

(11) "Person in charge of disposition of a dead body" means a person who places or causes a dead body or the ashes after cremation to be placed in a grave, vault, urn, or other receptacle or otherwise disposes of the body or fetus and who

is a funeral director licensed under Title 37, chapter 19, an employee acting for a funeral director, or a person who first assumes custody of a dead body or fetus.

(12) "Physician" means a person legally authorized to practice medicine in this state.

(13) "Registration" means the process by which vital records are completed, filed, and incorporated into the official records of the department.

(14) "Research" means a systematic investigation designed primarily to develop or contribute to generalizable knowledge.

(15) (a) "Stillbirth" means a fetal death occurring after a minimum of 20 weeks of gestation.

(b) The term does not include an abortion, as defined in 50-20-104.

~~(15)~~*(16)* "System of vital statistics" means the registration, collection, preservation, amendment, and certification of vital records. The term includes the collection of reports required by this chapter and related activities, including the tabulation, analysis, publication, and dissemination of vital statistics.

~~(16)~~*(17)* "Vital records" means certificates or reports of birth, death, fetal death, marriage, and dissolution of marriage and related reports.

~~(17)~~*(18)* "Vital statistics" means the data derived from certificates or reports of birth, death, fetal death, induced termination of pregnancy, marriage, and dissolution of marriage and related reports."

Section 3. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 50, chapter 15, part 2, and the provisions of Title 50, chapter 15, part 2, apply to [section 1].

Section 4. Effective date. [This act] is effective January 1, 2008.

Approved May 8, 2007

CHAPTER NO. 475

[SB 525]

AN ACT CLARIFYING THAT TAX AND FEE REVENUE MUST BE RECORDED AS PRESCRIBED BY THE DEPARTMENT OF ADMINISTRATION IN ACCORDANCE WITH GENERALLY ACCEPTED ACCOUNTING PRINCIPLES; AMENDING SECTIONS 15-35-108, 15-36-331, 15-37-117, 15-38-106, 15-50-311, 15-51-103, 15-53-156, 15-59-108, 15-60-210, 15-65-121, 15-66-102, 15-67-102, 15-68-820, 15-70-101, 15-70-125, 15-72-106, 16-1-306, 16-1-401, 16-1-404, 16-1-406, 16-1-411, 16-11-114, 16-11-119, 23-5-610, AND 39-71-2321, MCA; REPEALING SECTION 15-1-501, 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. Disposition of money from certain designated license and other taxes. (1) The state treasurer shall deposit to the credit of the appropriate fund in accordance with the provisions of subsection (3) all money received from the collection of taxes and fees.

(2) The department of revenue shall deposit to the credit of the state general fund all money received from the collection of license taxes and all net revenue

and receipts from all sources, other than certain fees, under Title 16, chapters 1 through 4 and 6.

(3) The distribution of tax and fee revenue must be made according to the provisions of the law governing allocation of the tax or fee that were in effect for the period in which the tax or fee revenue was recorded for accounting purposes. Tax revenue must be recorded as prescribed by the department of administration, pursuant to 17-1-102(2) and (4), in accordance with generally accepted accounting principles.

(4) All refunds of taxes or fees must be attributed to the funds in which the taxes or fees are currently being recorded. All refunds of interest and penalties must be attributed to the funds in which the interest and penalties are currently being recorded.

Section 2. 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 ~~15-1-501~~ *[section 1]*, be allocated as follows:

(1) Fifty percent of total coal severance tax collections is allocated to the trust fund created by Article IX, section 5, of the Montana constitution. The trust fund money must be deposited in the fund established under 17-6-203(6) and invested by the board of investments as provided by law.

(2) The amount of 12% of coal severance tax collections is allocated to the long-range building program account established in 17-7-205.

(3) The amount of 5.46% must be credited to an account in the state special revenue fund to be allocated by the legislature for provision of basic library services for the residents of all counties through library federations and for payment of the costs of participating in regional and national networking, conservation districts, and the Montana Growth Through Agriculture Act. Expenditures of the allocation may be made only from this account. Money may not be transferred from this account to another account other than the general fund. Any unreserved fund balance at the end of each fiscal year must be deposited in the general fund.

(4) The amount of 1.27% must be allocated to a permanent fund account for the purpose of parks acquisition or management. Income from this permanent fund account, excluding unrealized gains and losses, must be appropriated for the acquisition, development, operation, and maintenance of any sites and areas described in 23-1-102.

(5) The amount of 0.95% must be allocated to the debt service fund type to the credit of the renewable resource loan debt service fund.

(6) The amount of 0.63% must be allocated to a trust fund for the purpose of protection of works of art in the capitol and for other cultural and aesthetic projects. Income from this trust fund account, excluding unrealized gains and losses, must be appropriated for protection of works of art in the state capitol and for other cultural and aesthetic projects.

(7) The amount of 2.9% must be credited to the oil, gas, and coal natural resource account established in 90-6-1001.

(8) (a) Subject to subsection (8)(b), all other revenue from severance taxes collected under the provisions of this chapter must be credited to the general fund of the state.

(b) The interest income from $140 million of the coal severance tax permanent fund that is deposited in the general fund is statutorily appropriated, as provided in 17-7-502, on an annual basis as follows:

(i) $65,000 to the cooperative development center;

(ii) $1.25 million for the growth through agriculture program provided for in Title 90, chapter 9;

(iii) $3.65 million to the research and commercialization state special revenue account created in 90-3-1002;

(iv) to the department of commerce:

(A) $125,000 for a small business development center;

(B) $50,000 for a small business innovative research program;

(C) $425,000 for certified regional development corporations;

(D) $200,000 for the Montana manufacturing extension center at Montana state university-Bozeman; and

(E) $300,000 for export trade enhancement. (Terminates June 30, 2010—sec. 6, Ch. 481, L. 2003.)

15-35-108. (Effective July 1, 2010) Disposal of severance taxes. Severance taxes collected under this chapter must, in accordance with the provisions of ~~15-1-501~~ *[section 1]*, be allocated as follows:

(1) Fifty percent of total coal severance tax collections is allocated to the trust fund created by Article IX, section 5, of the Montana constitution. The trust fund money must be deposited in the fund established under 17-6-203(6) and invested by the board of investments as provided by law.

(2) The amount of 12% of coal severance tax collections is allocated to the long-range building program account established in 17-7-205.

(3) The amount of 5.46% must be credited to an account in the state special revenue fund to be allocated by the legislature for provision of basic library services for the residents of all counties through library federations and for payment of the costs of participating in regional and national networking, conservation districts, and the Montana Growth Through Agriculture Act. Expenditures of the allocation may be made only from this account. Money may not be transferred from this account to another account other than the general fund. Any unreserved fund balance at the end of each fiscal year must be deposited in the general fund.

(4) The amount of 1.27% must be allocated to a permanent fund account for the purpose of parks acquisition or management. Income from this permanent fund account, excluding unrealized gains and losses, must be appropriated for the acquisition, development, operation, and maintenance of any sites and areas described in 23-1-102.

(5) The amount of 0.95% must be allocated to the debt service fund type to the credit of the renewable resource loan debt service fund.

(6) The amount of 0.63% must be allocated to a trust fund for the purpose of protection of works of art in the capitol and for other cultural and aesthetic projects. Income from this trust fund account, excluding unrealized gains and losses, must be appropriated for protection of works of art in the state capitol and for other cultural and aesthetic projects.

(7) The amount of 2.9% must be credited to the oil, gas, and coal natural resource account established in 90-6-1001.

(8) All other revenue from severance taxes collected under the provisions of this chapter must be credited to the general fund of the state."

Section 3. Section 15-36-331, MCA, is amended to read:

"15-36-331. Distribution of taxes. (1) (a) For each calendar quarter, the department shall determine the amount of tax, late payment interest, and penalties collected under this part.

(b) For the purposes of distribution of oil and natural gas production taxes to county and school district taxing units under 15-36-332 and to the state, the department shall determine the amount of oil and natural gas production taxes paid on production in the taxing unit.

(2) (a) The amount of oil and natural gas production taxes collected for the privilege and license tax pursuant to 82-11-131 must be deposited, in accordance with the provisions of ~~15-1-501~~ *[section 1]*, in the state special revenue fund for the purpose of paying expenses of the board, as provided in 82-11-135.

(b) The amount of the tax for the oil, gas, and coal natural resource account established in 90-6-1001 must be deposited in the account.

(3) (a) For each tax year, the amount of oil and natural gas production taxes determined under subsection (1)(b) is allocated to each county according to the following schedule:

	~~2005~~	~~2006 and succeeding tax years~~
Big Horn	~~45.04%~~	45.05%
Blaine	~~58.11%~~	58.39%
Carbon	~~48.93%~~	48.27%
Chouteau	~~57.65%~~	58.14%
Custer	~~80.9%~~	69.53%
Daniels	~~49.98%~~	50.81%
Dawson	~~50.64%~~	47.79%
Fallon	~~41.15%~~	41.78%
Fergus	~~83.52%~~	69.18%
Garfield	~~48.81%~~	45.96%
Glacier	~~64.74%~~	58.83%
Golden Valley	~~57.41%~~	58.37%
Hill	~~65.33%~~	64.51%
Liberty	~~59.73%~~	57.94%
McCone	~~52.86%~~	49.92%
Musselshell	~~51.44%~~	48.64%
Petroleum	~~54.62%~~	48.04%
Phillips	~~53.78%~~	54.02%

Pondera	~~70.89%~~	54.26%
Powder River	~~62.17%~~	60.9%
Prairie	~~39.73%~~	40.38%
Richland	~~46.72%~~	47.47%
Roosevelt	~~46.06%~~	45.71%
Rosebud	~~38.69%~~	39.33%
Sheridan	~~47.54%~~	47.99%
Stillwater	~~54.35%~~	53.51%
Sweet Grass	~~60.24%~~	61.24%
Teton	~~48.4%~~	46.1%
Toole	~~57.14%~~	57.61%
Valley	~~54.22%~~	51.43%
Wibaux	~~48.68%~~	49.16%
Yellowstone	~~48.06%~~	46.74%
All other counties	~~50.15%~~	50.15%

(b) The oil and natural gas production taxes allocated to each county must be deposited in the state special revenue fund and transferred to each county for distribution, as provided in 15-36-332.

(4) The department shall, in accordance with the provisions of ~~15-1-501~~ *[section 1]*, distribute the state portion of oil and natural gas production taxes remaining after the distributions pursuant to subsections (2) and (3) as follows:

(a) for each fiscal year through the fiscal year ending June 30, 2011, to be distributed as follows:

(i) 1.23% to the coal bed methane protection account established in 76-15-904;

(ii) 2.95% to the reclamation and development grants special revenue account established in 90-2-1104;

(iii) 2.95% to the orphan share account established in 75-10-743;

(iv) 2.65% to the state special revenue fund to be appropriated to the Montana university system for the purposes of the state tax levy as provided in 20-25-423; and

(v) all remaining proceeds to the state general fund;

(b) for fiscal years beginning after June 30, 2011, to be distributed as follows:

(i) 4.18% to the reclamation and development grants special revenue account established in 90-2-1104;

(ii) 2.95% to the orphan share account established in 75-10-743;

(iii) 2.65% to the state special revenue fund to be appropriated to the Montana university system for the purposes of the state tax levy as provided in 20-25-423; and

(iv) all remaining proceeds to the state general fund."

Section 4. Section 15-37-117, MCA, is amended to read:

"15-37-117. Disposition of metalliferous mines license taxes. (1) Metalliferous mines license taxes collected under the provisions of this part

must, in accordance with the provisions of ~~15-1-501~~ *[section 1]*, be allocated as follows:

(a) to the credit of the general fund of the state, 57% of total collections each year;

(b) to the state special revenue fund to the credit of a hard-rock mining impact trust account, 2.5% of total collections each year;

(c) to the hard-rock mining reclamation debt service fund created in 82-4-312, 8.5% of total collections each year;

(d) to the reclamation and development grants program state special revenue account, 7% of total collections each year; and

(e) within 60 days of the date the tax is payable pursuant to 15-37-105, to the county or counties identified as experiencing fiscal and economic impacts, resulting in increased employment or local government costs, under an impact plan for a large-scale mineral development prepared and approved pursuant to 90-6-307, in direct proportion to the fiscal and economic impacts determined in the plan or, if an impact plan has not been prepared, to the county in which the mine is located, 25% of total collections each year, to be allocated by the county commissioners as follows:

(i) not less than 37.5% to the county hard-rock mine trust account established in 7-6-2225; and

(ii) all money not allocated to the account pursuant to subsection (1)(e)(i) to be further allocated as follows:

(A) 33 1/3% is allocated to the county for general planning functions or economic development activities as described in 7-6-2225(3)(c) through (3)(e);

(B) 33 1/3% is allocated to the elementary school districts within the county that have been affected by the development or operation of the metal mine; and

(C) 33 1/3% is allocated to the high school districts within the county that have been affected by the development or operation of the metal mine.

(2) When an impact plan for a large-scale mineral development approved pursuant to 90-6-307 identifies a jurisdictional revenue disparity, the county shall distribute the proceeds allocated under subsection (1)(e) in a manner similar to that provided for property tax sharing under Title 90, chapter 6, part 4.

(3) The department shall return to the county in which metals are produced the tax collections allocated under subsection (1)(e). The allocation to the county described by subsection (1)(e) is a statutory appropriation pursuant to 17-7-502."

Section 5. Section 15-38-106, MCA, is amended to read:

"15-38-106. (Temporary) Payment of tax — records — collection of taxes — refunds. (1) The tax imposed by this chapter must be paid by each person to which the tax applies, on or before the due date of the annual statement established in 15-38-105, on the value of product in the year preceding January 1 of the year in which the tax is paid. The tax must be paid to the department at the time that the statement of yield for the preceding calendar year is filed with the department.

(2) The department shall, in accordance with the provisions of ~~15-1-501~~ *[section 1]*, deposit in the following order:

(a) annually in due course, from the proceeds of the tax to the CERCLA match debt service fund provided in 75-10-622, the amount necessary, as certified by the department of environmental quality, after crediting to the CERCLA match debt service fund amounts transferred from the CERCLA cost recovery account established under 75-10-631, to pay the principal of, premium, if any, and interest during the next fiscal year on bonds or notes issued pursuant to 75-10-623;

(b) $366,000 of the proceeds of the resource indemnity and ground water assessment taxes in the ground water assessment account established by 85-2-905;

(c) 50% of the remaining proceeds in the reclamation and development grants account established by 90-2-1104, for the purpose of making grants to be used for mineral development reclamation projects;

(d) $150,000 of the remaining proceeds of the resource indemnity and ground water assessment taxes in the natural resource workers' tuition scholarship account established in 39-10-106 for the first fiscal year following July 1 immediately after the date that the governor certifies that the resource indemnity trust fund balance has reached $100 million and for succeeding fiscal years, the amount required under 39-10-106(4);

(e) all remaining proceeds in the orphan share account established in 75-10-743.

(3) Each person to whom the tax applies shall keep records in accordance with 15-38-105, and the records are subject to inspection by the department upon reasonable notice during normal business hours.

(4) The department shall examine the statement and compute the taxes to be imposed, and the amount computed by the department is the tax imposed, assessed against, and payable by the taxpayer. If the tax found to be due is greater than the amount paid, the excess must be paid by the taxpayer to the department within 30 days after written notice of the amount of deficiency is mailed by the department to the taxpayer. If the tax imposed is less than the amount paid, the difference must be applied as a tax credit against tax liability for subsequent years or refunded if requested by the taxpayer. (Terminates June 30, 2007—sec. 10, Ch. 586, L. 2001.)

15-38-106. (Effective July 1, 2007) Payment of tax — records — collection of taxes — refunds. (1) The tax imposed by this chapter must be paid by each person to which the tax applies, on or before the due date of the annual statement established in 15-38-105, on the value of product in the year preceding January 1 of the year in which the tax is paid. The tax must be paid to the department at the time that the statement of yield for the preceding calendar year is filed with the department.

(2) The department shall, in accordance with the provisions of ~~15-1-501~~ *[section 1]*, deposit in the following order:

(a) annually in due course, from the proceeds of the tax to the CERCLA match debt service fund provided in 75-10-622, the amount necessary, as certified by the department of environmental quality, after crediting to the CERCLA match debt service fund amounts transferred from the CERCLA cost recovery account established under 75-10-631, to pay the principal of, premium, if any, and interest during the next fiscal year on bonds or notes issued pursuant to 75-10-623;

(b) $366,000 of the proceeds in the ground water assessment account established by 85-2-905;

(c) 50% of the remaining proceeds in the orphan share account established in 75-10-743; and

(d) all remaining proceeds in the reclamation and development grants account established by 90-2-1104, for the purpose of making grants to be used for mineral development reclamation projects.

(3) Each person to whom the tax applies shall keep records in accordance with 15-38-105, and the records are subject to inspection by the department upon reasonable notice during normal business hours.

(4) The department shall examine the statement and compute the taxes to be imposed, and the amount computed by the department is the tax imposed, assessed against, and payable by the taxpayer. If the tax found to be due is greater than the amount paid, the excess must be paid by the taxpayer to the department within 30 days after written notice of the amount of deficiency is mailed by the department to the taxpayer. If the tax imposed is less than the amount paid, the difference must be applied as a tax credit against tax liability for subsequent years or refunded if requested by the taxpayer."

Section 6. Section 15-50-311, MCA, is amended to read:

"15-50-311. Disposal of license taxes. License taxes collected under this chapter must be deposited by the department with the state treasurer, who shall*, in accordance with the provisions of [section 1],* credit ~~them~~ *the license taxes* to the *state* general fund ~~of the state~~."

Section 7. Section 15-51-103, MCA, is amended to read:

"15-51-103. Disposition of revenue — penalty and interest on delinquency. The department shall, in accordance with the provisions of ~~15-1-501~~ *[section 1]*, promptly remit the collected taxes to the state treasurer. Taxes not paid on the due date are delinquent, and penalty and interest must be added to the delinquent taxes as provided in 15-1-216."

Section 8. Section 15-53-156, MCA, is amended to read:

"15-53-156. Retail telecommunications excise tax revenue. After retaining an allowance for refunds, retail telecommunications excise tax revenue collected by the department must*, in accordance with [section 1],* be deposited in the state general fund."

Section 9. Section 15-59-108, MCA, is amended to read:

"15-59-108. Deposit of taxes. All license taxes collected under the provisions of this part must, in accordance with the provisions of ~~15-1-501~~ *[section 1]*, be deposited to the credit of the general fund of the state."

Section 10. Section 15-60-210, MCA, is amended to read:

"15-60-210. (Temporary) Disposition of fee. (1) Except as provided in subsection (2), all proceeds from the collection of utilization fees, including penalties and interest, must, in accordance with the provisions of ~~15-1-501~~ *[section 1]*, be deposited in the general fund.

(2) Utilization fees, including penalties and interest, collected from the Montana mental health nursing care center must be allocated as follows:

(a) 30% to the state general fund; and

(b) 70% to the prevention and stabilization account in the state special revenue fund established pursuant to 53-6-1101 to the credit of the department of public health and human services to finance, administer, and provide health and human services. (Void on occurrence of contingency—sec. 18, Ch. 746, L. 1991—see chapter compiler's comment.)"

Section 11. Section 15-65-121, MCA, is amended to read:

"15-65-121. (Temporary) Distribution of tax proceeds. (1) The proceeds of the tax imposed by 15-65-111 must, in accordance with the provisions of ~~15-1-501~~ *[section 1]*, be deposited in an account in the state special revenue fund to the credit of the department. The department may spend from that account in accordance with an expenditure appropriation by the legislature based on an estimate of the costs of collecting and disbursing the proceeds of the tax. Before allocating the balance of the tax proceeds in accordance with the provisions of ~~15-1-501~~ *[section 1]* and as provided in subsections (1)(a) through (1)(e) of this section, the department shall determine the expenditures by state agencies for in-state lodging for each reporting period and deduct 4% of that amount from the tax proceeds received each reporting period. The amount deducted must be deposited in the fund or funds from which in-state lodging expenditures were paid by state agencies. The amount of $400,000 each year must be deposited in the Montana heritage preservation and development account provided for in 22-3-1004. The balance of the tax proceeds received each reporting period and not deducted pursuant to the expenditure appropriation, deposited in the fund or funds from which in-state lodging expenditures were paid by state agencies, or deposited in the heritage preservation and development account is statutorily appropriated, as provided in 17-7-502, and must be transferred to an account in the state special revenue fund to the credit of the department of commerce for tourism promotion and promotion of the state as a location for the production of motion pictures and television commercials, to the Montana historical society, to the university system, and to the department of fish, wildlife, and parks, as follows:

(a) 1% to the Montana historical society to be used for the installation or maintenance of roadside historical signs and historic sites;

(b) 2.5% to the university system for the establishment and maintenance of a Montana travel research program;

(c) 6.5% to the department of fish, wildlife, and parks for the maintenance of facilities in state parks that have both resident and nonresident use;

(d) 67.5% to be used directly by the department of commerce; and

(e) (i) except as provided in subsection (1)(e)(ii), 22.5% to be distributed by the department to regional nonprofit tourism corporations in the ratio of the proceeds collected in each tourism region to the total proceeds collected statewide; and

(ii) if 22.5% of the proceeds collected annually within the limits of a city, consolidated city-county, resort area, or resort area district exceeds $35,000, 50% of the amount available for distribution to the regional nonprofit tourism corporation in the region where the city, consolidated city-county, resort area, or resort area district is located, to be distributed to the nonprofit convention and visitors bureau in that city, consolidated city-county, resort area, or resort area district.

(2) If a city, consolidated city-county, resort area, or resort area district qualifies under this section for funds but fails to either recognize a nonprofit

convention and visitors bureau or submit and gain approval for an annual marketing plan as required in 15-65-122, then those funds must be allocated to the regional nonprofit tourism corporation in the region in which the city, consolidated city-county, resort area, or resort area district is located.

(3) If a regional nonprofit tourism corporation fails to submit and gain approval for an annual marketing plan as required in 15-65-122, then those funds otherwise allocated to the regional nonprofit tourism corporation may be used by the department of commerce for tourism promotion and promotion of the state as a location for the production of motion pictures and television commercials. (Terminates July 1, 2007—sec. 3, Ch. 469, L. 2001.)

15-65-121. (Effective July 1, 2007) Distribution of tax proceeds. (1) The proceeds of the tax imposed by 15-65-111 must, in accordance with the provisions of ~~15-1-501~~ *[section 1]*, be deposited in an account in the state special revenue fund to the credit of the department. The department may spend from that account in accordance with an expenditure appropriation by the legislature based on an estimate of the costs of collecting and disbursing the proceeds of the tax. Before allocating the balance of the tax proceeds in accordance with the provisions of ~~15-1-501~~ *[section 1]* and as provided in subsections (1)(a) through (1)(e) of this section, the department shall determine the expenditures by state agencies for in-state lodging for each reporting period and deduct 4% of that amount from the tax proceeds received each reporting period. The amount deducted must be deposited in the fund or funds from which in-state lodging expenditures were paid by state agencies. The balance of the tax proceeds received each reporting period and not deducted pursuant to the expenditure appropriation or deposited in the fund or funds from which in-state lodging expenditures were paid by state agencies is statutorily appropriated, as provided in 17-7-502, and must be transferred to an account in the state special revenue fund to the credit of the department of commerce for tourism promotion and promotion of the state as a location for the production of motion pictures and television commercials, to the Montana historical society, to the university system, and to the department of fish, wildlife, and parks, as follows:

(a) 1% to the Montana historical society to be used for the installation or maintenance of roadside historical signs and historic sites;

(b) 2.5% to the university system for the establishment and maintenance of a Montana travel research program;

(c) 6.5% to the department of fish, wildlife, and parks for the maintenance of facilities in state parks that have both resident and nonresident use;

(d) 67.5% to be used directly by the department of commerce; and

(e) (i) except as provided in subsection (1)(e)(ii), 22.5% to be distributed by the department to regional nonprofit tourism corporations in the ratio of the proceeds collected in each tourism region to the total proceeds collected statewide; and

(ii) if 22.5% of the proceeds collected annually within the limits of a city, consolidated city-county, resort area, or resort area district exceeds $35,000, 50% of the amount available for distribution to the regional nonprofit tourism corporation in the region where the city, consolidated city-county, resort area, or resort area district is located, to be distributed to the nonprofit convention and visitors bureau in that city, consolidated city-county, resort area, or resort area district.

(2) If a city, consolidated city-county, resort area, or resort area district qualifies under this section for funds but fails to either recognize a nonprofit convention and visitors bureau or submit and gain approval for an annual marketing plan as required in 15-65-122, then those funds must be allocated to the regional nonprofit tourism corporation in the region in which the city, consolidated city-county, resort area, or resort area district is located.

(3) If a regional nonprofit tourism corporation fails to submit and gain approval for an annual marketing plan as required in 15-65-122, then those funds otherwise allocated to the regional nonprofit tourism corporation may be used by the department of commerce for tourism promotion and promotion of the state as a location for the production of motion pictures and television commercials."

Section 12. Section 15-66-102, MCA, is amended to read:

"15-66-102. (Temporary) Utilization fee for inpatient bed days. (1) Each hospital in the state shall pay to the department a utilization fee~~:~~

~~(a) in the amount of $19.43 for each inpatient bed day between January 1, 2004, and June 30, 2005;~~

~~(b) in the amount of $29.75 for each inpatient bed day between July 1, 2005, and December 31, 2005;~~

~~(c) in the amount of $27.70 for each inpatient bed day between January 1, 2006, and December 31, 2006; and~~

~~(d) after January 1, 2007,~~ in an amount determined by rule as provided in subsection (2).

(2) Prior to each calendar year that will be subject to the fee, the department by rule shall determine the amount of the fee, not to exceed $50, based upon:

(a) an estimate of the unpaid medicaid hospital costs, total inpatient days, and the federal medical assistance percentages;

(b) an estimate of any federal limit on federal financial participation for hospital services; and

(c) an estimate of federal disproportionate share funds not matched by state general funds.

(3) (a) All proceeds from the collection of utilization fees, including penalties and interest, must*, in accordance with the provisions of [section 1],* be deposited to the credit of the department of public health and human services in a state special revenue account as provided in 53-6-149.

(b) A hospital may not place a fee created in this chapter on a patient's bill. (Void on occurrence of contingency—sec. 18, Ch. 390, L. 2003. Terminates June 30, 2007—secs. 4, 7, Ch. 606, L. 2005.)"

Section 13. Section 15-67-102, MCA, is amended to read:

"15-67-102. (Temporary) Utilization fee for resident bed days. (1) Each calendar quarter, an intermediate care facility shall pay to the department a utilization fee for each resident bed day calculated as provided in subsection (2).

(2) The utilization fee is 6% of the intermediate care facility's quarterly revenue divided by the resident bed days for the quarter.

(3) In accordance with the provisions of ~~15-1-501~~ *[section 1]*, all proceeds of the utilization fee, including penalty and interest, must be deposited as follows:

(a) 30% in the state general fund; and

(b) 70% in an account in the state special revenue fund established pursuant to 53-6-1101 to the credit of the department of public health and human services to finance, administer, and provide health and human services. (Void on occurrence of contingency—sec. 17, Ch. 531, L. 2003—see chapter compiler's comment.)"

Section 14. Section 15-68-820, MCA, is amended to read:

"15-68-820. Sales tax and use tax proceeds. All money collected under this chapter must*, in accordance with the provisions of [section 1],* be deposited by the department into the general fund."

Section 15. Section 15-70-101, MCA, is amended to read:

"15-70-101. Disposition of funds. (1) All taxes collected under this chapter must, in accordance with the provisions of ~~15-1-501~~ *[section 1]*, be placed in a highway revenue account in the state special revenue fund to the credit of the department of transportation. All interest and income earned on the account must be deposited to the credit of the account and any unexpended balance in the account must remain in the account. Those funds allocated to cities, towns, counties, and consolidated city-county governments in this section must, in accordance with the provisions of ~~15-1-501~~ *[section 1]*, be paid by the department of transportation from the state special revenue fund to the cities, towns, counties, and consolidated city-county governments.

(2) The amount of $16,766,000 of the taxes collected under this chapter is statutorily appropriated, as provided in 17-7-502, to the department of transportation and must be allocated each fiscal year on a monthly basis to the counties, incorporated cities and towns, and consolidated city-county governments in Montana for construction, reconstruction, maintenance, and repair of rural roads and city or town streets and alleys, as provided in subsections (2)(a) through (2)(c):

(a) The amount of $100,000 must be designated for the purposes and functions of the Montana local technical assistance transportation program in Bozeman.

(b) The amount of $6,306,000 must be divided among the various counties in the following manner:

(i) 40% in the ratio that the rural road mileage in each county, exclusive of the national highway system and the primary system, bears to the total rural road mileage in the state, exclusive of the national highway system and the primary system;

(ii) 40% in the ratio that the rural population in each county outside incorporated cities and towns bears to the total rural population in the state outside incorporated cities and towns;

(iii) 20% in the ratio that the land area of each county bears to the total land area of the state.

(c) The amount of $10,360,000 must be divided among the incorporated cities and towns in the following manner:

(i) 50% of the sum in the ratio that the population within the corporate limits of the city or town bears to the total population within corporate limits of all the cities and towns in Montana;

(ii) 50% in the ratio that the city or town street and alley mileage, exclusive of the national highway system and the primary system, within corporate limits bears to the total street and alley mileage, exclusive of the national highway system and primary system, within the corporate limits of all cities and towns in Montana.

(3) (a) For the purpose of allocating the funds in subsections (2)(b) and (2)(c) to a consolidated city-county government, each entity must be considered to have separate city and county boundaries. The city limit boundaries are the last official city limit boundaries for the former city unless revised boundaries based on the location of the urban area have been approved by the department of transportation and must be used to determine city and county populations and road mileages in the following manner:

(i) Percentage factors must be calculated to determine separate populations for the city and rural county by using the last official decennial federal census population figures that recognized an incorporated city and the rural county. The factors must be based on the ratio of the city to the rural county population, considering the total population in the county minus the population of any other incorporated city or town in the county.

(ii) The city and county populations must be calculated by multiplying the total county population, as determined by the latest official decennial census or the latest interim year population estimates from the Montana department of commerce as supplied by the United States bureau of the census, minus the population of any other incorporated city or town in that county, by the factors established in subsection (3)(a)(i).

(b) The amount allocated by this method for the city and the county must be combined, and single monthly payments must be made to the consolidated city-county government.

(4) All funds allocated by this section to counties, cities, towns, and consolidated city-county governments must be used for the construction, reconstruction, maintenance, and repair of rural roads or city or town streets and alleys or for the share that the city, town, county, or consolidated city-county government might otherwise expend for proportionate matching of federal funds allocated for the construction of roads or streets that are part of the primary or secondary highway system or urban extensions to those systems. The governing body of a town or third-class city, as defined in 7-1-4111, may each year expend no more than 25% of the funds allocated to that town or third-class city for the purchase of capital equipment and supplies to be used for the maintenance and repair of town or third-class city streets and alleys.

(5) All funds allocated by this section to counties, cities, towns, and consolidated city-county governments must be disbursed to the lowest responsible bidder according to applicable bidding procedures followed in all cases in which the contract for construction, reconstruction, maintenance, or repair is in excess of $25,000.

(6) For the purposes of this section in which distribution of funds is made on a basis related to population, the population must be determined annually for counties and biennially for cities according to the latest official decennial census or the latest interim year population estimates from the Montana department of commerce as supplied by the United States bureau of the census.

(7) For the purposes of this section in which determination of mileage is necessary for distribution of funds, it is the responsibility of the cities, towns,

counties, and consolidated city-county governments to furnish to the department of transportation a yearly certified statement indicating the total mileage within their respective areas applicable to this chapter. All mileage submitted is subject to review and approval by the department of transportation.

(8) Except by a town or third-class city as provided in subsection (4), the funds authorized by this section may not be used for the purchase of capital equipment.

(9) Funds authorized by this section must be used for construction and maintenance programs."

Section 16. Section 15-70-125, MCA, is amended to read:

"15-70-125. Highway nonrestricted account. There is a highway nonrestricted account in the state special revenue fund. All interest and penalties collected under this chapter, except those collected by a justice's court, must, in accordance with the provisions of ~~15-1-501~~ *[section 1]*, be placed in the highway nonrestricted account. ~~Beginning July 1, 2001, all~~ *All* interest and income earned on the account must be deposited to the credit of the account and any unexpended balance in the account must remain in the account."

Section 17. Section 15-72-106, MCA, is amended to read:

"15-72-106. Collection of wholesale energy transaction tax — disposition of revenue. (1) A transmission services provider shall collect the tax imposed under 15-72-104 from the taxpayer and pay the tax collected to the department. If the transmission services provider collects a tax in excess of the tax imposed by 15-72-104, both the tax and the excess must be remitted to the department.

(2) A self-assessing distribution services provider is subject to the provisions of this part.

(3) The wholesale energy transaction tax collected under this part must, *in accordance with the provisions of [section 1],* be deposited in the general fund."

Section 18. Section 16-1-306, MCA, is amended to read:

"16-1-306. Revenue to be paid to state treasurer. Except as provided in 16-1-404, 16-1-405, 16-1-406, and 16-1-411, all fees, charges, taxes, and revenue collected by or under authority of the department must, in accordance with the provisions of ~~15-1-501~~ *[section 1]*, be deposited to the credit of the state general fund."

Section 19. Section 16-1-401, MCA, is amended to read:

"16-1-401. Liquor excise tax. (1) The department shall collect at the time of the sale and delivery of any liquor as authorized under any provision of the laws of the state of Montana an excise tax at the rate of:

(a) 16% of the retail selling price on all liquor sold and delivered in the state by a company that manufactured, distilled, rectified, bottled, or processed, and sold more than 200,000 proof gallons of liquor nationwide in the calendar year preceding imposition of the tax pursuant to this section;

(b) 13.8% of the retail selling price on all liquor sold and delivered in the state by a company that manufactured, distilled, rectified, bottled, or processed, and sold not more than 200,000 proof gallons of liquor nationwide in the calendar year preceding imposition of the tax pursuant to this section.

(2) The department shall retain the amount of the excise tax received in a separate account and shall, in accordance with the provisions of ~~15-1-501~~ *[section 1]*, deposit, to the credit of the general fund, the amount collected and received not later than the 10th day of each month."

Section 20. Section 16-1-404, MCA, is amended to read:

"16-1-404. License tax on liquor — amount — distribution of proceeds. (1) The department shall collect at the time of sale and delivery of any liquor under any provisions of the laws of the state of Montana a license tax of:

(a) 10% of the retail selling price on all liquor sold and delivered in the state by a company that manufactured, distilled, rectified, bottled, or processed and that sold more than 200,000 proof gallons of liquor nationwide in the calendar year preceding imposition of the tax pursuant to this section;

(b) 8.6% of the retail selling price on all liquor sold and delivered in the state by a company that manufactured, distilled, rectified, bottled, or processed and that sold more than 50,000 proof gallons but not more than 200,000 proof gallons of liquor nationwide in the calendar year preceding imposition of the tax pursuant to this section;

(c) 2% of the retail selling price on all liquor sold and delivered in the state by a company that manufactured, distilled, rectified, bottled, or processed and that sold not more than 50,000 proof gallons of liquor nationwide in the calendar year preceding imposition of the tax pursuant to this section.

(2) The license tax must be charged and collected on all liquor produced in or brought into the state and taxed by the department. The retail selling price must be computed by adding to the cost of the liquor the state markup as designated by the department. The license tax must be figured in the same manner as the state excise tax and is in addition to the state excise tax. The department shall retain in a separate account the amount of the license tax received. The department, in accordance with the provisions of ~~15-1-501~~ *[section 1]*, shall allocate the revenue as follows:

(a) Thirty-four and one-half percent is allocated to the state general fund.

(b) Sixty-five and one-half percent must be deposited in the state special revenue fund to the credit of the department of public health and human services for the treatment, rehabilitation, and prevention of alcoholism and chemical dependency.

(3) The license tax proceeds that are allocated to the department of public health and human services for the treatment, rehabilitation, and prevention of alcoholism and chemical dependency must be credited quarterly to the department of public health and human services. The legislature may appropriate a portion of the license tax proceeds to support alcohol and chemical dependency programs. The remainder must be distributed as provided in 53-24-206."

Section 21. Section 16-1-406, MCA, is amended to read:

"16-1-406. Taxes on beer. (1) (a) A tax is imposed on each barrel of 31 gallons of beer sold in Montana by a wholesaler. A barrel of beer equals 31 gallons. The tax is based upon the total number of barrels of beer produced by a brewer in a year. A brewer who produces less than 20,000 barrels of beer a year is taxed on the following increments of production:

(i) up to 5,000 barrels, $1.30;

(ii) 5,001 barrels to 10,000 barrels, $2.30; and

(iii) 10,001 barrels to 20,000 barrels, $3.30.

(b) The tax on beer sold for a brewer who produces over 20,000 barrels is $4.30.

(2) The tax imposed pursuant to subsection (1) is due at the end of each month from the wholesaler upon beer sold by the wholesaler during that month. The department shall compute the tax due on beer sold in containers other than barrels or in barrels of more or less capacity than 31 gallons.

(3) Each quarter, in accordance with the provisions of ~~15-1-501~~ *[section 1]*, of the tax collected pursuant to subsection (1), an amount equal to:

(a) 23.26% must be deposited in the state treasury to the credit of the department of public health and human services for the treatment, rehabilitation, and prevention of alcoholism and chemical dependency; and

(b) the balance must be deposited in the state general fund."

Section 22. Section 16-1-411, MCA, is amended to read:

"16-1-411. Tax on wine and hard cider — penalty and interest. (1) (a) A tax of 27 cents per liter is imposed on table wine, except hard cider, imported by a table wine distributor or the department.

(b) A tax of 3.7 cents per liter is imposed on hard cider imported by a table wine distributor or the department.

(2) The tax imposed in subsection (1) must be paid by the table wine distributor by the 15th day of the month following sale of the table wine or hard cider from the table wine distributor's warehouse. Failure to file a tax return or failure to pay the tax required by this section subjects the table wine distributor to the penalties and interest provided for in 15-1-216.

(3) The tax paid by a table wine distributor in accordance with subsection (2) must, in accordance with the provisions of ~~15-1-501~~ *[section 1]*, be distributed as follows:

(a) 69% to the state general fund; and

(b) 31% to the state special revenue fund to the credit of the department of public health and human services for the treatment, rehabilitation, and prevention of alcoholism and chemical dependency.

(4) The tax computed and paid in accordance with this section is the only tax imposed by the state or any of its subdivisions, including cities and towns.

(5) For purposes of this section, "table wine" has the meaning assigned in 16-1-106, but does not include hard cider."

Section 23. Section 16-11-114, MCA, is amended to read:

"16-11-114. Insignia discount. (1) Each licensed wholesaler is entitled to purchase an insignia at full face value less the following percentage of the face value upon payment for the insignia as defrayment of the costs of affixing insignia and precollecting the tax on behalf of the state of Montana:

(a) 0.90% for the first 2,580 cartons or portion of 2,580 cartons purchased in any calendar month;

(b) 0.60% for the next 2,580 cartons or portion of 2,580 cartons purchased in any calendar month; and

(c) 0.45% for purchases in excess of 5,160 cartons in any calendar month.

(2) The taxes for tobacco products, other than cigarettes, that are paid by the wholesaler must be paid to the department in full less a 1.5% defrayment for the wholesaler's collection and administrative expenses and must, in accordance with the provisions of ~~15-1-501~~ *[section 1]*, be deposited by the department in the state general fund except as provided in 16-11-119. Refunds of the tax paid must be made as provided in 15-1-503 in cases in which the tobacco products purchased become unsalable."

Section 24. Section 16-11-119, MCA, is amended to read:

"16-11-119. Disposition of taxes. (1) Cigarette taxes collected under the provisions of 16-11-111 must, in accordance with the provisions of ~~15-1-501~~ *[section 1]*, be deposited as follows:

(a) 8.3% or $2 million, whichever is greater, in the state special revenue fund to the credit of the department of public health and human services for the operation and maintenance of state veterans' nursing homes;

(b) 2.6% in the long-range building program account provided for in 17-7-205;

(c) 44% in the state special revenue fund to the credit of the health and medicaid initiatives account provided for in 53-6-1201; and

(d) the remainder to the state general fund.

(2) If money in the state special revenue fund for the operation and maintenance of state veterans' nursing homes exceeds $2 million at the end of the fiscal year, the excess must be transferred to the state general fund.

(3) The taxes collected on tobacco products, other than cigarettes, must in accordance with the provisions of ~~15-1-501~~ *[section 1]* be deposited as follows:

(a) one-half in the state general fund; and

(b) one-half in the state special revenue fund account for health and medicaid initiatives provided for in 53-6-1201."

Section 25. Section 23-5-610, MCA, is amended to read:

"23-5-610. Video gambling machine gross income tax — records — distribution — quarterly statement and payment. (1) A licensed machine owner shall pay to the department a video gambling machine tax of 15% of the gross income from each video gambling machine issued a permit under this part. A licensed machine owner may deduct from the gross income amounts equal to amounts stolen from machines if the amounts stolen are not repaid by insurance or under a court order, if a law enforcement agency investigated the theft, and if the theft is the result of either unauthorized entry and physical removal of the money from the machines or of machine tampering and the amounts stolen are documented.

(2) A licensed machine owner shall keep a record of the gross income from each video gambling machine issued a permit under this part in the form the department requires. The records must at all times during the business hours of the licensee be subject to inspection by the department.

(3) For each video gambling machine issued a permit under this part, a licensed machine owner shall, within 15 days after the end of each quarter and in the manner prescribed by the department, complete and deliver to the department a statement showing the total gross income, together with the total amount due the state as video gambling machine gross income tax for the

preceding quarter. The statement must contain other relevant information that the department requires.

(4) The department shall, in accordance with the provisions of ~~15-1-501~~ *[section 1]*, forward the tax collected under subsection (3) *of this section* to *the state treasurer for deposit in* the general fund."

Section 26. Section 39-71-2321, MCA, is amended to read:

"39-71-2321. What to be deposited in state fund. (1) All premiums, penalties, recoveries by subrogation, interest earned upon money belonging to the state fund, securities acquired by or through use of money, and all interest and penalties on taxes in accordance with ~~15-1-501~~ *[section 1]* must be deposited in the state fund. Except for a transfer authorized under 39-71-2352, the money must be separated into two accounts based upon whether they relate to claims for injuries resulting from accidents that occurred before July 1, 1990, or claims for injuries resulting from accidents that occur on or after that date.

(2) All funds deposited in the state fund may be spent as provided in 17-8-101(2)(b)."

Section 27. Repealer. Section 15-1-501, MCA, is repealed.

Section 28. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 17, chapter 2, and the provisions of Title 17, chapter 2, apply to [section 1].

Section 29. Coordination instruction. If Senate Bill No. 118 and [this act] are both passed and approved and they contain a section amending 15-66-102, then the sections amending 15-66-102 are void and 15-66-102 must be amended as follows:

"15-66-102. (Temporary) Utilization fee for inpatient bed days. (1) Each hospital in the state shall pay to the department a utilization fee:

(a) in the amount of ~~$19.43~~ *$27.70* for each inpatient bed day between January 1, ~~2004~~ *2006*, and June 30, ~~2005~~ *2007*;

(b) in the amount of ~~$29.75~~ *$47* for each inpatient bed day between July 1, ~~2005~~ *2007*, and December 31, ~~2005~~ *2007*;

(c) in the amount of ~~$27.70~~ *$43* for each inpatient bed day between January 1, ~~2006~~ *2008*, and December 31, ~~2006~~ *2008*;

(d) in the amount of $48 for each inpatient bed day between January 1, 2009, and December 31, 2009; and

~~(d)~~*(e)* ~~after~~ *beginning* January 1, ~~2007~~ *2010*, ~~in an amount determined by rule as provided in subsection (2)~~ *in the amount of $50 for each inpatient bed day*.

~~(2) Prior to each calendar year that will be subject to the fee, the department by rule shall determine the amount of the fee, not to exceed $50, based upon:~~

~~(a) an estimate of the unpaid medicaid hospital costs, total inpatient days, and the federal medical assistance percentages;~~

~~(b) an estimate of any federal limit on federal financial participation for hospital services; and~~

~~(c) an estimate of federal disproportionate share funds not matched by state general funds.~~

~~(3)~~*(2)* ~~(a)~~ All proceeds from the collection of utilization fees, including penalties and interest, must*, in accordance with the provisions of [section 1 of*

Senate Bill No. 525], be deposited to the credit of the department of public health and human services in a state special revenue account as provided in 53-6-149.

~~(b) A hospital may not place a fee created in this chapter on a patient's bill.~~ (Void on occurrence of contingency—sec. 18, Ch. 390, L. 2003. ~~Terminates June 30, 2007—sees. 4, 7, Ch. 606, L. 2005.~~)"

Section 30. Effective date. [This act] is effective on passage and approval.

Section 31. Retroactive applicability. [This act] applies retroactively, within the meaning of 1-2-109, to all tax and fee periods beginning after December 31, 2006, and to taxes and fees collected by audit after December 31, 2006, or taxes and fees collected after December 31, 2006, if the payment was made after the date on which the tax was payable.

Approved May 8, 2007

CHAPTER NO. 476

[SB 535]

AN ACT REVISING LAWS RELATING TO ANNUITIES; CREATING THE MONTANA SUITABILITY IN ANNUITY TRANSACTIONS ACT; PROVIDING FOR EXEMPTIONS FROM THE MONTANA SUITABILITY IN ANNUITY TRANSACTIONS ACT; ESTABLISHING DUTIES FOR INSURERS, INSURANCE PRODUCERS, AND INDEPENDENT AGENCIES; CREATING THE MONTANA ANNUITY DISCLOSURE ACT; PROVIDING DEFINITIONS; ESTABLISHING DISCLOSURE REQUIREMENTS FOR BUYER'S GUIDES AND DISCLOSURE DOCUMENTS; REQUIRING REPORTS TO ANNUITY CONTRACT HOLDERS; PROVIDING PENALTIES FOR VIOLATIONS OF EITHER ACT; AND PROVIDING AN APPLICABILITY DATE.

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

Section 1. Short title. [Sections 1 through 6] may be referred to as the "Montana Suitability in Annuity Transactions Act".

Section 2. Purpose — scope. (1) The purpose of [sections 1 through 6] is to set forth standards and procedures for recommendations to consumers that result in a transaction involving annuity products so that the insurance needs and financial objectives of consumers at the time of the transaction are appropriately addressed.

(2) [Sections 1 through 6] apply to any recommendation to purchase or exchange an annuity made to a consumer by an insurance producer or by an insurer when an insurance producer is not involved that results in the recommended purchase or exchange.

Section 3. Exemptions. Unless otherwise specifically included, [sections 1 through 6] do not apply to recommendations involving:

(1) direct response solicitations when there is not a recommendation made based on information collected from the consumer;

(2) contracts used to fund:

(a) an employee pension or welfare benefit plan that is covered by the Employee Retirement Income Security Act of 1974, 29 U.S.C. 1001, et seq.;

(b) a plan described by section 401(a), 401(k), 403(b), 408(k), or 408(p) of the Internal Revenue Code, 26 U.S.C. 401(a), 401(k), 403(b), 408(k), or 408(p), if established or maintained by an employer;

(c) a governmental plan or church plan defined in section 414 of the Internal Revenue Code, 26 U.S.C. 414, a government or church welfare benefit plan, or a deferred compensation plan of a state or local government or tax-exempt organization under section 457 of the Internal Revenue Code, 26 U.S.C. 457;

(d) a nonqualified deferred compensation plan maintained by an employer or plan sponsor;

(e) settlements of or assumptions of liabilities associated with personal injury litigation or any dispute or claim resolution process; or

(f) formal prepaid funeral contracts; or

(3) variable annuities regulated under Title 30, chapter 10.

Section 4. Definitions. As used in [sections 1 through 6], the following definitions apply:

(1) "Annuity" means a fixed annuity that is individually solicited, regardless of whether the product is classified as an individual or group annuity.

(2) "Insurance producer", in addition to the definition in 33-17-102, includes an insurance producer licensed to sell, solicit, or negotiate annuities.

(3) "Insurer", in addition to the definition in 33-1-201, includes an insurer providing annuity products.

(4) "Recommendation" means advice provided by an insurance producer or by an insurer when an insurance producer is not involved to an individual consumer that results in a purchase or exchange of an annuity in accordance with that advice.

Section 5. Duties of insurers, insurance producers, and independent agencies. (1) In recommending to a consumer the purchase of an annuity or the exchange of an annuity that results in another insurance transaction or series of insurance transactions, the insurance producer or the insurer when an insurance producer is not involved must have reasonable grounds for believing that the recommendation is suitable for the consumer on the basis of the facts disclosed by the consumer as to the consumer's investments, other insurance products, financial situation, and needs.

(2) Prior to the execution of a purchase or exchange of an annuity resulting from a recommendation, an insurance producer or an insurer when an insurance producer is not involved shall make reasonable efforts to obtain information concerning:

(a) the consumer's financial status;

(b) the consumer's tax status;

(c) the consumer's investment objectives; and

(d) other information used or considered reasonable in making recommendations to the consumer by the insurance producer or by the insurer when an insurance producer is not involved.

(3) (a) Except as provided under subsection (3)(b), an insurance producer or an insurer when an insurance producer is not involved does not have any obligation to a consumer under subsection (1) related to any recommendation if a consumer:

(i) refuses to provide relevant information requested by the insurer or insurance producer;

(ii) decides to enter into an insurance transaction that is not based on a recommendation of the insurer or insurance producer; or

(iii) fails to provide complete or accurate information.

(b) Subject to subsection (1), an insurer's or insurance producer's recommendation must be reasonable under all the circumstances actually known to the insurer or insurance producer at the time of the recommendation.

(4) (a) An insurer may contract with a third party as provided in subsection (6) to establish and maintain a system to supervise recommendations that is reasonably designed to achieve compliance with this section.

(b) A system designed and maintained by an insurer must at a minimum provide for:

(i) maintaining written procedures; and

(ii) conducting periodic reviews of the insurer's records that are reasonably designed to assist in detecting and preventing violations of [sections 1 through 6].

(5) An insurance producer or independent agency shall:

(a) adopt a system established by an insurer to supervise recommendations of the insurance producer or agency's insurance producers that is reasonably designed to achieve compliance with [sections 1 through 6]; or

(b) establish and maintain a system that at a minimum provides for:

(i) maintaining written procedures; and

(ii) conducting periodic reviews of records that are reasonably designed to assist in detecting and preventing violations of [sections 1 through 6].

(6) (a) An insurer may contract with a third party, including an insurance producer or independent agency, to establish and maintain a system of supervision as provided for in subsection (4) with respect to insurance producers under contract with or employed by the third party.

(b) An insurer shall make reasonable inquiry to ensure that the third party is performing the functions required under subsection (4) and shall take reasonable action under the circumstances to enforce the third party's contractual obligations to perform the functions.

(c) An insurer may comply with its obligation to make reasonable inquiry by doing each of the following:

(i) annually obtaining a certification from a director, officer, or principal of the third party that the third party is performing the required functions; and

(ii) based on reasonable selection criteria, periodically selecting third parties for a review to determine whether the third parties are performing the required functions.

(7) An insurer, insurance producer, or independent agency is not required by this section to:

(a) review or provide for review of insurance producer solicited transactions not related to annuities; or

(b) include in its system of supervision an insurance producer's recommendations to consumers of products other than the annuities offered by the insurer, insurance producer, or independent agency.

(8) An insurance producer or independent agency contracting as a third party with an insurer pursuant to subsection (6) shall promptly, when requested by the insurer, give a certification as described in subsection (6) or give a clear statement that it is unable to meet the certification criteria.

(9) (a) Insurers, insurance producers, and independent agencies shall maintain or must be able to make available to the commissioner records of the information collected from the consumer and other information used in making the recommendations that were the basis for insurance transactions for 5 years after the insurance transaction is completed by the insurer. An insurer is permitted, but is not required, to maintain documentation on behalf of an insurance producer.

(b) Records required to be maintained by this regulation may be maintained in paper, photographic, microprocess, magnetic, mechanical, or electronic media or by any process that accurately reproduces the actual document.

Section 6. Mitigation of responsibility. (1) The commissioner may order:

(a) an insurer or insurance producer to take reasonably appropriate corrective action for any consumer harmed by the insurer's or insurance producer's violation of [sections 1 through 6]; or

(b) an insurance producer or independent agency that employs or contracts with another insurance producer to sell or solicit the sale of annuities to consumers to take reasonably appropriate corrective action for any consumer harmed by the other insurance producer's violation of [sections 1 through 6].

(2) A violation of [sections 1 through 6] is an unfair trade practice under Title 33, chapter 18. Fines may be imposed pursuant to 33-1-317.

Section 7. Short title. [Sections 7 through 13] may be referred to as the "Montana Annuity Disclosure Act".

Section 8. Purpose. The purpose of [sections 7 through 13] is to provide standards for the disclosure of certain minimum information about annuity contracts to protect consumers and to foster consumer education. [Sections 7 through 13] specify the minimum information that must be disclosed and the method for disclosing the information in connection with the sale of annuity contracts. The goal of [sections 7 through 13] is to ensure that purchasers of annuity contracts understand certain basic features of annuity contracts.

Section 9. Applicability. (1) [Sections 7 through 13] apply to all group and individual annuity contracts and certificates except:

(a) registered or nonregistered variable annuities or other registered products;

(b) immediate and deferred annuities that do not contain nonguaranteed elements;

(c) structured settlement annuities; and

(d) as provided in subsection (2), annuities used to fund:

(i) an employee pension plan that is covered by the Employee Retirement Income Security Act of 1974, 29 U.S.C. 1001, et seq.;

(ii) a plan described by section 401(a), 401(k), or 403(b) of the Internal Revenue Code, 26 U.S.C. 401(a), 401(k), or 403(b), when the plan, for purposes of the Employment Retirement Income Security Act of 1974, is established or maintained by an employer;

(iii) a governmental plan or church plan defined in section 414 of the Internal Revenue Code, 26 U.S.C. 414, or a deferred compensation plan of a state or local government or a tax-exempt organization under section 457 of the Internal Revenue Code, 26 U.S.C. 457; or

(iv) a nonqualified deferred compensation arrangement established or maintained by an employer or plan sponsor.

(2) (a) The provisions of [sections 7 through 13] apply to annuities used to fund a plan or arrangement when:

(i) the plan or arrangement is funded solely by contributions that an employee elects to make whether on a pretax or after-tax basis;

(ii) the insurer has been notified that plan participants may choose from among two or more fixed annuity providers; and

(iii) there is a direct solicitation of an individual employee by an insurance producer for the purchase of an annuity contract.

(b) As used in this subsection (2), direct solicitation does not include any meeting held by an insurance producer solely for the purpose of educating or enrolling employees in the plan or arrangement.

Section 10. Definitions. As used in [sections 7 through 13], the following definitions apply:

(1) "Contract owner" means the owner named in the annuity contract or a certificate holder in the case of a group annuity contract.

(2) (a) "Determinable elements" means elements that are derived from processes or methods that are guaranteed at issue and are not subject to insurer discretion, but where the values or amounts cannot be determined until some point after issue.

(b) The term includes premiums, credited interest rates (including any bonus), benefits, values, noninterest-based credits, and charges or elements of formulas used to determine any of these items.

(c) Determinable elements may be described as guaranteed but not determined at issue.

(d) An element is considered determinable if it was calculated from underlying determinable elements only or from both determinable and guaranteed elements.

(3) "Generic name" means a short title descriptive of the annuity contract being applied for, such as "single premium deferred annuity".

(4) "Guaranteed elements" means the premiums, credited interest rates (including any bonus), benefits, values, noninterest-based credits, and charges or elements of formulas used to determine any of these items that are guaranteed and determined at issue. An element is considered guaranteed if all of the underlying elements that go into its calculation are guaranteed.

(5) "Nonguaranteed elements" means the premiums, credited interest rates (including any bonus), benefits, values, noninterest-based credits, and charges or elements of formulas used to determine any of these items that are subject to

insurer discretion and are not guaranteed at issue. An element is considered nonguaranteed if any of the underlying nonguaranteed elements are used in its calculation.

(6) "Structured settlement annuity" means a qualified funding asset as defined in section 130(d) of the Internal Revenue Code, 26 U.S.C. 130(d), or an annuity that would be a qualified funding asset under section 130(d) except that it is not owned by an assignee under a qualified assignment.

Section 11. Standards for disclosure document and buyer's guide. (1) When the application for an annuity contract is taken in a face-to-face meeting, the applicant must be given, at or before the time of application, both the disclosure document and the buyer's guide.

(2) (a) When the application for an annuity contract is taken by means other than in a face-to-face meeting, the applicant must be sent both the disclosure document and the buyer's guide not later than 5 business days after the completed application is received by the insurer.

(b) When an application is received as a result of a direct solicitation through the mail, providing a disclosure document and a buyer's guide in the mailing inviting prospective applicants to apply for an annuity contract satisfies the requirement that the disclosure document and buyer's guide be provided not later than 5 business days after receipt of the application.

(c) When an application is received over the internet, taking reasonable steps to make the disclosure document and buyer's guide available for viewing and printing on the insurer's website satisfies the requirement that the disclosure document and the buyer's guide be provided not later than 5 business days of receipt of the application.

(d) A solicitation for an annuity contract provided in other than a face-to-face meeting must include a statement that the proposed applicant may contact the commissioner's office for a free annuity buyer's guide, or an insurer may include a statement that the prospective applicant may contact the insurer for a free annuity buyer's guide.

(3) When the disclosure document and buyer's guide are not provided at or before the time of application, a free-look period of not less than 15 days must be provided for the applicant to return the annuity contract without penalty. This free-look period must run concurrently with any other free-look period provided under state law.

(4) At a minimum, the following information must be included in the disclosure document:

(a) the generic name of the contract, the company product name, if different, the form number, and the fact that it is an annuity;

(b) the insurer's name and address;

(c) a description of the contract and its benefits, emphasizing its long-term nature, including when appropriate:

(i) the guaranteed elements, nonguaranteed elements, and determinable elements of the contract and their limitations, if any, and an explanation of how the elements operate;

(ii) an explanation of the initial crediting rate, specifying any bonus or introductory portion, the duration of the rate, and the fact that rates may change from time to time and are not guaranteed;

(iii) periodic income options both on a guaranteed and nonguaranteed basis;

(iv) any value reductions caused by withdrawals from or surrender of the contract;

(v) how values in the contract can be accessed;

(vi) the death benefit, if one is available, and how it will be calculated;

(vii) a summary of the federal tax status of the contract and any penalties applicable on withdrawal of values from the contract; and

(viii) impact of any rider, such as a long-term care rider;

(d) specific dollar amount or percentage charges and fees with an explanation of how they apply; and

(e) information about the current guaranteed rate for new contracts that contains a clear notice that the rate is subject to change.

(5) Insurers shall define terms used in the disclosure statement in language that facilitates the understanding by a typical person within the segment of the public to which the disclosure statement is directed.

Section 12. Report to contract owners. (1) For annuities in the payout period with changes in nonguaranteed elements and for the accumulation period of a deferred annuity, the insurer shall provide each contract owner with a report, at least annually, on the status of the contract.

(2) The report must contain at least the following information:

(a) the beginning and ending date of the current report period;

(b) the accumulation and cash surrender value, if any, at the end of the previous report period and at the end of the current report period;

(c) the total amounts, if any, that have been credited, charged to the contract value, or paid during the current report period; and

(d) the amount of outstanding loans, if any, as of the end of the current report period.

Section 13. Penalties. In addition to any other penalties provided in Title 33, an insurer or insurance producer that violates a provision of [sections 7 through 13] also violates 33-18-102.

Section 14. Applicability. [This act] applies to all group and individual annuity contracts and certificates subject to the provisions of [sections 1 through 13] sold on or after [the effective date of this act].

Section 15. Codification instruction. [Sections 1 through 13] are intended to be codified as an integral part of Title 33, chapter 20, and the provisions of Title 33, chapter 20, apply to [sections 1 through 13].

Approved May 8, 2007

CHAPTER NO. 477

[SB 538]

AN ACT ESTABLISHING A BILL OF RIGHTS DAY FOR THE STATE OF MONTANA.

WHEREAS, the Bill of Rights, the first 10 amendments to the U.S. Constitution, limits the powers of the federal government and reserves the

remaining powers to the states and the people, and also protects the rights of all citizens to freedom of speech, freedom of the press, freedom of assembly, freedom of religious worship, freedom of petition, and freedom to keep and bear arms; and

WHEREAS, the Bill of Rights furthermore provides equal security to all who carry the noble title of citizen through protection from unreasonable search and seizure, cruel and unusual punishment, and self-incrimination and guarantees a trial by jury and due process in a court of law; and

WHEREAS, all Montanans know and cherish these liberties and understand them to be the foundation of the social contract and the correlating responsibilities inherent as members of the citizenry.

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

Section 1. Bill of rights day. There is established a bill of rights day for the state of Montana. The bill of rights day is December 15 of each year to commemorate the day in 1791 in which three-fourths of the states ratified the bill of rights as part of the U.S. constitution.

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

Approved May 8, 2007

CHAPTER NO. 478

[SB 549]

AN ACT REVISING THE METHOD FOR CLASSIFYING LAND AS AGRICULTURAL FOR PROPERTY TAX PURPOSES; REQUIRING A MINIMUM DOLLAR AMOUNT OF GROSS INCOME FROM AGRICULTURAL PRODUCTION TO QUALIFY AS CLASS THREE AGRICULTURAL LAND; PROVIDING THAT THE MINIMUM DOLLAR AMOUNT FOR GRAZING LAND BE DETERMINED BY AN ANIMAL UNIT MONTH COMPUTATION DETERMINED BY MONTANA STATE UNIVERSITY-BOZEMAN; AMENDING SECTION 15-7-202, 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 15-7-202, MCA, is amended to read:

"15-7-202. Eligibility of land for valuation as agricultural. (1) (a) Contiguous parcels of land totaling 160 acres or more under one ownership are eligible for valuation, assessment, and taxation as agricultural land each year that none of the parcels is devoted to a residential, commercial, or industrial use.

(b) (i) Contiguous parcels of land of 20 acres or more but less than 160 acres under one ownership *that are actively devoted to agricultural use* are eligible for valuation, assessment, and taxation as agricultural land if*:*

(A) the land is used primarily for raising and marketing, as defined in subsection (1)(c), products that meet the definition of agricultural in 15-1-101~~. A parcel of land is presumed to be used primarily for raising agricultural products if~~ *and if, except as provided in subsection (3),* the owner or the owner's immediate family members, agent, employee, or lessee markets not less than $1,500 in

annual gross income from the raising of agricultural products produced by the land. ~~The owner of land that is not presumed to be agricultural land shall verify to the department that the land is used primarily for raising and marketing agricultural products.~~*; or*

(B) the parcels would have met the qualification set out in subsection (1)(b)(i)(A) were it not for independent, intervening causes of production failure beyond the control of the producer or a marketing delay for economic advantage, in which case proof of qualification in a prior year will suffice.

(ii) Noncontiguous parcels of land that meet the income requirement of subsection (1)(b)(i) are eligible for valuation, assessment, and taxation as agricultural land under subsection (1)(b)(i) if:

(A) the land is an integral part of a bona fide agricultural operation undertaken by the persons set forth in subsection (1)(b)(i) as defined in this section; and

(B) the land is not devoted to a residential, commercial, or industrial use.

(iii) Parcels of land of 20 acres or more but less than 160 acres that do not meet the income requirement of subsection (1)(b)(i) may also be valued, assessed, and taxed as agricultural land if the owner:

(A) applies to the department requesting classification of the parcel as agricultural;

(B) verifies that the parcel of land is greater than 20 acres but less than 160 acres and that the parcel is located within 15 air miles of the family-operated farming entity referred to in subsection (1)(b)(iii)(C); and

(C) verifies that:

(I) the owner of the parcel is involved in agricultural production by submitting proof that 51% or more of the owner's Montana annual gross income is derived from agricultural production; and

(II) property taxes on the property are paid by a family corporation, family partnership, sole proprietorship, or family trust that is involved in Montana agricultural production and 51% of the entity's Montana annual gross income is derived from agricultural production; or

(III) the owner is a shareholder, partner, owner, or member of the family corporation, family partnership, sole proprietorship, or family trust that is involved in Montana agricultural production and 51% of the person's or entity's Montana annual gross income is derived from agricultural production.

(c) For the purposes of this subsection (1):

(i) "marketing" means the selling of agricultural products produced by the land and includes but is not limited to:

(A) rental or lease of the land as long as the land is actively used for grazing livestock or for other agricultural purposes; and

(B) rental payments made under the federal conservation reserve program or a successor to that program;

(ii) land that is devoted to residential use or that is used for agricultural buildings and is included in or is contiguous to land under the same ownership that is classified as agricultural land, other than nonqualified agricultural land described in 15-6-133(1)(c), must be classified as agricultural land, and the land must be valued as provided in 15-7-206.

(2) Contiguous or noncontiguous parcels of land totaling less than 20 acres under one ownership that are actively devoted to agricultural use are eligible for valuation, assessment, and taxation as agricultural each year that the parcels meet any of the following qualifications:

(a) *except as provided in subsection (3),* the parcels produce and the owner or the owner's agent, employee, or lessee markets not less than $1,500 in annual gross income from the raising of agricultural products as defined in 15-1-101; or

(b) the parcels would have met the qualification set out in subsection (2)(a) were it not for independent, intervening causes of production failure beyond the control of the producer or marketing delay for economic advantage, in which case proof of qualification in a prior year will suffice.

(3) For grazing land to be eligible for classification as agricultural land under subsections (1)(b) and (2), the land must be capable of sustaining a minimum number of animal unit months of carrying capacity. The minimum number of animal unit months of carrying capacity must equate to $1,500 in annual gross income as determined by the Montana state university-Bozeman department of agricultural economics and economics.

~~(3)~~*(4)* Parcels that do not meet the qualifications set out in subsections (1) and (2) may not be classified or valued as agricultural if they are part of a platted subdivision that is filed with the county clerk and recorder in compliance with the Montana Subdivision and Platting Act.

~~(4)~~*(5)* Land may not be classified or valued as agricultural land or nonqualified agricultural land if it has stated covenants or other restrictions that effectively prohibit its use for agricultural purposes.

~~(5)~~*(6)* The grazing on land by a horse or other animals kept as a hobby and not as a part of a bona fide agricultural enterprise is not considered a bona fide agricultural operation.

~~(6)~~*(7)* The department may not classify land less than 160 acres as agricultural unless the owner has applied to have land classified as agricultural land. Land of 20 acres or more but less than 160 acres for which no application for agricultural classification has been made is valued as provided in 15-6-133(1)(c) and is taxed as provided in 15-6-133(3). If land has been valued, assessed, and taxed as agricultural land in any year, it must continue to be valued, assessed, and taxed as agricultural until the department reclassifies the property. A reclassification does not mean revaluation pursuant to 15-7-111.

~~(7)~~*(8)* For the purposes of this part, growing timber is not an agricultural use."

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, 2006.

Approved May 8, 2007

CHAPTER NO. 479

[SB 489]

AN ACT SUBMITTING TO THE QUALIFIED ELECTORS OF MONTANA AN AMENDMENT TO ARTICLE VIII, SECTION 13, OF THE MONTANA CONSTITUTION TO ALLOW UP TO 25 PERCENT OF CERTAIN PUBLIC

FUNDS TO BE INVESTED IN PRIVATE CORPORATE CAPITAL STOCK; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

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

Section 1. Article VIII, section 13, of The Constitution of the State of Montana is amended to read:

"Section 13. Investment of public funds and public retirement system and state compensation insurance fund assets. (1) The legislature shall provide for a unified investment program for public funds and public retirement system and state compensation insurance fund assets and provide rules therefor, including supervision of investment of surplus funds of all counties, cities, towns, and other local governmental entities. Each fund forming a part of the unified investment program shall be separately identified. Except as provided in subsections (3) and (4), ~~no public~~ *up to 25 percent of public* funds ~~shall~~ *may* be invested in private corporate capital stock *in the same manner that a prudent expert acting in a fiduciary capacity and familiar with the circumstances would use*. The investment program shall be audited at least annually and a report thereof submitted to the governor and legislature.

(2) The public school fund and the permanent funds of the Montana university system and all other state institutions of learning shall be safely and conservatively invested in:

(a) Public securities of the state, its subdivisions, local government units, and districts within the state, or

(b) Bonds of the United States or other securities fully guaranteed as to principal and interest by the United States, or

(c) Such other safe investments ~~bearing a fixed rate of interest as may be provided by law.~~ *that a prudent expert acting in a fiduciary capacity and familiar with the circumstances would use in investing a fund guaranteed against loss or diversion.*

(3) Investment of public retirement system assets shall be managed in a fiduciary capacity in the same manner that a prudent expert acting in a fiduciary capacity and familiar with the circumstances would use in the conduct of an enterprise of a similar character with similar aims. Public retirement system assets may be invested in private corporate capital stock*, and the restrictions in subsection (1) on the percentage that may be invested in private capital stock do not apply*.

(4) Investment of state compensation insurance fund assets shall be managed in a fiduciary capacity in the same manner that a prudent expert acting in a fiduciary capacity and familiar with the circumstances would use in the conduct of a private insurance organization. State compensation insurance fund assets may be invested in private corporate capital stock. However, the stock investments shall not exceed 25 percent of the book value of the state compensation insurance fund's total invested assets."

Section 2. Effective date. This amendment is effective upon approval by the electorate.

Section 3. Submission to electorate. This amendment shall be submitted to the qualified electors of Montana at the general election to be held in November 2008 by printing on the ballot the full title of this act and the following:

☐ FOR allowing up to 25% of all public funds presently restricted to fixed income investments to be invested in private corporate capital stock.

☐ AGAINST allowing up to 25% of all public funds presently restricted to fixed income investments to be invested in private corporate capital stock.

CHAPTER NO. 480

[HB 683]

AN ACT PROVIDING THAT A FULL GUARDIAN MAY NOT CONSENT TO THE WITHHOLDING OR WITHDRAWAL OF LIFE SUSTAINING TREATMENT OR TO A DO NOT RESUSCITATE ORDER IF THE GUARDIAN DOES NOT HAVE CONSENT AUTHORITY PURSUANT TO THE MONTANA RIGHTS OF THE TERMINALLY ILL ACT, THE LAWS PROVIDING FOR DO NOT RESUSCITATE ORDERS, OR A COURT ORDER; AND AMENDING SECTIONS 50-9-106 AND 72-5-321, MCA.

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

Section 1. Section 50-9-106, MCA, is amended to read:

"50-9-106. Consent by others to withholding or withdrawal of treatment. (1) If a written consent to the withholding or withdrawal of the treatment, witnessed by two individuals, is given to the attending physician or attending advanced practice registered nurse, the attending physician or attending advanced practice registered nurse may withhold or withdraw life-sustaining treatment from an individual who:

(a) has been determined by the attending physician or attending advanced practice registered nurse to be in a terminal condition and no longer able to make decisions regarding administration of life-sustaining treatment; and

(b) has no effective declaration.

(2) The authority to consent or to withhold consent under subsection (1) may be exercised by the following individuals, in order of priority:

(a) the spouse of the individual;

(b) an adult child of the individual or, if there is more than one adult child, a majority of the adult children who are reasonably available for consultation;

(c) the parents of the individual;

(d) an adult sibling of the individual or, if there is more than one adult sibling, a majority of the adult siblings who are reasonably available for consultation; or

(e) the nearest other adult relative of the individual by blood or adoption who is reasonably available for consultation.

(3) A full guardian may consent or withhold consent under subsection (1) as provided in 72-5-321.

~~(3)~~*(4)* If a class entitled to decide whether to consent is not reasonably available for consultation and competent to decide or if it declines to decide, the next class is authorized to decide. However, an equal division in a class does not authorize the next class to decide.

~~(4)~~*(5)* A decision to grant or withhold consent must be made in good faith. A consent is not valid if it conflicts with the expressed intention of the individual.

~~(5)~~*(6)* A decision of the attending physician or attending advanced practice registered nurse acting in good faith that a consent is valid or invalid is conclusive.

~~(6)~~*(7)* Life-sustaining treatment cannot be withheld or withdrawn pursuant to this section from an individual known to the attending physician or attending advanced practice registered nurse to be pregnant so long as it is probable that the fetus will develop to the point of live birth with continued application of life-sustaining treatment."

Section 2. Section 72-5-321, MCA, is amended to read:

"72-5-321. Powers and duties of guardian of incapacitated person. (1) The powers and duties of a limited guardian are those specified in the order appointing the guardian. The limited guardian is required to report the condition of the incapacitated person and of the estate that has been subject to the guardian's possession and control, as required by the court or by court rule.

(2) A full guardian of an incapacitated person has the same powers, rights, and duties respecting the ward that a parent has respecting an unemancipated minor child, except that a guardian is not liable to third persons for acts of the ward solely by reason of the parental relationship. In particular and without qualifying the foregoing, a full guardian has the following powers and duties, except as limited by order of the court:

(a) To the extent that it is consistent with the terms of any order by a court of competent jurisdiction relating to detention or commitment of the ward, the full guardian is entitled to custody of the person of the ward and may establish the ward's place of residence within or outside of this state.

(b) If entitled to custody of the ward, the full guardian shall make provision for the care, comfort, and maintenance of the ward and whenever appropriate arrange for the ward's training and education. Without regard to custodial rights of the ward's person, the full guardian shall take reasonable care of the ward's clothing, furniture, vehicles, and other personal effects and commence protective proceedings if other property of the ward is in need of protection.

(c) A full guardian may give any consents or approvals that may be necessary to enable the ward to receive medical or other professional care, counsel, treatment, or service. *This subsection (2)(c) does not authorize a full guardian to consent to the withholding or withdrawal of life sustaining treatment or to a do not resuscitate order if the full guardian does not have authority to consent pursuant to the Montana Rights of the Terminally Ill Act, Title 50, chapter 9, or to the do not resuscitate provisions of Title 50, chapter 10. A full guardian may petition the court for authority to consent to the withholding or withdrawal of life-sustaining treatment or to a do not resuscitate order. The court may grant that authority only upon finding that consent to the withholding or withdrawal of life-sustaining treatment or the do not resuscitate order is consistent with the ward's wishes to the extent that those wishes can be determined.*

(d) If a conservator for the estate of the ward has not been appointed, a full guardian may:

(i) institute proceedings to compel any person under a duty to support the ward or to pay sums for the welfare of the ward to perform that person's duty;

(ii) receive money and tangible property deliverable to the ward and apply the money and property for support, care, and education of the ward. However, the full guardian may not use funds from the ward's estate for room and board that the full guardian, the full guardian's spouse, parent, or child has furnished the ward unless a charge for the service is approved by order of the court made upon notice to at least one of the next of kin of the incompetent ward, if notice is possible. The full guardian must exercise care to conserve any excess for the ward's needs.

(e) Unless waived by the court, a full guardian is required to report the condition of the ward and of the estate which has been subject to the full guardian's possession or control annually for the preceding year. A copy of the report must be served upon the ward's parent, child, or sibling if that person has made an effective request under 72-5-318.

(f) If a conservator has been appointed, all of the ward's estate received by the full guardian in excess of those funds expended to meet current expenses for support, care, and education of the ward must be paid to the conservator for management as provided in this chapter, and the full guardian must account to the conservator for funds expended.

(3) Upon failure, as determined by the clerk of court, of the guardian to file an annual report, the court shall order the guardian to file the report and give good cause for the guardian's failure to file a timely report.

(4) Any full guardian of one for whom a conservator also has been appointed shall control the custody and care of the ward. A limited guardian of a person for whom a conservator has been appointed shall control those aspects of the custody and care of the ward over which the limited guardian is given authority by the order establishing the limited guardianship. The full guardian or limited guardian is entitled to receive reasonable sums for the guardian's services and for room and board furnished to the ward as agreed upon between the guardian and the conservator, provided the amounts agreed upon are reasonable under the circumstances. The full guardian or limited guardian authorized to oversee the incapacitated person's care may request the conservator to expend the ward's estate by payment to third persons or institutions for the ward's care and maintenance.

(5) A full guardian or limited guardian may not involuntarily commit for mental health treatment or for treatment of a developmental disability or for observation or evaluation a ward who is unwilling or unable to give informed consent to commitment, except as provided in 72-5-322, unless the procedures for involuntary commitment set forth in Title 53, chapters 20 and 21, are followed. This chapter does not abrogate any of the rights of mentally disabled persons provided for in Title 53, chapters 20 and 21.

(6) Upon the death of a full guardian's or limited guardian's ward, the full guardian or limited guardian, upon an order of the court and if there is no personal representative authorized to do so, may make necessary arrangements for the removal, transportation, and final disposition of the ward's physical remains, including burial, entombment, or cremation, and for the receipt and disposition of the ward's clothing, furniture, and other personal effects that may be in the possession of the person in charge of the ward's care, comfort, and maintenance at the time of the ward's death."

Approved May 10, 2007

CHAPTER NO. 481

[SB 96]

AN ACT GENERALLY REVISING THE LAWS RELATING TO INITIATIVES AND REFERENDUMS; REVISING THE PROCEDURE FOR REVIEWING A PROPOSED BALLOT ISSUE; CHANGING THE ENTITY PREPARING BALLOT STATEMENTS FROM THE ATTORNEY GENERAL TO THE PETITIONER, WITH REVIEW BY THE LEGISLATIVE SERVICES DIVISION AND APPROVAL BY THE ATTORNEY GENERAL FOR INITIATED MEASURES AND PREPARATION BY THE ATTORNEY GENERAL FOR REFERRED MEASURES; REVISING THE ATTORNEY GENERAL'S PROCEDURE FOR REVIEWING PROPOSED BALLOT ISSUES FOR LEGAL SUFFICIENCY; PROVIDING THAT THE SUPREME COURT HAS ORIGINAL JURISDICTION TO HEAR CHALLENGES TO THE ATTORNEY GENERAL'S BALLOT STATEMENTS AND DETERMINATION OF LEGAL SUFFICIENCY; REQUIRING THE ATTORNEY GENERAL TO PREPARE A STATEMENT IF A PROPOSED BALLOT ISSUE CONFLICTS WITH ANOTHER PROPOSED BALLOT ISSUE; REQUIRING THE SECRETARY OF STATE TO PREPARE THE PETITION FORM FOR BALLOT ISSUES; PROVIDING THAT SIGNATURE GATHERERS MUST BE MONTANA RESIDENTS AND MAY NOT BE PAID BASED UPON THE NUMBER OF SIGNATURES GATHERED; ELIMINATING THE CERTIFICATION OF SIGNATURES BY A PERSON WHO ASSISTED IN GATHERING THE SIGNATURES; REQUIRING THAT FACTUAL STATEMENTS CONTAINED IN BALLOT STATEMENTS MUST BE SUPPORTED BY DOCUMENTS FILED WITH THE SECRETARY OF STATE; PROVIDING FOR CONSISTENT USE OF DEFINED TERMS; PROVIDING A PENALTY; AMENDING SECTIONS 3-2-202, 3-5-302, 13-1-101, 13-22-102, 13-27-102, 13-27-201, 13-27-202, 13-27-204, 13-27-205, 13-27-207, 13-27-208, 13-27-302, 13-27-312, 13-27-315, 13-27-316, 13-27-402, 13-27-403, 13-27-409, 13-27-501, 13-35-207, 13-37-210, 13-37-226, AND 13-37-228, MCA; REPEALING SECTIONS 13-27-310 AND 13-27-313, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

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

Section 1. Section 3-2-202, MCA, is amended to read:

"3-2-202. Original jurisdiction — ~~contest~~ *review* of ballot ~~issue~~ *statements*. (1) ~~Except as provided in subsection (3), in~~ *In* the exercise of its original jurisdiction, the supreme court has power to issue writs of mandamus, certiorari, prohibition, injunction, and habeas corpus.

(2) ~~It also~~ *The supreme court* has *the* power to issue all other writs necessary and proper to the complete exercise of its appellate jurisdiction.

~~(3) (a) Except as provided in subsection (3)(b), a contest of a ballot issue submitted by initiative or referendum may be brought prior to the election only if it is filed within 30 days after the date on which the issue was certified to the governor, as provided in 13-27-308, and only for the following causes:~~

~~(i) violation of the law relating to qualifications for inclusion on the ballot;~~

~~(ii) constitutional defect in the substance of a proposed ballot issue; or~~

~~(iii) illegal petition signatures or an erroneous or fraudulent count or canvass of petition signatures.~~

~~(b) A contest of a ballot issue based on subsection (3)(a)(i) or (3)(a)(iii) may be brought at any time after discovery of illegal petition signatures or an erroneous or fraudulent count or canvass of petition signatures.~~

(3) (a) The supreme court has original jurisdiction to review the petitioner's ballot statements for initiated measures and the attorney general's ballot statements for referred measures and the attorney general's legal sufficiency determination in an action brought pursuant to 13-27-316.

(b) (i) In an original proceeding under subsection (3)(a), the petitioner and the attorney general shall certify the absence of factual issues or shall stipulate to and file any factual record necessary to the supreme court's consideration of the petitioner's ballot statements or the attorney general's legal sufficiency determination.

(ii) If the parties to an original proceeding under subsection (3)(a) fail to make the certification or stipulation required by subsection (3)(b)(i), the supreme court shall refer the proceeding to the district court in the county of residence of the lead petitioner for development of a factual record and an order that addresses the issues provided in 13-27-316(3). Any party may appeal the order of the district court to the supreme court by filing a notice of appeal within 5 days of the date of the order of the district court. If a lead petitioner has not been designated in accordance with this section or if the parties to the proceeding agree, the proceeding must be referred to the district court for Lewis and Clark County.

(4) As used in this section, "lead petitioner" means an individual designated by the petitioner or petitioners on a form provided by the secretary of state.

~~(c)~~*(5)* Nothing in subsection (3) limits the right to challenge a ~~measure~~ *ballot issue* enacted by a vote of the people."

Section 2. Section 3-5-302, MCA, is amended to read:

"3-5-302. Original jurisdiction. (1) ~~Except as provided in subsection (6), the~~ *The* district court has original jurisdiction in:

(a) all criminal cases amounting to felony;

(b) all civil and probate matters;

(c) all cases at law and in equity;

(d) all cases of misdemeanor not otherwise provided for; and

(e) all ~~such~~ special actions and proceedings ~~as~~ *that* are not otherwise provided for.

(2) The district court has concurrent original jurisdiction with the justice's court in the following criminal cases amounting to misdemeanor:

(a) misdemeanors arising at the same time as and out of the same transaction as a felony or misdemeanor offense charged in district court;

(b) misdemeanors resulting from the reduction of a felony or misdemeanor offense charged in the district court; and

(c) misdemeanors resulting from a finding of a lesser included offense in a felony or misdemeanor case tried in district court.

(3) The district court has exclusive original jurisdiction in all civil actions that might result in a judgment against the state for the payment of money.

(4) The district court has the power of naturalization and of issuing papers ~~therefor~~ *for naturalization* in all cases where it is authorized to do so by the laws of the United States.

(5) The district court and its judges have power to issue, hear, and determine writs of mandamus, quo warranto, certiorari, prohibition, and injunction, other original remedial writs, and all writs of habeas corpus on petition by or on behalf of any person held in actual custody in their respective districts. Injunctions and writs of prohibition and habeas corpus may be issued and served on legal holidays and nonjudicial days.

~~(6) (a) Except as provided in subsection (6)(b), a contest of a ballot issue submitted by initiative or referendum may be brought prior to the election only if it is filed within 30 days after the date on which the issue was certified to the governor, as provided in 13-27-308, and only for the following causes:~~

~~(i) violation of the law relating to qualifications for inclusion on the ballot;~~

~~(ii) constitutional defect in the substance of a proposed ballot issue; or~~

~~(iii) illegal petition signatures or an erroneous or fraudulent count or canvass of petition signatures.~~

~~(b) A contest of a ballot issue based on subsection (6)(a)(i) or (6)(a)(iii) may be brought at any time after discovery of illegal petition signatures or an erroneous or fraudulent count or canvass of petition signatures.~~

~~(c) Nothing in subsection (6) limits the right to challenge a measure enacted by a vote of the people.~~"

Section 3. 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 who voted in the previous federal general election and whose name is on the active list.

(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) a paper ballot used with a paper-based system, such as an optical scan system or other technology that automatically tabulates votes cast by processing the paper ballots; or

(b) a nonpaper ballot, such as a ballot used with a nonpaper-based system, such as a lever machine, a direct recording electronic machine, or other technology.

(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; and

(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, 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 vote in the preceding federal general election and whose name was placed on an inactive list pursuant to 13-2-220.

(15) "Inactive list" means a list of inactive electors maintained pursuant to 13-2-220.

(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 ~~approval~~ *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) "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).

(20) "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.

(21) "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.

(22) "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.

(23) "Provisional ballot" means a ballot cast by an elector whose identity and eligibility to vote have not been verified as provided by law.

(24) "Provisionally registered elector" means an individual whose application for voter registration was accepted but whose eligibility has not yet been verified as provided by law.

(25) "Public office" means a state, county, municipal, school, or other district office that is filled by the people at an election.

(26) "Registrar" means the county election administrator and any regularly appointed deputy or assistant election administrator.

(27) "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.

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

(29) "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.

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

(31) "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 or nonpaper ballot."

Section 4. Section 13-22-102, MCA, is amended to read:

"13-22-102. Purpose and intent. The intent of the legislature is to establish a nonpartisan youth voting program that will:

(1) provide the youth of Montana with practical experience in the democratic process;

(2) increase the likelihood that Montana's youth will participate in the process as adult voters and encourage the participation of more parents in elections;

(3) not benefit any elected official, candidate for elective office, political party, campaign for or against any ballot issue, or any ~~measure~~ *proposed ballot issue* attempting to qualify for placement on a ballot; and

(4) be entirely funded through private donations."

Section 5. Section 13-27-102, MCA, is amended to read:

"13-27-102. Who may petition *and gather signatures.* *(1)* A petition for the initiative, the referendum, or to call a constitutional convention may be signed only by a qualified elector of the state of Montana.

(2) A person gathering signatures for the initiative, the referendum, or to call a constitutional convention:

(a) must be a resident, as provided in 1-1-215, of the state of Montana; and

(b) may not be paid anything of value based upon the number of signatures gathered."

Section 6. Section 13-27-201, MCA, is amended to read:

"13-27-201. Form of petition generally. (1) A petition for the initiative, for the referendum, or to call a constitutional convention must be substantially in the form provided by this chapter. Clerical or technical errors that do not interfere with the ability to judge the sufficiency of signatures on the petition do not render a petition void.

(2) Petition sheets may not exceed 8 1/2 x 14 inches in size. Separate sheets of a petition may be fastened in sections of not more than 25 sheets. Near the top of each sheet containing signature lines must be printed the title of the statute or constitutional amendment proposed or the ~~measure~~ *issue* to be referred or a statement that the petition is for the purpose of calling a constitutional convention. If signature lines are printed on both the front and back of a petition sheet, the information required above must appear on both the front and back of the sheet. The complete text of the ~~measure~~ *issue* proposed or referred must be attached to or contained within each signature sheet if sheets are circulated separately. The text of the ~~measure~~ *issue* must be in the bill form provided in the most recent ~~issue~~ *edition* of the bill drafting manual furnished by the legislative services division. If sheets are circulated in sections, the complete text of the ~~measure~~ *issue* must be attached to each section.

(3) An internet posting of petition language must include a statement that the petition language and format may not be modified. An internet posting must include an affidavit in substantially the same form as prescribed by the secretary of state pursuant to 13-27-302."

Section 7. Section 13-27-202, MCA, is amended to read:

"13-27-202. Recommendations — approval of form required. ~~(1) Before submission of a sample sheet to the secretary of state pursuant to subsection (3), the following requirements must be fulfilled:~~

~~(a) The text of the proposed measure must be submitted to the legislative services division for review.~~

(1) A proponent of a ballot issue shall submit the text of the proposed issue to the secretary of state together with draft ballot statements intended to comply with 13-27-312. Petitions may not be circulated for the purpose of signature gathering more than 1 year prior to the final date for filing the signed petition with the county election administrator. The secretary of state shall forward a copy of the text of the proposed issue and statements to the legislative services division for review.

~~(b)~~*(2) (a)* The legislative services division staff shall review the text *and statements* for clarity, consistency, *and conformity with the most recent edition of the bill drafting manual furnished by the legislative services division, the requirements of 13-27-312,* and any other factors that the staff considers when drafting proposed legislation.

~~(c)~~*(b)* Within 14 days after submission of the text *and statements*, the legislative services division staff shall ~~make~~ *recommend in writing* to the ~~person submitting the text written recommendations for changes in~~ *proponent revisions to* the text *and revisions to the statements to make them consistent with any recommendations for change to the text and the requirements of 13-27-312* or ~~a statement~~ *state* that no ~~changes~~ *revisions* are recommended.

~~(d)~~*(c)* The ~~person submitting the text~~ *proponent* shall consider the recommendations and respond in writing to the legislative services division, accepting, rejecting, or modifying each of the recommended ~~changes~~ *revisions*. If ~~no changes~~ *revisions* are *not* recommended, ~~no~~ *a* response is *not* required.

~~(2)~~*(3)* The legislative services division shall furnish a copy of the correspondence provided for in subsection ~~(1)~~ *(2)* to the secretary of state, who shall make a copy of the correspondence available to any person upon request.

~~(3)~~*(4)* Before a petition may be circulated for signatures, ~~a sample sheet containing~~ the *final* text of the proposed ~~measure~~ *issue and ballot statements* must be submitted to the secretary of state ~~in the form in which it will be circulated~~. ~~The sample petition may not be submitted to the secretary of state more than 1 year prior to the final date for filing the signed petition with the county election administrator.~~ *The secretary of state shall reject the proposed issue if the text or a ballot statement contains material not submitted to the legislative services division that is a substantive change not recommended by the legislative services division.* ~~The~~ *If accepted, the* secretary of state shall refer a copy of the ~~petition sheet~~ *proposed issue and statements* to the attorney general for ~~approval~~ *a determination as to the legal sufficiency of the issue and for approval of the petitioner's ballot statements and for a determination pursuant to 13-27-312 whether a fiscal note is necessary*. ~~The secretary of state and attorney general shall each review the petition for sufficiency as to form and approve or reject the form of the petition, stating the reasons for rejection, if any. The attorney general shall also review the petition as to its legal sufficiency. If the attorney general determines that the petition is legally deficient, the attorney general shall notify the secretary of state of that fact and provide a copy of the determination to the secretary of state and to the petitioner within the time provided in 13-27-312(8). The petition may not be given final approval by the secretary of state unless the attorney general's determination is overruled pursuant to 13-27-316. As used in this section, "legal sufficiency" means that the petition complies with the statutory prerequisites to submission of the proposed measure to the electors and that the text of the proposed measure complies with constitutional requirements governing submission of ballot measures to the electorate. Review of a petition for legal sufficiency does not include consideration of the merits or application of the measure if adopted by the voters. The secretary of state or the attorney general may not reject the petition solely because the text contains material not submitted to the legislative services division unless the material not submitted to the legislative services division is a substantive change not suggested by the legislative services division.~~

~~(4)~~*(5)* (a) The secretary of state shall review the ~~comments~~ *legal sufficiency opinion* and *ballot* statements of the ~~attorney general~~ *petitioner, as approved by the attorney general and* received pursuant to 13-27-312 ~~and make a final decision as to the approval or rejection of the petition~~.

(b) If the attorney general approves the proposed issue, the secretary of state shall immediately send to the person submitting the proposed issue a sample petition form, including the text of the proposed issue, the statement of purpose, and the statements of implication, as prepared by the petitioner, reviewed by the legislative services division, and approved by the attorney general and in the form provided by this part. A signature gatherer may circulate the petition only in the form of the sample prepared by the secretary of state. The secretary of state shall immediately provide a copy of the sample petition form to any interested parties who have made a request to be informed of an approved petition.

~~(b)~~*(c)* ~~The~~ *If the attorney general rejects the proposed issue, the* secretary of state shall send written notice to the person who submitted the ~~petition sheet~~ *proposed issue* of the ~~approval or~~ rejection, ~~of the form of the petition within 28~~

~~days after submission of the petition sheet~~ *including the attorney general's legal sufficiency opinion*.

~~(c)~~*(d)* If an action is filed challenging the validity of the petition, the secretary of state shall immediately notify the person who submitted the ~~petition sheet~~ *proposed issue*.

~~(5) A petition with technical defects in form may be approved with the condition that those defects will be corrected before the petition is circulated for signatures.~~

~~(6) The secretary of state shall upon request provide the person submitting the petition with a sample petition form, including the text of the proposed measure, the statement of purpose, and the statements of implication, all as approved by the secretary of state and the attorney general. The petition may be circulated by a signature gatherer in the form of the sample prepared by the secretary of state. The petition may be circulated by a signature gatherer upon approval of the form of the petition by the secretary of state and the attorney general pending a final determination of its legal sufficiency.~~"

Section 8. Section 13-27-204, MCA, is amended to read:

"13-27-204. Petition for initiative. (1) The following is substantially the form for a petition calling for a vote to enact a law by initiative:

PETITION TO PLACE INITIATIVE NO.____
ON THE ELECTION BALLOT

(a) If 5% of the voters in each of one-half of the counties sign this petition and the total number of voters signing this petition is _____, this ~~measure~~ *initiative* will appear on the next general election ballot. If a majority of voters vote for this ~~measure~~ *initiative* at that election, it will become law.

(b) We, the undersigned Montana voters, propose that the secretary of state place the following ~~measure~~ *initiative* on the _____, 20__, general election ballot:

(Title of ~~measure~~ *initiative* written pursuant to 13-27-312)

(Statement of implication written pursuant to 13-27-312)

(c) Voters are urged to read the complete text of the ~~measure~~ *initiative*, which appears (on the reverse side of, attached to, etc., as applicable) this sheet. A signature on this petition is only to put the ~~measure~~ *initiative* on the ballot and does not necessarily mean the signer agrees with the ~~measure~~ *initiative*.

(d)

WARNING

A person who purposefully signs a name other than the person's own to this petition, who signs more than once for the same issue at one election, or who signs when not a legally registered Montana voter is subject to a $500 fine, 6 months in jail, or both.

(e) Each person is required to sign the person's name and list the person's address or telephone number in substantially the same manner as on the person's voter registration card or the signature will not be counted.

(2) Numbered lines must follow the heading. Each numbered line must contain spaces for the signature, *date,* residence address, county of residence, and printed last name and first and middle initials of the signer. In place of a residence address, the signer may provide the signer's post-office address or the

signer's home telephone number. An address provided on a petition by the signer that differs from the signer's address as shown on the signer's voter registration card may not be used as the only means to disqualify the signature of that petition signer."

Section 9. Section 13-27-205, MCA, is amended to read:

"13-27-205. Petition for referendum. (1) The following is substantially the form for a petition calling for approval or rejection of an act of the legislature by the referendum:

PETITION TO PLACE REFERENDUM NO.____
ON THE ELECTION BALLOT

(a) If 5% of the voters in each of 34 legislative representative districts sign this petition and the total number of voters signing the petition is ____, Senate (House) Bill Number ____ will appear on the next general election ballot. If a majority of voters vote for this ~~measure~~ *referendum* at that election it will become law.

(b) We, the undersigned Montana voters, propose that the secretary of state place the following Senate (House) Bill Number ____, passed by the legislature on _____ on the next general election ballot:

(Title of referendum written pursuant to 13-27-312)

(Statement of implication written pursuant to 13-27-312)

(c) Voters are urged to read the complete text of the ~~measure~~ *referendum*, which appears (on the reverse side of, attached to, etc., as applicable) this sheet. A signature on this petition is only to put the ~~measure~~ *referendum* on the ballot and does not necessarily mean the signer agrees with the ~~measure~~ *referendum*.

(d)

WARNING

A person who purposefully signs a name other than the person's own to this petition, ~~or~~ who signs more than once for the same issue at one election, or signs when not a legally registered Montana voter is subject to a $500 fine, 6 months in jail, or both.

(e) Each person ~~must~~ *is required to* sign the person's name and list the person's address or telephone number in substantially the same manner as on the person's voter ~~registry~~ *registration* card~~,~~ or the signature will not be counted.

(2) Numbered lines must follow the heading. Each numbered line must contain spaces for the signature, *date,* residence address, legislative representative district number, and printed last name and first and middle initials of the signer. In place of a residence address, the signer may provide the signer's post-office address or the signer's home telephone number. An address provided on a petition by the signer that differs from the signer's address as shown on the signer's voter registration card may not be used as the only means to disqualify the signature of that petition signer."

Section 10. Section 13-27-207, MCA, is amended to read:

"13-27-207. Petition for initiative for constitutional amendment. (1) The following is substantially the form for a petition for an initiative to amend the constitution:

PETITION TO PLACE CONSTITUTIONAL AMENDMENT NO.____
ON THE ELECTION BALLOT

(a) If 10% of the voters in each of one-half of the counties sign this petition and the total number of voters signing the petition is _____, this constitutional amendment will appear on the next general election ballot. If a majority of voters vote for this amendment at that election, it will become part of the constitution.

(b) We, the undersigned Montana voters, propose that the secretary of state place the following constitutional amendment on the _____, 20__, general election ballot:

(Title of the proposed constitutional amendment
written pursuant to 13-27-312)

(Statement of implication written pursuant to 13-27-312)

(c) Voters are urged to read the complete text of the ~~measure~~ *constitutional amendment*, which appears (on the reverse side of, attached to, etc., as applicable) this sheet. A signature on this petition is only to put the constitutional amendment on the ballot and does not necessarily mean the signer agrees with the amendment.

(d)

WARNING

A person who purposefully signs a name other than the person's own to this petition, who signs more than once for the same issue at one election, or who signs when not a legally registered Montana voter is subject to a $500 fine, 6 months in jail, or both.

(e) Each person is required to sign the person's name and list the person's address or telephone number in substantially the same manner as on the person's voter registration card or the signature will not be counted.

(2) Numbered lines must follow the heading. Each numbered line must contain spaces for the signature, *date,* residence address, county of residence, and printed last name and first and middle initials of the signer. In place of a residence address, the signer may provide the signer's post-office address or the signer's home telephone number. An address provided on a petition by the signer that differs from the signer's address as shown on the signer's voter registration card may not be used as the only means to disqualify the signature of that petition signer."

Section 11. Section 13-27-208, MCA, is amended to read:

"13-27-208. Petitions to be made available in each county election administrator's office. Upon final approval of ~~a petition~~ *a proposed ballot issue* as ~~required under 13-27-202(4)~~ *provided in 13-27-202*, the secretary of state shall forward a copy of the petition, along with signature sheets, to the election administrator of each county. The election administrator shall make a copy of each approved petition available for reading ~~and signing~~ in the administrator's office during business hours in an election year until the petitions are submitted under 13-27-301. The secretary of state may charge the person who submitted the ~~petition~~ *proposed ballot issue* a fee, which must be set and deposited in accordance with 2-15-405."

Section 12. Issues referred by legislature. The secretary of state shall transmit a copy of an act referred to the people or a constitutional amendment

proposed by the legislature to the attorney general no later than 6 months before the election at which the issue will be voted on by the people.

Section 13. Physical prevention of obtaining signatures or physical intimidation of signature gatherers prohibited. A person may not knowingly or purposefully physically prevent an individual from obtaining signatures or attempting to obtain signatures on a petition for a ballot issue or physically intimidate another individual when that individual is obtaining or attempting to obtain signatures on a petition for a ballot issue. A person who violates this section is guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than $500, by imprisonment for not more than 90 days, or by both a fine and imprisonment.

Section 14. Section 13-27-302, MCA, is amended to read:

"13-27-302. Certification of signatures. ~~An~~ *An* affidavit, in substantially the following form, must be attached to each sheet or section submitted to the county official:

I, (name of person who is the signature gatherer), swear that I gathered ~~or assisted in gathering~~ the signatures on the petition to which this affidavit is attached on the stated dates, that I believe the signatures on the petition are genuine, are the signatures of the persons whose names they purport to be, and are the signatures of Montana electors who are registered at the address or have the telephone number following the person's signature, and that the signers knew the contents of the petition before signing the petition.

_____

(date on which the first signature was gathered)

_____

(Signature of petition signature gatherer)

_____

(Address of petition signature gatherer)

Subscribed and sworn to before me this ___ day of _____, 20__

Seal _____

(Person authorized to take oaths)

_____

(Title or notarial information)"

Section 15. Section 13-27-312, MCA, is amended to read:

"13-27-312. Review of ~~petition~~ *proposed ballot issue and statements* by attorney general — preparation of ~~statements~~ — fiscal note. (1) Upon receipt of a ~~petition~~ *proposed ballot issue and statements* from the office of the secretary of state pursuant to 13-27-202, the attorney general shall examine the ~~petition as to form and~~ *proposed issue for* legal sufficiency~~,~~ as provided in ~~13-27-202, and, if the proposed ballot issue has an effect on the revenue, expenditures, or the fiscal liability of the state, shall order a fiscal note incorporating an estimate of the effect, the substance of which must substantially comply with the provisions of 5-4-205~~ *this section and shall determine whether the ballot statements comply with the requirements of this section*. ~~The budget director, in cooperation with the agency or agencies affected by the petition, is responsible for preparing the fiscal note and shall return it~~

~~within 6 days unless the attorney general, for good cause shown, extends the time for completing the fiscal note.~~

(2) ~~If the petition form is approved, the~~ *The* ~~attorney general shall endeavor to seek out parties on both sides of the issue and obtain their advice. The attorney general~~ ~~shall prepare~~ *attorney general shall, in reviewing the ballot statements, endeavor to seek out parties on both sides of the issue and obtain their advice. The attorney general shall review the ballot statements to determine if they contain the following matters*:

(a) a statement, not to exceed 100 words, explaining the purpose of the ~~measure~~ *issue*; and

(b) statements, not to exceed 25 words each, explaining the implications of a vote for and a vote against the ~~measure~~ *issue*.

(3) *If the proposed ballot issue has an effect on the revenue, expenditures, or the fiscal liability of the state, the attorney general shall order a fiscal note incorporating an estimate of the effect, the substance of which must substantially comply with the provisions of 5-4-205. The budget director, in cooperation with the agency or agencies affected by the ballot issue, is responsible for preparing the fiscal note and shall return it to the attorney general within 10 days.* ~~The~~ *If the fiscal note indicates a fiscal impact, the* ~~attorney general~~ *attorney general* shall prepare a fiscal statement of no more than 50 words ~~if a fiscal note was prepared for the proposed ballot issue~~, and the statement must be used on the petition and ballot if the ~~measure~~ *issue* is placed on the ballot.

(4) The ~~statement of purpose and the~~ *ballot* statements ~~of implication~~ must express the true and impartial explanation of the proposed ballot issue in plain, easily understood language and may not be arguments or written so as to create prejudice for or against the ~~measure~~ *issue*. ~~Statements of implication must be written so that a positive vote indicates support for the measure and a negative vote indicates opposition to the measure.~~

(5) ~~The~~ *Unless altered by the court under 13-27-316, the* statement of purpose~~, unless altered by a court under 13-27-316,~~ is the petition title for the ~~measure~~ *issue* circulated by the petition and the ballot title if the ~~measure~~ *issue* is placed on the ballot.

(6) The statements of implication must be *written so that a positive vote indicates support for the issue and a negative vote indicates opposition to the issue and must be* placed beside the diagram provided for marking of the ballot in a manner similar to but not limited to the following example:

☐ FOR extending the right to vote to persons 18 years of age

☐ AGAINST extending the right to vote to persons 18 years of age

~~(7) If the petition is rejected as to form, the attorney general shall forward the comments to the secretary of state within 21 days after receipt of the petition by the attorney general. If the petition is approved as to form, the attorney general shall forward the statement of purpose, the statements of implication, and the fiscal statement, if applicable, to the secretary of state within 21 days after receipt of the petition by the attorney general.~~

(7) The attorney general shall review the proposed ballot issue for legal sufficiency. As used in this part, "legal sufficiency" means the petition complies with statutory and constitutional requirements governing submission of the proposed issue to the electors. Review of the petition for legal sufficiency does not include consideration of the substantive legality of the issue if approved by the

voters. The attorney general shall also determine if the proposed issue conflicts with one or more issues that may appear on the ballot at the same election.

(8) *(a)* ~~If the petition is approved as to form, within~~ *Within* 30 days ~~of the approval~~ *after receipt of the proposed issue from the secretary of state*, the attorney general shall forward to the secretary of state ~~the determination regarding~~ *an opinion as to the issue's* legal sufficiency~~, as provided in 13-27-202~~.

(b) If the attorney general determines that the proposed ballot issue is legally sufficient, the attorney general shall also forward to the secretary of state the petitioner's ballot statements that comply with the requirements of this section. If the attorney general determines in writing that a ballot statement clearly does not comply with the requirements of this section, the attorney general shall prepare a statement that complies with the requirements of this section, forward that statement to the secretary of state as the approved statement, and provide a copy to the petitioner. The attorney general shall give the secretary of state notice of whether the proposed issue conflicts with one or more issues that may appear on the ballot at the same election.

(c) If the attorney general determines that the proposed ballot issue is not legally sufficient, the secretary of state may not deliver a sample petition form unless the attorney general's opinion is overruled pursuant to 13-27-316 and the attorney general has approved or prepared ballot statements under this section."

Section 16. Section 13-27-315, MCA, is amended to read:

"13-27-315. Statements by ~~attorney general~~ *attorney general* on issues referred by legislature. ~~(1)~~ Upon receipt of ~~a copy of a ballot form under 13-27-310(2) for~~ an issue ~~proposed~~ *referred* by the legislature *from the secretary of state pursuant to [section 12]*, the ~~attorney general~~ *attorney general* shall ~~order a fiscal note as provided in 13-27-312(1) if the issue has an effect on the revenues, expenditures, or the fiscal liability of the state~~ *prepare and forward to the secretary of state, within 30 days, ballot statements as provided in 13-27-312, except that the attorney general may not prepare statements of implication of a vote for or against a ballot issue if the statements have been provided by the legislature.* ~~At the same time the explanatory statement is prepared under subsection (2), the attorney general shall prepare a fiscal statement of no more than 50 words to be forwarded to the secretary of state at the same time as the explanatory statement.~~

~~(2) At the same time the attorney general, pursuant to 13-27-313, informs the secretary of state of the approval or rejection of a ballot form for an issue proposed by the legislature, the attorney general shall forward to the secretary of state a statement, not exceeding 100 words, expressing a true and impartial explanation of the purpose of the measure in plain, easily understood language. The statement may not be an argument and may not be written to create a prejudice for or against the issue. The statement prepared under this section is known as the attorney general's explanatory statement.~~

~~(3) If statements of the implication of a vote for or against a ballot issue have not been provided by the legislature, the attorney general shall prepare the statements. Requirements for statements of implication for ballot issues referred by the legislature are the same as those provided in 13-27-312 for other ballot issues. Statements of implication prepared by the attorney general must be returned to the secretary of state no later than the time specified for approval of the ballot form.~~"

Section 17. Section 13-27-316, MCA, is amended to read:

"13-27-316. Court review of attorney general opinion or *approved petitioner* statements. (1) If the proponents of a ballot measure believe that the ~~statement of purpose, the statements of implication of a vote, or the fiscal statement~~ *ballot statements* ~~formulated~~ *approved* by the ~~attorney general~~ *attorney general* ~~pursuant to 13-27-312~~ do not satisfy the requirements of 13-27-312~~,~~ or believe that the attorney general was incorrect in determining that the petition was legally deficient, they may, within 10 days of the ~~secretary of state's or~~ attorney general's determination regarding legal sufficiency provided for in 13-27-202, file an ~~action in the district court in and for the county of Lewis and Clark~~ *original proceeding in the supreme court* challenging the adequacy of the statement or the attorney general's determination and requesting the court to alter the statement or modify the attorney general's determination.

(2) If the opponents of a ballot measure believe that the ~~statement of purpose, the statements of implication of a vote, or the fiscal statement~~ *petitioner ballot statements* ~~formulated~~ *approved* by the ~~attorney general~~ *attorney general* ~~pursuant to 13-27-312~~ do not satisfy the requirements of 13-27-312~~,~~ or believe that the attorney general was incorrect in determining that the petition was legally sufficient, they may, within 10 days of the date of certification to the governor that the completed petition has been officially filed, file an ~~action in the district court in and for the county of Lewis and Clark~~ *original proceeding in the supreme court* challenging the adequacy of the statement or the attorney general's ~~conclusion~~ *determination* and requesting the court to alter the statement or overrule the attorney general's determination concerning the legal sufficiency of the petition. *The attorney general must respond to a complaint within 5 days.*

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

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

(c) (i) ~~The~~ *Pursuant to Article IV, section 7(2), of the Montana constitution, an* action *brought pursuant to this section* takes precedence over other cases and matters in the ~~district~~ *supreme* court. The court shall examine the proposed ~~measure~~ *issue* and the challenged statement or determination of the attorney general and shall as soon as possible render a decision ~~and certify to the secretary of state a statement which the court determines will meet the requirements of 13-27-312 or an opinion~~ as to *the adequacy of the ballot statements or* the correctness of the attorney general's determination.

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

(iii) If the court decides that the attorney general's legal sufficiency determination is incorrect and that a proposed issue does not comply with statutory and constitutional requirements governing submission of the issue to the electors, any petitions supporting the issue are void and the issue may not

appear on the ballot. A proponent of the ballot issue may resubmit a revised issue pursuant to 13-27-202, subject to the deadlines provided in this chapter.

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

~~(b) A statement certified by the court must be placed on the petition for circulation and on the official ballot.~~

~~(4) A copy of the petition in final form must be filed in the office of the secretary of state by the proponents.~~

~~(5) Any party may appeal the order of the district court to the Montana supreme court by filing a notice of appeal within 5 days of the date of the order of the district court.~~

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

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

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

Section 18. Contest of ballot issue petitions. (1) Any qualified elector may, within 30 days after the date on which the issue was certified to the governor, file an action in the district court in the county of residence of the qualified elector contesting the certification of a ballot issue for illegal petition signatures or an erroneous or fraudulent count or canvass of petition signatures.

(2) If a court finds that illegal petition signatures or an erroneous or fraudulent count or canvass of petition signatures affected the outcome of the petition process and certification, the secretary of state shall decertify the contested ballot issue.

Section 19. Section 13-27-402, MCA, is amended to read:

"13-27-402. Committees to prepare arguments for and against ballot issues. (1) The arguments advocating approval or rejection of the ballot issue and rebuttal arguments must be submitted to the secretary of state by committees appointed as provided in this section.

(2) The committee advocating approval of a legislative act referred to the people either by the legislature or by referendum petition or advocating approval of a constitutional amendment referred by the legislature must be composed of:

(a) one senator known to favor the referred ~~measure~~ *ballot issue*, appointed by the president of the senate;

(b) one representative known to favor the referred ~~measure~~ *ballot issue*, appointed by the speaker of the house of representatives; and

(c) one individual who need not be a member of the legislature, appointed by the first two members.

(3) (a) The committee advocating rejection of an act referred to the people or of a constitutional amendment proposed by the legislature must be composed of:

(i) one senator appointed by the president of the senate;

(ii) one representative appointed by the speaker of the house of representatives; and

(iii) one individual who need not be a member of the legislature, appointed by the first two members.

(b) Whenever possible, the members must be known to have opposed the issue.

(4) The following must be three-member committees and must be appointed by the person submitting the ~~petition~~ *ballot issue* to the secretary of state under the provisions of 13-27-202:

(a) the committee advocating approval of a ballot issue proposed by any type of initiative petition; and

(b) the committee advocating rejection of any legislative act referred to the people by referendum petition.

(5) A committee advocating rejection of a ballot issue proposed by any type of initiative petition must be composed of five members. The governor, attorney general, president of the senate, and speaker of the house of representatives shall each appoint one member, and the fifth member must be appointed by the first four members. If possible, members must be known to favor rejection of the issue.

(6) A person may not be required to serve on any committee under this section, and except for legislative appointments made by the president of the senate or by the speaker of the house of representatives, the person making an appointment must have written acceptance of appointment from the appointee. If an appointment is not made by the required time, the committee members that have been appointed may fill the vacancy by unanimous written consent up until the deadline for filing the arguments."

Section 20. Section 13-27-403, MCA, is amended to read:

"13-27-403. Appointment to committee. (1) Except as provided in subsection (2), appointments to committees advocating approval or rejection of an act referred to the people, a constitutional amendment proposed by the legislature, or a ballot ~~measure~~ *issue* referred to the people by referendum petition or proposed by any type of initiative petition must be made no later than 1 week prior to the deadline for filing arguments on the ballot issue under 13-27-406.

(2) Appointments to committees advocating approval or rejection of a ballot ~~measure~~ *issue* referred to the people by referendum petition or proposed by any type of initiative petition must be made no later than 1 week before the deadline for filing arguments on the ballot issue under 13-27-406. All persons responsible for appointing members to the committee shall submit to the secretary of state the names and addresses of the appointees no later than the date set by this subsection. The submission must include the written acceptance of appointment

from each appointee required by section 13-27-402(6). If an appointment is not made by the required time, the committee members that have been appointed may fill the vacancy by unanimous written consent up until the deadline for filing the arguments.

(3) Within 5 days after receiving notice under subsection (2)~~,~~ but not later than 5 days after the deadline set for appointment of committee members, the secretary of state shall notify the appointees to a committee appointed pursuant to subsection (1) or (2) by certified mail, with return receipt requested, of the deadlines for submission of the committee's arguments."

Section 21. Section 13-27-409, MCA, is amended to read:

"13-27-409. ~~Liability~~ *Fact statement to be supported — liability* for contents of argument. *(1) A factual statement made in an argument advocating approval or rejection of a ballot issue or in a rebuttal argument to either of those arguments must be supported by documents filed by the proponents or opponents with the secretary of state within 2 business days of the date on which the statements are required be filed with the secretary of state.*

(2) Nothing in this chapter relieves an author of any argument from civil or criminal responsibility for statements contained in an argument printed in the voter information pamphlet."

Section 22. Section 13-27-501, MCA, is amended to read:

"13-27-501. Secretary of state to certify ballot form — ~~abbreviated ballot.~~ (1) The secretary of state shall furnish to the official of each county responsible for preparation of the ballots, at the same time as the election administrator certifies the names of the persons who are candidates for offices to be filled at the election, a certified copy of the form in which each ballot issue to be voted on by the people at that election is to appear on the ballot.

(2) ~~Except as provided in subsection (4), the~~ *The* secretary of state shall list for each issue:

(a) the number;

(b) the method of placement on the ballot;

(c) the title;

(d) the ~~attorney general's~~ *attorney general's* explanatory statement, if applicable;

(e) the fiscal statement, if applicable; ~~and~~

(f) the statements of the implication of a vote for or against the issue that are to be placed beside the diagram for marking the ballot*; and*

(g) a statement that the issue conflicts with one or more issues, referenced by number, that also appear on the ballot, if applicable.

(3) When required to do so, the secretary of state shall use for each ballot issue the title of the legislative act or legislative constitutional proposal or the title provided by the attorney general or district court. Following the number of the ballot issue, the secretary of state, when required to do so, shall include one of the following statements to identify why the issue has been placed on the ballot:

(a) an act referred by the legislature;

(b) an amendment to the constitution proposed by the legislature;

(c) an act of the legislature referred by referendum petition; or

(d) a law or constitutional amendment proposed by initiative petition.

~~(4) The county election administrator may, at least 14 days prior to the deadline for ballot certification by the secretary of state, request in writing that the county election administrator be furnished an abbreviated form of the certified ballot. The secretary of state shall furnish to all counties from which the secretary of state has received such a request a certified ballot containing only the information in subsections (2)(a), (2)(e), and (2)(f). If the county election administrator requests that the abbreviated ballot be prepared, copies of the information contained in subsections (2)(a) through (2)(f) must be distributed to each elector by an election judge as the elector enters the polling place.~~"

Section 23. 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 ~~his~~ *the person's* name or other information required upon ~~his~~ *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 or certificate of nomination;

(5) files or receives for filing a declaration or certificate of nomination 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 ~~his~~ *the person's* own to a petition, signs more than once for the same ~~measure~~ *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 24. Section 13-37-210, MCA, is amended to read:

"13-37-210. Naming and labeling of political committees. (1) Any political committee filing a certification and organizational statement pursuant to 13-37-201 shall:

(a) name and identify itself in its organizational statement using a name or phrase:

(i) that clearly identifies the economic or other special interest, if identifiable, of a majority of its contributors; and

(ii) if a majority of its contributors share a common employer, that identifies the employer; and

(b) label any media advertisement or other paid public statement it makes or causes to be made in support of or opposition to any candidate or ballot ~~measure~~ *issue* by printing or broadcasting its name, as provided under subsection (1)(a), and position in support of or opposition to the candidate or ballot ~~measure~~ *issue* as a part of the media advertisement or other paid public statement.

(2) The naming and labeling requirements in subsection (1) are reporting requirements for purposes of enforcement under 13-37-128."

Section 25. 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:

(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 and September in each year that an election is to be held and on the 15th and 5th days preceding the date on which an election is held and 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;

(c) not more than 20 days after the date of the election; and

(d) 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 ~~measure~~ *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;

(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 and 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)(a) may be made by mail or by electronic

communication to the clerk and recorder and the commissioner of political practices.

(b) not more than 20 days after the date of the election; and

(c) whenever a 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 not more than 20 days after the date of the election in which it participates by making an expenditure; and

(c) 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) 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."

Section 26. Section 13-37-228, MCA, is amended to read:

"13-37-228. Time periods covered by reports. Reports filed under 13-37-225 and 13-37-226 must be filed to cover the following time periods even though no contributions or expenditures may have been received or made during the period:

(1) The initial report must cover all contributions received or expenditures made by a candidate or political committee prior to the time that a person became a candidate or a political committee as defined in 13-1-101 until the fifth day before the date of filing of the appropriate initial report pursuant to subsections (1) through (5) of 13-37-226. Reports filed by political committees organized to support or oppose a statewide ballot issue must disclose all contributions received and expenditures made prior to the time an issue becomes a ballot issue by ~~approval~~ *transmission* of ~~the form of~~ the petition *to the proponent of the ballot issue* or referral by the secretary of state, even if the issue subsequently fails to garner sufficient signatures to qualify for the ballot.

(2) Subsequent periodic reports must cover the period of time from the closing of the previous report to 5 days before the date of filing of a report pursuant to 13-37-226(1) through (5).

(3) Closing reports must cover the period of time from the last periodic report to the final closing of the books of the candidate or political committee. A candidate or political committee shall file a closing report following an election

in which the candidate or political committee participates whenever all debts and obligations are extinguished and no further contributions or expenditures will be received or made which relate to the campaign, unless the election is a primary election and the candidate or political committee will participate in the general election."

Section 27. Repealer. Sections 13-27-310 and 13-27-313, MCA, are repealed.

Section 28. Codification instruction. (1) [Sections 12 and 13] are intended to be codified as an integral part of Title 13, chapter 27, part 2, and the provisions of Title 13, chapter 27, part 2, apply to [sections 12 and 13].

(2) [Section 18] is intended to be codified as an integral part of Title 13, chapter 27, part 3, and the provisions of Title 13, chapter 27, part 3, apply to [section 18].

Section 29. 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 30. Effective date. [This act] is effective on passage and approval.

Approved May 11, 2007

CHAPTER NO. 482

[SB 155]

AN ACT CREATING AN OLDER MONTANANS TRUST FUND AND PROVIDING FOR THE PURPOSES AND USE OF THE FUND; PROVIDING FOR A TRANSFER OF FUNDS FROM THE HEALTH AND MEDICAID INITIATIVES ACCOUNT TO THE OLDER MONTANANS TRUST FUND; AMENDING SECTIONS 17-7-302, 17-7-304, AND 53-6-1201, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A TERMINATION DATE.

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

Section 1. Older Montanans trust fund. (1) There is an older Montanans trust fund within the permanent fund type. The trust fund is subject to legislative appropriation as provided in this section.

(2) The money in the fund may be used to create new, innovative services or to expand existing services for the benefit of Montana residents 60 years of age or older that will enable those Montanans to live an independent lifestyle in the least restrictive setting and will promote the dignity of and respect for those Montanans. The interest and income produced by the trust fund and appropriated to the department by the legislature is intended to increase services referred to in this subsection and not to supplant other sources of revenue for those programs in the trended traditional level, as used in 53-6-1201, of appropriations for those services.

(3) The department may accept contributions and gifts for the trust fund, in money or other forms, and when accepted, the contributions and gifts must be deposited in the trust fund.

(4) Interest and income earned on money in the trust fund must be retained within the fund except as provided in this section. Until the year 2015, if assets

in the fund reach the following amounts, money may be appropriated by the legislature and used in the following amounts for the programs specified in subsection (2):

(a) When the fund balance reaches $20 million, 50% of the interest earned may be appropriated.

(b) When the fund balance reaches $50 million, 60% of the interest earned may be appropriated.

(c) When the fund balance reaches $100 million, 80% of the interest earned may be appropriated.

(5) On and after January 1, 2015, 90% of the interest earned on the trust fund may be appropriated for the programs specified in subsection (2).

(6) The department shall provide to the legislature a biennial report of the expenditures of the money appropriated from the older Montanans trust fund as provided in 5-11-210.

Section 2. Section 17-7-302, MCA, is amended to read:

"17-7-302. Encumbrance of fiscal yearend obligations. (1) Any valid obligation not paid within the fiscal year, including valid written interagency or intra-agency service agreements for systems development, ~~shall be~~ *is* encumbered for payment ~~thereof~~ *of the obligation* at the end of each fiscal year in the department of administration's accounts. Except as provided in subsection (2), an appropriation ~~shall be deemed to be~~ *is considered* encumbered at the time and to the extent that a valid obligation against the appropriation is created.

(2) An appropriation may be encumbered by a written interagency or intra-agency agreement with the department for the alteration, repair, maintenance, or renovation of a building pursuant to the provisions of Title 18, chapter 2. ~~If~~ *Except as provided in 53-6-1201(4), if* the appropriation is not encumbered by a valid obligation at the end of the next fiscal year, the appropriation reverts to the fund from which it was originally appropriated."

Section 3. Section 17-7-304, MCA, is amended to read:

"17-7-304. Disposal of unexpended appropriations. (1) All money appropriated for any specific purpose except that appropriated for the university system units listed in subsection (2) [or state money appropriated for the state children's health insurance program provided for in Title 53, chapter 4, part 10,] and except as provided in subsection (4) *and 53-6-1201(4)* must, after the expiration of the time for which appropriated, revert to the several funds and accounts from which originally appropriated. However, any unexpended balance in any specific appropriation may be used for the years for which the appropriation was made or may be used to fund the provisions of 2-18-1203 through 2-18-1205 and 19-2-706 in the succeeding year.

(2) Except as provided in 17-2-108 and subsection (3) of this section, all money appropriated for the university of Montana campuses at Missoula, Butte, Dillon, and Helena and the Montana state university campuses at Bozeman, Billings, Havre, and Great Falls, the agricultural experiment station with central offices at Bozeman, the forest and conservation experiment station with central offices at Missoula, the cooperative extension service with central offices at Bozeman, and the bureau of mines and geology with central offices in Butte must, after the expiration of the time for which appropriated, revert to an account held by the board of regents. The board of regents is authorized to maintain a fund balance. There is a statutory appropriation, as provided in

17-7-502, to use the funds held in this account in accordance with a long-term plan for major and deferred maintenance expenditures and equipment or fixed assets purchases prepared by the affected university system units and approved by the board of regents. The affected university system units may, with the approval of the board of regents, modify the long-term plan at any time to address changing needs and priorities. The board of regents shall communicate the plan to each legislature, to the finance committee when requested by the committee, and to the office of budget and program planning.

(3) Subsection (2) does not apply to reversions that are the result of a reduction in spending directed by the governor pursuant to 17-7-140. Any amount that is a result of a reduction in spending directed by the governor must revert to the fund or account from which it was originally appropriated.

(4) (a) Subject to subsection (4)(b), after the end of a fiscal year, 30% of the money appropriated to an agency for that year by the general appropriations act for personal services, operating expenses, and equipment, by fund type, and remaining unexpended and unencumbered at the end of the year may be reappropriated to be spent during the following 2 years for any purpose that is consistent with the goals and objectives of the agency. The dollar amount of the 30% amount that may be carried forward and spent must be determined by the office of budget and program planning.

(b) (i) Any portion of the 30% of the unexpended and unencumbered money referred to in subsection (4)(a) that was appropriated to a legislative branch entity may be deposited in the account established in 5-11-407.

(ii) After the end of a biennium, any portion of the unexpended and unencumbered money appropriated for the operation of the preceding legislature in a separate appropriation act may be deposited in the account established in 5-11-407. The approving authority shall determine the portion of the unexpended and unencumbered money that is deposited in the account. (Bracketed language terminates on occurrence of contingency—sec. 7, Ch. 565, L. 2005.)"

Section 4. Section 53-6-1201, MCA, is amended to read:

"53-6-1201. Special revenue fund — health and medicaid initiatives. (1) There is a health and medicaid initiatives account in the state special revenue fund established by 17-2-102. This account is to be administered by the department of public health and human services.

(2) There must be deposited in the account:

(a) money from cigarette taxes deposited under 16-11-119(1)(c);

(b) money from taxes on tobacco products other than cigarettes deposited under 16-11-119(3)(b); and

(c) any interest and income earned on the account.

(3) This account may be used only to provide funding for:

(a) the state funds necessary to take full advantage of available federal matching funds in order to maximize enrollment of eligible children under the children's health insurance program, provided for under Title 53, chapter 4, part 10, and to provide outreach to the eligible children. The increased revenue in this account is intended to increase enrollment rates for eligible children in the program and not to be used to support existing levels of enrollment based upon appropriations for the biennium ending June 30, 2005.

(b) a new need-based prescription drug program established by the legislature for children, seniors, chronically ill, and disabled persons that does not supplant similar services provided under any existing program;

(c) increased medicaid services and medicaid provider rates. The increased revenue is intended to increase medicaid services and medicaid provider rates and not to supplant the general fund in the trended traditional level of appropriation for medicaid services and medicaid provider rates.

(d) an offset to loss of revenue to the general fund as a result of new tax credits;

(e) to fund new programs to assist eligible small employers with the costs of providing health insurance benefits to eligible employees;

(f) the cost of administering the tax credit, the purchasing pool, and the premium incentive payments and premium assistance payments as provided in Title 33, chapter 22, part 20; and

(g) to provide a state match for the medicaid program for premium incentive payments or premium assistance payments to the extent that a waiver is granted by federal law as provided in 53-2-216.

(4) Money appropriated but not expended for the prescription drug program described in subsection (3)(b) must be transferred annually to the older Montanans trust fund provided for in [section 1].

~~(4)~~*(5)* ~~(a) Except for $1 million appropriated for the startup costs of 53-6-1004 and 53-6-1005, the money appropriated for fiscal year 2006 for the programs in subsections (3)(b) and (3)(d) through (3)(g) may not be expended until the office of budget and program planning has certified that $25 million has been deposited in the account provided for in this section or December 1, 2005, whichever occurs earlier.~~

~~(b)~~*(a)* On or before July 1, the budget director shall calculate a balance required to sustain each program in subsection (3) for each fiscal year of the biennium. If the budget director certifies that the reserve balance will be sufficient, then the agencies may expend the revenue for the programs as appropriated. If the budget director determines that the reserve balance of the revenue will not support the level of appropriation, the budget director shall notify each agency. Upon receipt of the notification, the agency shall adjust the operating budget for the program to reflect the available revenue as determined by the budget director.

~~(c)~~*(b)* Until the programs or credits described in subsections (3)(b) and (3)(d) through (3)(g) are established, the funding must be used exclusively for the purposes described in subsections (3)(a) and (3)(c).

~~(5)~~*(6)* The phrase "trended traditional level of appropriation", as used in subsection (3)(c), means the appropriation amounts, including supplemental appropriations, as those amounts were set based on eligibility standards, services authorized, and payment amount during the past five biennial budgets.

~~(6)~~*(7)* The department of public health and human services may adopt rules to implement this section."

Section 5. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 52, chapter 3, and the provisions of Title 52, chapter 3, apply to [section 1].

Section 6. Effective date. [This act] is effective on passage and approval.

Section 7. Termination. [Sections 2 through 4] terminate July 1, 2007.

Approved May 11, 2007

CHAPTER NO. 483

[SB 547]

AN ACT STRENGTHENING THE REGISTRATION REQUIREMENTS AND OTHER PROVISIONS APPLICABLE TO SEXUAL OFFENDERS; AMENDING PROVISIONS GOVERNING YOUTH COURT, CRIMINAL PROSECUTION AND PENALTIES, DEFINITIONS, PROBATION AND PAROLE, REGISTRATION OF TRANSIENTS, AND DISSEMINATION OF INFORMATION ABOUT SEXUAL OFFENDERS; ALLOWING THE DEPARTMENT OF CORRECTIONS TO CONTRACT FOR A RESIDENTIAL SEXUAL OFFENDER TREATMENT PROGRAM; AMENDING SECTIONS 41-5-206, 41-5-216, 41-5-1513, 45-1-205, 45-5-503, 45-5-507, 45-5-512, 45-5-601, 45-5-602, 45-5-603, 45-5-625, 46-18-111, 46-18-201, 46-18-202, 46-18-203, 46-18-205, 46-18-222, 46-18-231, 46-23-502, 46-23-504, 46-23-505, 46-23-506, 46-23-508, 46-23-509, 46-23-1011, AND 53-1-203, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE.

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

Section 1. Section 41-5-206, MCA, is amended to read:

"41-5-206. Filing in district court prior to formal proceedings in youth court. (1) The county attorney may, in the county attorney's discretion and in accordance with the procedure provided in 46-11-201, file with the district court a motion for leave to file an information in the district court if:

(a) the youth charged was 12 years of age or older at the time of the conduct alleged to be unlawful and the unlawful act would if it had been committed by an adult constitute:

(i) sexual intercourse without consent as defined in 45-5-503;

(ii) deliberate homicide as defined in 45-5-102;

(iii) mitigated deliberate homicide as defined in 45-5-103;

(iv) assault on a peace officer or judicial officer as defined in 45-5-210; or

(v) the attempt, as defined in 45-4-103, of or accountability, as provided in 45-2-301, for either deliberate or mitigated deliberate homicide; or

(b) the youth charged was 16 years of age or older at the time of the conduct alleged to be unlawful and the unlawful act is one or more of the following:

(i) negligent homicide as defined in 45-5-104;

(ii) arson as defined in 45-6-103;

(iii) aggravated assault as defined in 45-5-202;

(iv) sexual assault as provided in 45-5-502(3);

~~(iv)~~*(v)* assault with a weapon as defined in 45-5-213;

~~(v)~~*(vi)* robbery as defined in 45-5-401;

~~(vi)~~*(vii)* burglary or aggravated burglary as defined in 45-6-204;

~~(vii)~~*(viii)* aggravated kidnapping as defined in 45-5-303;

~~(viii)~~*(ix)* possession of explosives as defined in 45-8-335;

~~(ix)~~*(x)* criminal distribution of dangerous drugs as defined in 45-9-101;

~~(x)~~*(xi)* criminal possession of dangerous drugs as defined in 45-9-102(4) through (6);

~~(xi)~~*(xii)* criminal possession with intent to distribute as defined in 45-9-103(1);

~~(xii)~~*(xiii)* criminal production or manufacture of dangerous drugs as defined in 45-9-110;

~~(xiii)~~*(xiv)* use of threat to coerce criminal street gang membership or use of violence to coerce criminal street gang membership~~,~~ as defined in 45-8-403;

~~(xiv)~~*(xv)* escape as defined in 45-7-306;

~~(xv)~~*(xvi)* attempt, as defined in 45-4-103, of or accountability, as provided in 45-2-301, for any of the acts enumerated in subsections (1)(b)(i) through ~~(1)(b)(xiv)~~ *(1)(b)(xv)*.

(2) The county attorney shall file with the district court a petition for leave to file an information in district court if the youth was 17 years of age at the time the youth committed an offense listed under subsection (1).

(3) The district court shall grant leave to file the information if it appears from the affidavit or other evidence supplied by the county attorney that there is probable cause to believe that the youth has committed the alleged offense. Within 30 days after leave to file the information is granted, the district court shall conduct a hearing to determine whether the matter must be transferred back to the youth court, unless the hearing is waived by the youth or by the youth's counsel in writing or on the record. The hearing may be continued on request of either party for good cause. The district court may not transfer the case back to the youth court unless the district court finds, by a preponderance of the evidence, that:

(a) a youth court proceeding and disposition will serve the interests of community protection;

(b) the nature of the offense does not warrant prosecution in district court; and

(c) it would be in the best interests of the youth if the matter was prosecuted in youth court.

(4) The filing of an information in district court terminates the jurisdiction of the youth court over the youth with respect to the acts alleged in the information. A youth may not be prosecuted in the district court for a criminal offense originally subject to the jurisdiction of the youth court unless the case has been filed in the district court as provided in this section. A case may be transferred to district court after prosecution as provided in 41-5-208 or 41-5-1605.

(5) An offense not enumerated in subsection (1) that arises during the commission of a crime enumerated in subsection (1) may be:

(a) tried in youth court;

(b) transferred to district court with an offense enumerated in subsection (1) upon motion of the county attorney and order of the district court. The district court shall hold a hearing before deciding the motion.

(6) If a youth is found guilty in district court of an offense enumerated in subsection (1), the court shall sentence the youth pursuant to 41-5-2503 and Titles 45 and 46. A youth who is sentenced to the department or a state prison must be evaluated and placed by the department in an appropriate juvenile or adult correctional facility. The department shall confine the youth in an institution that it considers proper, including a state youth correctional facility under the procedures of 52-5-111. However, a youth under 16 years of age may not be confined in a state prison facility. During the period of confinement, school-aged youth with disabilities must be provided an education consistent with the requirements of the federal Individuals With Disabilities Education Act, 20 U.S.C. 1400, et seq.

(7) If a youth's case is filed in the district court and remains in the district court after the transfer hearing, the youth may be detained in a jail or other adult detention facility pending final disposition of the youth's case if the youth is kept in an area that provides physical separation from adults accused or convicted of criminal offenses."

Section 2. Section 41-5-216, MCA, is amended to read:

"41-5-216. Disposition of youth court, law enforcement, and department 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, ~~or~~ 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, pursuant to Title 46, chapter 23, part 5, as a sexual offender*.

(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 ~~only~~ 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 ~~only~~ 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) Nothing in this section prohibits 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."

Section 3. Section 41-5-1513, MCA, is amended to read:

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

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

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

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

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

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

(c) *subject to the provisions of subsection (5),* require a youth found to be a delinquent youth, as the result of the commission of an offense that would be a ~~sexual offense or~~ violent offense, as defined in 46-23-502, if committed by an adult, to register *and remain registered* as a ~~sexual or~~ violent offender pursuant to Title 46, chapter 23, part 5. The youth court shall retain jurisdiction in a disposition under this subsection *to ensure registration compliance*.

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

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

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

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

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

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

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

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

(c) require completion of ~~sex~~ *sexual* offender treatment ~~before a youth is discharged~~.

(3) The court may not order a local government entity to pay for care, treatment, intervention, or placement. A court may order a local government entity to pay for evaluation and in-state transportation of a youth.

(4) The court may not order a state government entity to pay for care, treatment, intervention, placement, or evaluation that results in a deficit in the account established for that district under 41-5-130 without approval from the cost containment review panel.

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

Section 4. Section 45-1-205, MCA, is amended to read:

"45-1-205. General time limitations. (1) (a) A prosecution for deliberate, mitigated, or negligent homicide may be commenced at any time.

(b) A prosecution for a felony offense under 45-5-502, 45-5-503, or 45-5-507(4) *or (5)* may be commenced within 10 years after it is committed, except that it may be commenced within 10 years after the victim reaches 18 years of age if the victim was less than 18 years of age at the time that the offense occurred. A prosecution for a misdemeanor offense under those provisions may be commenced within 1 year after the offense is committed, except that it may be commenced within 5 years after the victim reaches 18 years of age if the victim was less than 18 years of age at the time that the offense occurred.

(c) A prosecution under 45-5-504, 45-5-505, 45-5-507(1), (2), (3), or ~~(5)~~ *(6)*, 45-5-625, or 45-5-627 may be commenced within 5 years after the victim reaches 18 years of age if the victim was less than 18 years of age at the time that the offense occurred.

(2) Except as provided in subsection (7)(b) or as otherwise provided by law, prosecutions for other offenses are subject to the following periods of limitation:

(a) A prosecution for a felony must be commenced within 5 years after it is committed.

(b) A prosecution for a misdemeanor must be commenced within 1 year after it is committed.

(3) The periods prescribed in subsection (2) are extended in a prosecution for theft involving a breach of fiduciary obligation to an aggrieved person as follows:

(a) if the aggrieved person is a minor or incompetent, during the minority or incompetency or within 1 year after the termination of the minority or incompetency;

(b) in any other instance, within 1 year after the discovery of the offense by the aggrieved person or by a person who has legal capacity to represent an aggrieved person or has a legal duty to report the offense and is not personally a party to the offense or, in the absence of discovery, within 1 year after the prosecuting officer becomes aware of the offense.

(4) The period prescribed in subsection (2) must be extended in a prosecution for unlawful use of a computer, and prosecution must be brought within 1 year after the discovery of the offense by the aggrieved person or by a person who has legal capacity to represent an aggrieved person or has a legal duty to report the offense and is not personally a party to the offense or, in the absence of discovery, within 1 year after the prosecuting officer becomes aware of the offense.

(5) The period prescribed in subsection (2) is extended in a prosecution for misdemeanor fish and wildlife violations under Title 87, and prosecution must be brought within 3 years after an offense is committed.

(6) The period prescribed in subsection (2)(b) is extended in a prosecution for misdemeanor violations of the laws regulating the activities of outfitters and guides under Title 37, chapter 47, and prosecution must be brought within 3 years after an offense is committed.

(7) (a) An offense is committed either when every element occurs or, when the offense is based upon a continuing course of conduct, at the time when the course of conduct is terminated. Time starts to run on the day after the offense is committed.

(b) A prosecution for theft under 45-6-301 may be commenced at any time during the 5 years following the date of the theft, whether or not the offender is in possession of or otherwise exerting unauthorized control over the property at the time the prosecution is commenced. After the 5-year period ends, a prosecution may be commenced at any time if the offender is still in possession of or otherwise exerting unauthorized control over the property, except that the prosecution must be commenced within 1 year after the investigating officer discovers that the offender still possesses or is otherwise exerting unauthorized control over the property.

(8) A prosecution is commenced either when an indictment is found or an information or complaint is filed."

Section 5. Section 45-5-503, MCA, is amended to read:

"45-5-503. Sexual intercourse without consent. (1) A person who knowingly has sexual intercourse without consent with another person commits the offense of sexual intercourse without consent. A person may not be convicted under this section based on the age of the person's spouse, as provided in 45-5-501(1)(b)(iv).

(2) A person convicted of sexual intercourse without consent shall be punished by life imprisonment or by imprisonment in the state prison for a term of not less than 2 years or more than 100 years and may be fined not more than $50,000, except as provided in 46-18-219*,* ~~and~~ 46-18-222*, and subsections (3) and (4) of this section*.

(3) (a) If the victim is less than 16 years old and the offender is ~~3~~ *4* or more years older than the victim or if the offender inflicts bodily injury upon anyone in the course of committing sexual intercourse without consent, the offender shall be punished by life imprisonment or by imprisonment in the state prison for a term of not less than 4 years or more than 100 years and may be fined not more than $50,000, except as provided in 46-18-219 and 46-18-222.

(b) If two or more persons are convicted of sexual intercourse without consent with the same victim in an incident in which each offender was present at the location where another offender's offense occurred during a time period in which each offender could have reasonably known of the other's offense, each offender shall be punished by life imprisonment or by imprisonment in the state prison for a term of not less than 5 years or more than 100 years and may be fined not more than $50,000, except as provided in 46-18-219 and 46-18-222.

(c) If the offender was previously convicted of an offense under this section or of an offense under the laws of another state or of the United States that if committed in this state would be an offense under this section and if the offender

inflicted serious bodily injury upon a person in the course of committing each offense, the offender shall be:

(i) punished by death as provided in 46-18-301 through 46-18-310, unless the offender is less than 18 years of age at the time of the commission of the offense; or

(ii) punished as provided in 46-18-219.

(d) If the victim was incarcerated in an adult or juvenile correctional, detention, or treatment facility at the time of the offense and the offender had supervisory or disciplinary authority over the victim, the offender shall be punished by imprisonment in the state prison for a term of not more than 5 years or fined an amount not to exceed $50,000, or both.

(4) (a) If the victim was 12 years of age or younger and the offender was 18 years of age or older at the time of the offense, the 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 (4)(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.

~~(4)~~*(5)* In addition to any sentence imposed under subsection (2) or (3), after determining the financial resources and future ability of the offender to pay restitution as required by 46-18-242, the court shall require the offender, if able, to pay the victim's reasonable medical and counseling costs that result from the offense. The amount, method, and time of payment must be determined in the same manner as provided for in 46-18-244.

~~(5)~~*(6)* As used in ~~subsection~~ *subsections* (3) *and (4)*, an act "in the course of committing sexual intercourse without consent" includes an attempt to commit the offense or flight after the attempt or commission."

Section 6. Section 45-5-507, MCA, is amended to read:

"45-5-507. Incest. (1) A person commits the offense of incest if the person knowingly marries, cohabits with, has sexual intercourse with, or has sexual contact, as defined in 45-2-101, with an ancestor, a descendant, a brother or sister of the whole or half blood, or any stepson or stepdaughter. The relationships referred to in this subsection include blood relationships without regard to legitimacy, relationships of parent and child by adoption, and relationships involving a stepson or stepdaughter.

(2) Consent is a defense under this section to incest with or upon a stepson or stepdaughter, but consent is ineffective if the victim is less than 18 years old.

(3) ~~A~~ *Except as provided in subsections (4) and (5), a* person convicted of incest shall be punished by life imprisonment or by imprisonment in the state

prison for a term not to exceed 100 years or be fined an amount not to exceed $50,000.

(4) If the victim is under 16 years of age and the offender is 3 or more years older than the victim or if the offender inflicts bodily injury upon anyone in the course of committing incest, the offender shall be punished by life imprisonment or by imprisonment in the state prison for a term of not less than 4 years or more than 100 years and may be fined not more than $50,000.

(5) (a) If the victim was 12 years of age or younger and the offender was 18 years of age or older at the time of the offense, the 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 (5)(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.

~~(5)~~*(6)* In addition to any sentence imposed under subsection (3)*, (4),* or ~~(4)~~ *(5)*, after determining the financial resources and future ability of the offender to pay restitution as required by 46-18-242, the court shall require the offender, if able, to pay the victim's reasonable costs of counseling that result from the offense. The amount, method, and time of payment must be determined in the same manner as provided for in 46-18-244."

Section 7. Section 45-5-512, MCA, is amended to read:

"45-5-512. Chemical treatment of sex offenders. (1) A person convicted of a first offense under 45-5-502(3), 45-5-503(3), or 45-5-507(4) *or (5)* may, in addition to the sentence imposed under those sections, be sentenced to undergo medically safe medroxyprogesterone acetate treatment or its chemical equivalent or other medically safe drug treatment that reduces sexual fantasies, sex drive, or both, administered by the department of corrections or its agent pursuant to subsection (4) *of this section*.

(2) A person convicted of a second or subsequent offense under 45-5-502(3), 45-5-503, or 45-5-507 may, in addition to the sentence imposed under those sections, be sentenced to undergo medically safe medroxyprogesterone acetate treatment or its chemical equivalent or other medically safe drug treatment that reduces sexual fantasies, sex drive, or both, administered by the department of corrections or its agent pursuant to subsection (4) *of this section*.

(3) A person convicted of a first or subsequent offense under 45-5-502, 45-5-503, or 45-5-507 who is not sentenced to undergo medically safe medroxyprogesterone acetate treatment or its chemical equivalent or other medically safe drug treatment that reduces sexual fantasies, sex drive, or both, may voluntarily undergo such treatment, which must be administered by the department of corrections or its agent and paid for by the department of corrections.

(4) Treatment under subsection (1) or (2) must begin 1 week before release from confinement and must continue until the department of corrections determines that the treatment is no longer necessary. Failure to continue treatment as ordered by the department of corrections constitutes a criminal contempt of court for failure to comply with the sentence, for which the sentencing court shall impose a term of incarceration without possibility of parole of not less than 10 years or more than 100 years.

(5) Prior to chemical treatment under this section, the person must be fully medically informed of its effects.

(6) A state employee who is a professional medical person may not be compelled against the employee's wishes to administer chemical treatment under this section."

Section 8. 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 ~~such~~ *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) ~~A~~ *Except as provided in subsection (3), a* prostitute's client 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 was 12 years of age or younger and the prostitute's client was 18 years of age or older at the time of the offense, the 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 9. 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) ~~A~~ *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 was 12 years of age or younger and the prostitute's client was 18 years of age or older at the time of the offense, the 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 10. 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 ~~subsection~~ *subsections* (2)(b) *and (2)(c)*, 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.

(c) (i) If the prostitute was 12 years of age or younger and the prostitute's client was 18 years of age or older at the time of the offense, the 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)(c)(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 11. Section 45-5-625, MCA, is amended to read:

"45-5-625. Sexual abuse of children. (1) A person commits the offense of sexual abuse of children if the person:

(a) knowingly employs, uses, or permits the employment or use of a child in an exhibition of sexual conduct, actual or simulated;

(b) knowingly photographs, films, videotapes, develops or duplicates the photographs, films, or videotapes, or records a child engaging in sexual conduct, actual or simulated;

(c) knowingly, by any means of communication, including electronic communication as defined in 45-8-213, persuades, entices, counsels, or procures a child under 16 years of age or a person the offender believes to be a child under 16 years of age to engage in sexual conduct, actual or simulated;

(d) knowingly processes, develops, prints, publishes, transports, distributes, sells, exhibits, or advertises any visual or print medium, including a medium by use of electronic communication, as defined in 45-8-213, in which a child is engaged in sexual conduct, actual or simulated;

(e) knowingly possesses any visual or print medium, including a medium by use of electronic communication, as defined in 45-8-213, in which a child is engaged in sexual conduct, actual or simulated;

(f) finances any of the activities described in subsections (1)(a) through (1)(d) and (1)(g), knowing that the activity is of the nature described in those subsections; or

(g) possesses with intent to sell any visual or print medium, including a medium by use of electronic communication, as defined in 45-8-213, in which a child is engaged in sexual conduct, actual or simulated.

(2) (a) ~~A~~ *Except as provided in subsection (2)(b), (2)(c), or (4), a* person convicted of the offense of sexual abuse of children shall be punished by life imprisonment or by imprisonment in the state prison for a term not to exceed 100 years and may be fined not more than $10,000.

(b) Except as provided in 46-18-219, if the victim is under 16 years of age, a person convicted of the offense of sexual abuse of children shall be punished by life imprisonment or by imprisonment in the state prison for a term of not less than 4 years or more than 100 years and may be fined not more than $10,000.

(c) Except as provided in 46-18-219, a person convicted of the offense of sexual abuse of children for the possession of material, as provided in subsection (1)(e), shall be fined not to exceed $10,000 or be imprisoned in the state prison for a term not to exceed 10 years, or both.

(3) An offense is not committed under subsections (1)(d) through (1)(g) if the visual or print medium is processed, developed, printed, published, transported, distributed, sold, possessed, or possessed with intent to sell, or if the activity is financed, as part of a ~~sex~~ *sexual* offender information or treatment course or program conducted or approved by the department of corrections.

(4) (a) If the victim was 12 years of age or younger and the offender was 18 years of age or older at the time of the offense, the 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 (4)(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 12. Section 46-18-111, MCA, is amended to read:

"46-18-111. Presentence investigation — when required. (1) 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. 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, ~~or~~ 45-5-627, *45-5-601(3), 45-5-602(3), 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.

(2) The court shall order a presentence 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(4)~~ *53-1-203(5)*."

Section 13. 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) 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:

(a) a fine as provided by law for the offense;

(b) payment of costs, as provided in 46-18-232, or payment of costs of assigned counsel as provided in 46-8-113;

(c) 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;

(d) commitment of:

(i) an offender not referred to in subsection (3)(d)(ii) 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

(ii) 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;

(e) 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;

(f) 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;

(g) chemical treatment of ~~sex~~ *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

(h) any combination of subsections (2) through (3)(g).

(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) *of this section* 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) any other reasonable restrictions or conditions considered necessary for rehabilitation or for the protection of the victim or society; or

(p) 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 14. 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) 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) 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 shall enroll in and complete the educational phase of the prison's sexual offender program.~~"

Section 15. 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, ~~or~~ any condition of a deferred imposition of sentence, *or any condition of supervision after release from imprisonment imposed pursuant to 45-5-503(4), 45-5-507(5), 45-5-601(3), 45-5-602(3), 45-5-603(2)(c), or 45-5-625(4),* 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 during the period of suspension or deferral. 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 45-5-503(4), 45-5-507(5), 45-5-601(3), 45-5-602(3), 45-5-603(2)(c), or 45-5-625(4).

(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 16. 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 ~~old~~ *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 45-5-503(4), 45-5-507(5), 45-5-601(3), 45-5-602(3), 45-5-603(2)(c), or 45-5-625(4)."

Section 17. Section 46-18-222, MCA, is amended to read:

"46-18-222. Exceptions to mandatory minimum sentences ~~and~~, 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, ~~and~~ 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 45-5-502(3)*, 45-5-503(4), 45-5-507(5), 45-5-601(3), 45-5-602(3), 45-5-603(2)(c), or 45-5-625(4)* and 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 18. 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) 45-5-401(2), robbery;

(vii) 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) 45-5-503(2) ~~and (3)~~ *through (4)*, sexual intercourse without consent*;*

(ix) 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) 45-5-601(3), 45-5-602(3), or 45-5-603(2)(c), prostitution, promotion of prostitution, or aggravated promotion of prostitution when the prostitute was 12 years of age or younger and the prostitute's client was 18 years of age or older at the time of the offense;

(xi) 45-5-625(4), sexual abuse of children;

~~(ix)~~*(xii)* 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;

~~(x)~~*(xiii)* 45-9-102(4), criminal possession of an opiate;

~~(xi)~~*(xiv)* 45-9-103(2), criminal possession of an opiate with an intent to distribute; and

~~(xii)~~*(xv)* 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 19. 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.

~~(3)~~*(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.

~~(4)~~*(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.

~~(5)~~*(8)* "Sexual offender evaluator" means a person qualified under rules established by the department to conduct sexual offender and sexually violent predator evaluations.

~~(6)~~*(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)*, 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)(c)*, 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 ~~(6)(a)~~ *(9)(a)* or for which the offender was required to register as a ~~sex~~ *sexual* offender after *an adjudication or* conviction.

~~(7)~~*(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.

~~(8)~~*(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.

~~(9)~~*(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 ~~(9)(a)~~ *(13)(a)*."

Section 20. Section 46-23-504, MCA, is amended to read:

"46-23-504. Persons required to register — procedure. (1) ~~A~~ *Except as provided in 41-5-1513, a* sexual or violent offender:

(a) shall register immediately upon conclusion of the sentencing hearing if the offender is not sentenced to confinement or is not sentenced to the department and placed in confinement by the department;

(b) must be registered as provided in 46-23-503 at least 10 days prior to release from confinement if sentenced to confinement or sentenced to the department and placed in confinement by the department;

(c) shall register within ~~10~~ *3 business* days of entering a county of this state for the purpose of residing or setting up a temporary ~~domicile~~ *residence* for 10 days or more or for an aggregate period exceeding 30 days in a calendar year*; and*

(d) who is a transient shall register within 3 business days of entering a county of this state.

(2) Registration under subsection (1)(a)*,* ~~or~~ (1)(c)*, or (1)(d)* must be with the ~~chief of police of the municipality or the sheriff of the county if the offender resides in an area other than a municipality. Whichever law enforcement official the offender registers with~~ *appropriate registration agency. If an offender registers with a police department, the department* shall notify the ~~other official~~ *sheriff's office of the county in which the municipality is located* of the registration. The probation officer having supervision over an offender required

to register under subsection (1)(a) shall verify the offender's registration status with the appropriate ~~law enforcement~~ *registration* agency.

(3) At the time of registering, the offender shall sign a statement in writing giving the information required by *subsections (3)(a) through (3)(g) and any other information required by* the department of justice. The ~~chief of police or sheriff~~ *registration agency* shall fingerprint the offender, unless the offender's fingerprints are on file with the department of justice, and shall photograph the offender. Within 3 days, the ~~chief of police or sheriff~~ *registration agency* shall send copies of the statement, fingerprints, and photographs to the department of justice. *The information collected from the offender at the time of registration must include the:*

(a) name of the offender and any aliases used by the offender;

(b) offender's social security number;

(c) residence information required by subsection (4);

(d) name and address of any business or other place where the offender is or will be an employee;

(e) name and address of any school where the offender will be a student;

(f) offender's driver's license number; and

(g) description and license number of any motor vehicle owned or operated by the offender.

(4) (a) If, at the time of registration, the offender regularly resides in more than one county or municipality, the offender shall register with the registration agency of each county or municipality in which the offender resides. If an offender resides in more than one location within the same county or municipality, the registration agency may require the offender to provide all of the locations where the offender regularly resides and to designate one of them as the offender's primary residence.

(b) Registration of more than one residence pursuant to this section is an exception from the single residence rule provided in 1-1-215.

(5) A transient shall report monthly, in person, to the registration agency with which the transient registered pursuant to subsection (1)(d). The transient shall report on a day specified by the registration agency and during the normal business hours of that agency. On that day, the transient shall provide the registration agency with the information listed in subsections (3)(a) through (3)(g). The registration agency to which the transient reports may also require the transient to provide the locations where the transient stayed during the previous 30 days and may stay during the next 30 days.

~~(4)~~*(6)* (a) The department of justice shall mail a registration verification form:

(i) each 90 days to an offender designated as a level 3 offender under 46-23-509; ~~and~~

(ii) each 180 days to an offender designated as a level 2 offender under 46-23-509; and

~~(ii)~~*(iii)* each year to a violent offender or an offender designated as a level 1 ~~or level 2~~ offender under 46-23-509.

(b) If the offender is a transient, the department of justice shall mail the offender's registration verification form to the registration agency with which the offender last registered.

~~(b)~~*(c)* The form must require the offender's ~~current address and~~ notarized signature. Within 10 days after receipt of the form, the offender shall complete the form and return it to the ~~department~~ *registration agency where the offender last registered or, if the offender was initially registered pursuant to subsection (1)(b), to the registration agency in the county or municipality in which the offender is located. A sexual offender shall return the form to the appropriate registration agency in person, and at the time that the sexual offender returns the registration verification form, the registration agency shall take a photograph of the offender.*

(7) Within 3 days after receipt of a registration verification form, the registration agency shall provide a copy of the form and most recent photograph to the department of justice.

~~(5)~~*(8)* The offender is responsible, if able to pay, for costs associated with registration. The fees charged for registration may not exceed the actual costs of registration. The department of justice may adopt a rule establishing fees to cover registration costs incurred by the department of justice in maintaining registration and address verification records. The fees must be deposited in the general fund.

~~(6)~~*(9)* The clerk of the district court in the county in which a person is convicted of a sexual or violent offense shall notify the sheriff in that county of the conviction within 10 days after entry of the judgment."

Section 21. Section 46-23-505, MCA, is amended to read:

"46-23-505. Notice of change of ~~address~~ *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 ~~address~~ *name or residence or a change in student, employment, or transient status*, the offender shall within ~~10~~ *3 business* days of the change ~~give written~~ *appear in person and give* notification of the ~~new address~~ *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 ~~department and to the chief of police of the municipality or sheriff of the county~~ *registration agency for the county or municipality* from which the offender is moving. ~~The agency or department shall, within 3 days after receipt of the new address, forward it to the department of justice, which shall forward a copy of the new address and photograph to the sheriff having jurisdiction over the new address and to the chief of police of the municipality of the new address if the new address is in a municipality.~~

(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."

Section 22. Section 46-23-506, MCA, is amended to read:

"46-23-506. Duration of registration. (1) A sexual offender required to register under this part shall register for the remainder of the offender's life, except as provided in subsection (3) or during a period of time during which the offender is in prison.

(2) A violent offender required to register under this part shall register:

(a) for the 10 years following release from confinement or, if not confined following sentencing, for the 10 years following the conclusion of the sentencing hearing, but the offender is not relieved of the duty to register until a petition is granted under subsection (3)(a); or

(b) if convicted during the 10-year period provided in subsection (2)(a) of failing to register or keep registration current or of a felony, for the remainder of the offender's life unless relieved of the duty to register as provided in subsection (3)(b).

(3) (a) An offender required to register for 10 years under subsection (2)(a) may, after the 10 years have passed, petition the sentencing court or the district court for the judicial district in which the offender resides for an order relieving the offender of the duty to register. The petition must be served on the county attorney in the county where the petition is filed. The petition must be granted if the defendant has not been convicted under subsection (2)(b).

(b) Except as provided in subsection (5), at any time after 10 years of registration *for a level 1 sexual offender and at any time after 25 years of registration for a level 2 sexual offender*, an offender ~~required to register for life~~ may petition the sentencing court or the district court for the judicial district in which the offender resides for an order relieving the offender of the duty to register. The petition must be served on the county attorney in the county where the petition is filed. Prior to a hearing on the petition, the county attorney shall mail a copy of the petition to the victim of the last offense for which the offender was convicted if the victim's address is reasonably available. The court shall consider any written or oral statements of the victim. The court may grant the petition upon finding that:

(i) the offender has remained a law-abiding citizen; and

(ii) continued registration is not necessary for public protection and that relief from registration is in the best interests of society.

(4) The offender may move that all or part of the proceedings in a hearing under subsection (3) be closed to the public, or the judge may close them on the judge's own motion. If a proceeding under subsection (3)(b) is closed to the public, the judge shall permit a victim of the offense to be present unless the judge determines that exclusion of the victim is necessary to protect the offender's right of privacy or the safety of the victim. If the victim is present, the judge, at the victim's request, shall permit the presence of an individual to provide support to the victim unless the judge determines that exclusion of the individual is necessary to protect the offender's right to privacy.

(5) Subsection (3) does not apply to an offender who was convicted of:

(a) a violation of 45-5-503 if:

(i) the victim was compelled to submit by force, as defined in 45-5-501, against the victim or another; or

(ii) at the time the offense occurred, the victim was under 12 years of age;

(b) a violation of 45-5-507 if at the time the offense occurred the victim was under 12 years of age and the offender was 3 or more years older than the victim;

(c) a second or subsequent sexual offense that requires registration; or

(d) a sexual offense and was designated as a sexually violent predator under 46-23-509."

Section 23. Section 46-23-508, MCA, is amended to read:

"46-23-508. Dissemination of information. (1) Information maintained under this part is confidential criminal justice information, as defined in 44-5-103, except that:

(a) the name and address of a registered sexual or violent offender are public criminal justice information, as defined in 44-5-103; and

(b) ~~a law enforcement~~ *the department of justice or the registration* agency shall release any offender registration information *that it possesses* relevant to the public if the *department of justice or the registration* agency determines that a registered offender is a risk to the safety of the community and that disclosure of the registration information *that it possesses* may protect the public and, at a minimum:

(i) if the offender is also a violent offender, the department of justice shall, and the registration agency may, disseminate to the victim and the public:

(A) the offender's name; and

(B) the offenses for which the offender is required to register under this part;

~~(i)~~*(ii)* if an offender was given a level 1 designation under 46-23-509, ~~the agency with which the offender is registered shall notify the agency in whose jurisdiction the offense occurred of the registration;~~ *the department of justice shall, and the registration agency may, disseminate to the victim and the public:*

(A) the offender's address;

(B) the name, photograph, and physical description of the offender;

(C) the offender's date of birth; and

(D) the offenses for which the offender is required to register under this part;

~~(ii)~~*(iii)* if an offender was given a *level 1 designation and committed an offense against a minor or was given a* level 2 designation under 46-23-509, the *department of justice shall, and the registration* agency ~~with which the offender is registered may disseminate the offender's name to the public with the notation that the offender is a sexual or violent offender and may notify a victim of the offense and any agency, organization, or group serving persons who have characteristics similar to those of a previous victim of the offender of~~ *may, disseminate to the victim and the public*:

(A) the offender's address;

(B) the type of victim targeted by the offense;

(C) the name, photograph, and physical description of the offender;

(D) the offender's date of birth;

(E) the license plate number and a description of any vehicle owned or operated by the offender;

~~(D)~~*(F)* the offenses for which the offender is required to register under this part; and

~~(E)~~*(G)* any conditions imposed by the court upon the offender for the safety of the public; and

~~(iii)~~*(iv)* if an offender was given a level 3 designation under 46-23-509, the *department of justice and the registration* agency shall give the victim and the public notification that includes the information contained in subsection ~~(1)(b)(ii)~~ *(1)(b)(iii)*. The ~~agency shall~~ *notification must* also include the date of the offender's release from confinement or, if not confined, the date the offender was sentenced, with a notation that the offender was not confined, and ~~shall~~ *must* include the community in which the offense occurred.

(c) prior to release of information under subsection (1)(b), a ~~law enforcement~~ *registration* agency may, in its sole discretion, request an in camera review by a district court of the determination by the ~~law enforcement~~ *registration* agency under subsection (1)(b). The court shall review a request under this subsection (1)(c) and shall, as soon as possible, render its opinion so that release of the information is not delayed beyond release of the offender from confinement.

(2) The identity of a victim of an offense for which registration is required under this part may not be released by a ~~law enforcement~~ *registration* agency without the permission of the victim.

(3) ~~A state or local law enforcement agency may use the internet to disseminate the information allowed by this section to the public.~~ *Dissemination to the public of information allowed or required by this section may be done by newspaper, paper flyers, the internet, or any other media determined by the disseminating entity. In determining the method of dissemination, the disseminating entity should consider the level of risk posed by the offender to the public.*

(4) The department of justice shall develop a model community notification policy to assist registration agencies in implementing the dissemination provisions of this section."

Section 24. Section 46-23-509, MCA, is amended to read:

"46-23-509. Sexual offender evaluations and designations — rulemaking authority. (1) The department shall adopt rules for the qualification of sexual offender evaluators who conduct sexual offender and sexually violent predator evaluations and for determinations by sexual offender evaluators of the risk of a repeat offense and the threat that an offender poses to the public safety.

(2) Prior to sentencing of a person convicted of a sexual offense, the department or a sexual offender evaluator shall provide the court with a sexual offender evaluation report recommending one of the following levels of designation for the offender:

(a) level 1, the risk of a repeat sexual offense is low;

(b) level 2, the risk of a repeat sexual offense is moderate;

(c) level 3, the risk of a repeat sexual offense is high, there is a threat to public safety, and the sexual offender evaluator believes that the offender is a sexually violent predator.

(3) Upon sentencing the offender, the court shall:

(a) review the sexual offender evaluation report, any statement by a victim, and any statement by the offender;

(b) designate the offender as level 1, 2, or 3; and

(c) designate a level 3 offender as a sexually violent predator.

(4) An offender designated as a level 2 offender or given a level designation by another state, the federal government, or the department under subsection (6) that is determined by the court to be similar to level 2 may petition the sentencing court or the district court for the judicial district in which the offender resides to change the offender's designation if the offender has enrolled in and successfully completed the treatment phase of either the prison's sexual offender *treatment* program or of an equivalent program approved by the department. After considering the petition, the court may change the offender's risk level designation if the court finds by clear and convincing evidence that the offender's risk of committing a repeat sexual offense has changed since the time sentence was imposed. The court shall impose one of the three risk levels specified in this section.

(5) If, at the time of sentencing, the sentencing judge did not apply a level designation to a sexual offender who is required to register under this part *and who was sentenced prior to October 1, 1997*, the department shall designate the offender as level 1, 2, or 3 when the offender is released from confinement.

(6) If an offense is covered by 46-23-502~~(6)(b)~~*(9)(b)*, the offender registers under 46-23-504(1)(c), and the offender was given a risk level designation after conviction by another state or the federal government, the department of justice may give the offender the risk level designation assigned by the other state or the federal government.

(7) The lack of a fixed residence is a factor that may be considered by the sentencing court or by the department in determining the risk level to be assigned to an offender pursuant to this section."

Section 25. 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 45-5-503(4), 45-5-507(5), 45-5-601(3), 45-5-602(3), 45-5-603(2)(c), or 45-5-625(4),* 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 ~~must~~ *shall* hold a hearing pursuant to the provisions of 46-18-203.

(e) ~~The~~ *Except as they apply to supervision after release from imprisonment imposed pursuant to 45-5-503(4), 45-5-507(5), 45-5-601(3), 45-5-602(3), 45-5-603(2)(c), or 45-5-625(4), 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 26. Section 53-1-203, MCA, is amended to read:

"53-1-203. Powers and duties of department of corrections. (1) The department of corrections shall:

(a) adopt rules necessary to carry out the purposes of 41-5-123 through 41-5-125, rules necessary for the siting, establishment, and expansion of prerelease centers, rules for the establishment and maintenance of residential methamphetamine treatment programs, and rules for the admission, custody, transfer, and release of persons in department programs except as otherwise provided by law. However, rules adopted by the department may not amend or alter the statutory powers and duties of the state board of pardons and parole.

The rules for the siting, establishment, and expansion of prerelease centers must state that the siting is subject to any existing conditions, covenants, restrictions of record, and zoning regulations. The rules must provide that a prerelease center may not be sited at any location without community support. The prerelease siting, establishment, and expansion must be subject to, and the rules must include, a reasonable mechanism for a determination of community support or objection to the siting of a prerelease center in the area determined to be impacted. The prerelease siting, establishment, and expansion rules must provide for a public hearing conducted pursuant to Title 2, chapter 3.

(b) subject to the functions of the department of administration, lease or purchase lands for use by correctional facilities and classify those lands to determine those that may be most profitably used for agricultural purposes, taking into consideration the needs of all correctional facilities for the food products that can be grown or produced on the lands and the relative value of agricultural programs in the treatment or rehabilitation of the persons confined in correctional facilities;

(c) contract with private, nonprofit Montana corporations to establish and maintain:

(i) prerelease centers for purposes of preparing inmates of a Montana prison who are approaching parole eligibility or discharge for release into the community, providing an alternative placement for offenders who have violated parole or probation, and providing a sentencing option for felony offenders pursuant to 46-18-201. The centers shall provide a less restrictive environment than the prison while maintaining adequate security. The centers must be operated in coordination with other department correctional programs. This subsection does not affect the department's authority to operate and maintain prerelease centers.

(ii) residential methamphetamine treatment programs for the purpose of alternative sentencing as provided for in 45-9-102, 46-18-201, 46-18-202, and any other sections relating to alternative sentences for persons convicted of possession of methamphetamine. The department shall issue a request for proposals using a competitive process and shall follow the applicable contract and procurement procedures in Title 18.

(d) use the staff and services of other state agencies and units of the Montana university system, within their respective statutory functions, to carry out its functions under this title;

(e) propose programs to the legislature to meet the projected long-range needs of corrections, including programs and facilities for the custody, supervision, treatment, parole, and skill development of persons placed in correctional facilities or programs;

(f) encourage the establishment of programs at the local and state level for the rehabilitation and education of felony offenders;

(g) administer all state and federal funds allocated to the department for youth in need of intervention and delinquent youth, as defined in 41-5-103;

(h) collect and disseminate information relating to youth in need of intervention and delinquent youth;

(i) maintain adequate data on placements that it funds in order to keep the legislature properly informed of the specific information, by category, related to youth in need of intervention and delinquent youth in out-of-home care facilities;

(j) provide funding for and place youth who are adjudicated to be delinquent or in need of intervention and who are committed to the department;

(k) administer youth correctional facilities;

(l) provide supervision, care, and control of youth released from a state youth correctional facility; and

(m) use to maximum efficiency the resources of state government in a coordinated effort to:

(i) provide for delinquent youth committed to the department; and

(ii) coordinate and apply the principles of modern correctional administration to the facilities and programs administered by the department.

(2) The department may contract with private, nonprofit or for-profit Montana corporations to establish and maintain a residential sexual offender treatment program. If the department intends to contract for that purpose, the department shall adopt rules for the establishment and maintenance of that program.

~~(2)~~*(3)* The department and a private, nonprofit *or for-profit* Montana corporation may not enter into a contract under subsection (1)(c) *or (2)* for a period that exceeds 20 years. The provisions of 18-4-313 that limit the term of a contract do not apply to a contract authorized by subsection (1)(c) *or (2)*. Prior to entering into a contract for a period of 10 years, the department shall submit the proposed contract to the legislative audit committee. The legislative audit division shall review the contract and make recommendations or comments to the legislative audit committee. The committee may make recommendations or comments to the department. The department shall respond to the committee, accepting or rejecting the committee recommendations or comments prior to entering into the contract.

~~(3)~~*(4)* The department of corrections may enter into contracts with nonprofit corporations or associations or private organizations to provide substitute care for youth in need of intervention and delinquent youth in youth correctional facilities.

~~(4)~~*(5)* The department may contract with Montana corporations to operate a day reporting program as an alternate sentencing option as provided in 46-18-201 and 46-18-225 and as a sanction option under 46-23-1015. The department shall adopt by rule the requirements for a day reporting program, including but not limited to requirements for daily check-in, participation in programs to develop life skills, and the monitoring of compliance with any conditions of probation, such as drug testing."

Section 27. Sexual offender treatment. (1) Upon sentencing a person convicted of a sexual offense, as defined in 46-23-502, the court shall designate the offender as a level 1, 2, or 3 offender pursuant to 46-23-509.

(2) (a) Except as provided in subsection (2)(b), the court shall order an offender convicted of a sexual offense, as defined in 46-23-502, except an offense under 45-5-301 through 45-5-303, and sentenced to imprisonment in a state prison to:

(i) enroll in and successfully complete the educational phase of the prison's sexual offender treatment program;

(ii) if the person has been or will be designated as a level 3 offender pursuant to 46-23-509, enroll in and successfully complete the cognitive and behavioral phase of the prison's sexual offender treatment program; and

(iii) if the person is sentenced pursuant to 45-5-503(4), 45-5-507(5), 45-5-601(3), 45-5-602(3), 45-5-603(2)(c), or 45-5-625(4) and is released on parole, remain in an outpatient sex offender treatment program for the remainder of the person's life.

(b) A person who has been sentenced to life imprisonment without possibility of release may not participate in treatment provided pursuant to this section.

(3) A person who has been ordered to enroll in and successfully complete a phase of a state prison's sexual offender treatment program is not eligible for parole unless that phase of the program has been successfully completed as certified by a sexual offender evaluator to the board of pardons and parole.

(4) (a) Except for an offender sentenced pursuant to 45-5-503(4), 45-5-507(5), 45-5-601(3), 45-5-602(3), 45-5-603(2)(c), or 45-5-625(4), during an offender's term of commitment to the department of corrections or a state prison, the department may place the person in a residential sexual offender treatment program approved by the department under 53-1-203.

(b) If the person successfully completes a residential sexual offender treatment program approved by the department of corrections, the remainder of the term must be served on probation unless the department petitions the sentencing court to amend the original sentencing judgment.

(5) If a person's sentence is suspended pursuant to subsection (4)(b), 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 28. Codification instruction. [Section 27] is intended to be codified as an integral part of Title 46, chapter 18, and the provisions of Title 46, chapter 18, apply to [section 27].

Section 29. 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 30. Effective date. [This act] is effective on passage and approval.

Section 31. Retroactive applicability. [Sections 2, 3, and 19 through 24] apply retroactively, within the meaning of 1-2-109, to:

(1) sexual offenders who are sentenced or who are in the custody or under the supervision of the department of corrections on or after July 1, 1989; and

(2) violent offenders who are sentenced or who are in the custody or under the supervision of the department of corrections on or after October 1, 1995.

Approved May 11, 2007

CHAPTER NO. 484

[HB 160]

AN ACT TRANSFERRING AND APPROPRIATING MONEY FROM THE GENERAL FUND TO REPAY LAND TRUSTS AND TRUST BENEFICIARIES FOR DIVERSIONS FOR ADMINISTRATIVE COSTS; AND PROVIDING AN EFFECTIVE DATE.

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

Section 1. Transfer and appropriation for repayment. (1) (a) There is appropriated $822,774.07 from the general fund to Montana state university for the purpose of repaying Montana state university-Bozeman the amount of distributable money plus interest that has been diverted for administrative costs on Morrill Act trust lands.

(b) There is transferred $115,123.49 from the general fund to the Morrill Act permanent trust fund for the purpose of repaying the Morrill Act trust fund the amount of permanent fund money plus interest that has been diverted for administrative costs on Morrill Act trust lands.

(2) The following money is appropriated from the general fund to the identified beneficiary for the purpose of repaying the beneficiary the amount of distributable money plus interest that was inappropriately diverted to pay for administrative costs on Morrill Act trust lands:

Beneficiary	Diversion
University of Montana-Missoula	$5.94
Montana State University-Bozeman (2nd Grant)	$14,500.19
Montana Tech of the University of Montana	$761.97
University of Montana-Western (Normal School)	$6,060.68

School for the Deaf and Blind	$10.40
Pine Hills Youth Correctional Facility (Reform School)	$19.24
Common Schools Guarantee Account	$206,316.75
Capitol Buildings	$29,149.38

(3) The following money is transferred from the general fund to the permanent trust fund of the trust identified for the purpose of repaying the permanent trust funds the amount of permanent fund money plus interest that was inappropriately diverted to pay for administrative costs on Morrill Act trust lands:

Permanent Trust Fund	Diversion
Public School Fund	$10,038.28
State Reform School Trust Fund	$8,441.19
The trust established for the support of the School for the Deaf and Blind	$731.18

(4) (a) There is appropriated $235,747.10 from the general fund to the common schools guarantee account for the purpose of repaying the common schools guarantee account the amount of distributable money that was diverted to allow the department of natural resources and conservation to fully fund the trust land administration account provided for in 77-1-108 to pay administrative costs that were allocated to the capitol building trust, the state reform school trust, and the Montana tech of the university of Montana trust.

(b) There is transferred $4,764.55 from the general fund to the public school fund for the purpose of repaying the public school fund the amount of permanent fund money plus interest that was diverted to allow the department of natural resources and conservation to fully fund the trust land administration account provided for in 77-1-108 to pay administrative costs that were allocated to the capitol building trust, the state reform school trust, and the Montana tech of the university of Montana trust.

Section 2. Obligation settled. The transfers and appropriations provided for in [section 1] satisfy the state's responsibility to the permanent trust funds and beneficiaries and makes the permanent trust funds and beneficiaries of those trust funds whole for the diversions identified in [section 1].

Section 3. Effective date. [This act] is effective July 1, 2007.

Approved May 14, 2007

CHAPTER NO. 485

[HB 337]

AN ACT AUTHORIZING A COUNTY, A CONSOLIDATED GOVERNMENT, OR A MUNICIPALITY TO ESTABLISH A VOLUNTEER FIREFIGHTERS' DISABILITY INCOME INSURANCE ACCOUNT; AUTHORIZING A COUNTY, A CONSOLIDATED GOVERNMENT, OR A MUNICIPALITY TO LEVY A TAX, SUBJECT TO VOTER APPROVAL, ON PROPERTY TO PURCHASE DISABILITY INCOME INSURANCE COVERAGE FOR VOLUNTEER FIREFIGHTERS; AMENDING SECTIONS 7-33-2109, 7-33-2209, 7-33-2403, 7-33-4109, AND 7-33-4111, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

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

Section 1. Disability income insurance authorized — voted levy — fund. (1) Disability income insurance, as defined in 33-1-235, 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.

(2) If the voters have approved a levy for the purchase of volunteer firefighters' disability income insurance, 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) 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 2. Section 7-33-2109, MCA, is amended to read:

"7-33-2109. Tax levy, debt incurrence, and bonds authorized — *voted levy for disability income coverage.* (1) At the time of the annual levy of taxes, the board of county commissioners may, subject to 15-10-420, levy a ~~special~~ tax upon all property within a rural fire district for the purpose of buying or maintaining fire protection facilities, including real property, and apparatus, including emergency response apparatus, for the district or for the purpose of paying to a city, town, or private fire service the consideration provided for in any contract with the council of the city, town, or private fire service for ~~the purpose of~~ furnishing fire protection service to property within the district. The tax must be collected as are other taxes.

(2) Subject to 15-10-425, the board of county commissioners may levy a tax upon all taxable property within a rural fire district for the purpose of purchasing disability income insurance coverage for the volunteer firefighters of the district as provided in [section 1].

~~(2)~~*(3)* The board of county commissioners or the trustees, if the district is governed by trustees, may pledge the income of the district, subject to the requirements and limitations of 7-33-2105(3), to secure financing necessary to procure equipment and buildings, including real property, to house the equipment.

~~(3)~~*(4)* In addition to the levy authorized in subsection (1), a district may borrow money by the issuance of bonds to provide funds for the payment of all or part of the cost of buying or maintaining fire protection facilities, including real property, and apparatus, including emergency response apparatus, for the district.

~~(4)~~*(5)* The amount of debt incurred pursuant to subsection ~~(2)~~ *(3)* and the amount of bonds issued pursuant to subsection ~~(3)~~ *(4)* and outstanding at any time may not exceed 1.1% of the total assessed value of taxable property, determined as provided in 15-8-111, within the district, as ascertained by the most recent assessment for state and county taxes prior to the incurrence of debt or the issuance of the bonds.

~~(5)~~*(6)* The bonds must be authorized, sold, and issued and provisions must be made for their payment in the manner and subject to the conditions and limitations prescribed for the issuance of bonds by counties under Title 7, chapter 7, part 22."

Section 3. Section 7-33-2209, MCA, is amended to read:

"7-33-2209. Finance of fire control activities — *voted levy for disability income insurance.* (1) The county governing body may appropriate funds for the purchase, care, and maintenance of firefighting equipment or for the payment of wages in prevention, detection, and suppression of fires.

(2) Subject to 15-10-420, if the general fund is budgeted to the full limit, the county governing body may, at any time fixed by law for levy and assessment of taxes, levy a tax for the purposes of subsection (1).

(3) Subject to 15-10-425, the county governing body may levy a tax for the purpose of purchasing disability income insurance coverage for volunteer firefighters of volunteer rural fire control crews and county volunteer fire companies as provided in [section 1]."

Section 4. Section 7-33-2403, MCA, is amended to read:

"7-33-2403. Operation of fire service area — *voted levy for disability income insurance.* (1) Whenever the board of county commissioners has established a fire service area, the commissioners may:

(a) govern and manage the affairs of the area;

(b) appoint five qualified trustees to govern and manage the affairs of the area; or

(c) authorize the election of five qualified trustees to govern and manage the affairs of the area. The term of office and procedures for nomination and election are the same as those provided for election of rural fire district trustees in 7-33-2106.

(2) Subject to 15-10-425, the commissioners may levy a tax upon all property within the county for the purpose of buying disability income insurance coverage for volunteer firefighters deployed within the fire service area as provided in [section 1].

~~(2)~~*(3)* If the commissioners appoint trustees under subsection (1), the provisions of 7-33-2105 apply and 7-33-2106 applies whether the trustees are elected or appointed, except that the trustees shall prepare annual budgets and request a schedule of rates for the budget."

Section 5. Section 7-33-4109, MCA, is amended to read:

"7-33-4109. Supplementary volunteer fire department authorized for cities of second class — *voted levy for disability income insurance.* (1) In addition to a paid department, the city council, city commission, or other governing body in cities of the second class may make provision for a volunteer fire department.

(2) The city commission or governing department ~~shall be~~ *is* exempted ~~as to~~ *from* compliance with 7-33-4128 ~~insofar as the same may pertain~~ *to the extent that section applies* to the ~~said~~ volunteer fire department by way of penalties and infringements.

(3) A volunteer is ~~one who is~~ an enrolled member of the volunteer fire department, ~~and~~ assists the paid fire department~~;~~, ~~who~~ *and* is eligible to serve only on the board of trustees of the fire department relief association of ~~such~~ *the* city. ~~(provided~~ *However,* not more than three volunteer members ~~are~~ *may be* on ~~said~~ *the* board of trustees~~); but who shall not be~~. *A person who is a volunteer for the purposes of this section is not* entitled to receive a service pension.

(4) The governing body of ~~said~~ *the* city may*:*

(a) ~~at its discretion~~ pay an enrolled volunteer firefighter a minimum of $1 for attending a fire and a minimum of $1 for each hour or fraction of an hour after the first hour in active service at ~~said~~ *a* fire or returning ~~any or all~~ equipment to its proper place*;*

(b) subject to 15-10-425, levy a tax upon all property within a fire district for the purpose of buying disability income insurance coverage for the volunteer firefighters of the volunteer fire department as provided in [section 1].

(5) In ~~the~~ attending ~~of~~ fires, any volunteer shall act and serve under the supervision of the chief of the paid fire department."

Section 6. Section 7-33-4111, MCA, is amended to read:

"7-33-4111. Tax levy for volunteer fire departments — *voted levy for disability income insurance.* *(1)* For the purpose of supporting volunteer fire departments in any city or town that does not have a paid fire department and for the purpose of purchasing the necessary equipment for them, the council in any city or town may, subject to 15-10-420, levy, in addition to other levies permitted by law, a tax on the taxable value of all taxable property in the city or town.

(2) Subject to 15-10-425, a city or town may levy a tax on the taxable value of all taxable property in the city or town for the purpose of purchasing disability income insurance coverage for volunteer firefighters of volunteer fire departments as provided in [section 1]."

Section 7. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 7, chapter 6, part 6, and the provisions of Title 7, chapter 6, part 6, apply to [section 1].

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

Approved May 14, 2007

CHAPTER NO. 486

[HB 368]

AN ACT PROVIDING APPROPRIATIONS TO THE LEGISLATIVE SERVICES DIVISION AND TO THE MONTANA HISTORICAL SOCIETY TO SUPPORT BROADCASTING SERVICES AND PERMANENT PRESERVATION OF TELEVISED LEGISLATIVE PROCEEDINGS.

WHEREAS, the Legislature in 2001 established a state-funded public affairs television program to provide Montana citizens with increased access to unbiased information about state government; and

WHEREAS, the Legislative Services Division has the statutory duty, pursuant to section 5-11-1111, MCA, to administer the television program and to develop and implement a plan to provide the maximum attainable distribution of telecasts in order to reach as many Montana citizens as possible; and

WHEREAS, although the Legislature in 2001 and in subsequent sessions hoped that the transmission and distribution of the televised proceedings could be financed with federal grants and private contributions, these funding sources have been unreliable and insufficient; and

WHEREAS, the gavel-to-gavel coverage of state government proceedings, known as TVMT programming, will for the first time be made available in eight urban markets, where approximately 350,000 cable customers reside, during the 2007 legislative session as a result of a pilot program partnership involving Helena Civic Television, Bresnan Communications, VisionNet, Inc., and the Legislative Services Division; and

WHEREAS, public funding is required to sustain the noncommercial integrity of TVMT programming and expand the public-private partnership described above so that citizens in rural, urban, and reservation communities all across Montana have access to unfiltered coverage of state government activities; and

WHEREAS, the Legislative Services Division has a historic duty to provide the Montana Historical Society with official records of permanent value to the state, as provided in section 22-3-202, MCA, and the Montana Historical Society is not currently equipped to archive and preserve, or provide access to, digital recordings of the televised proceedings.

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

Section 1. Appropriations. (1) There is appropriated $265,000 from the general fund to the legislative services division for the 2009 biennium to maximize the accessibility of gavel-to-gavel coverage of the legislative proceedings to additional Montana citizens.

(2) There is appropriated $70,000 from the general fund to the Montana historical society for the 2009 biennium for the preservation of digital recordings to make the content of televised proceedings of the legislature available to the public on a permanent basis.

(3) Purchase of services or equipment from the appropriation in this section must conform to state procurement law in Title 18, chapter 4.

Section 2. Contingent voidness. If House Bill No. 818 is not passed and approved, then [this act] is void.

Approved May 14, 2007

CHAPTER NO. 487

[HB 462]

AN ACT PROVIDING FOR THE ESTABLISHMENT OF CONSTITUENT SERVICES ACCOUNTS; PROVIDING FOR THE FUNDING AND USE OF

MONEY IN A CONSTITUENT SERVICES ACCOUNT; PROVIDING REPORTING REQUIREMENTS FOR CONSTITUENT SERVICES ACCOUNTS; AMENDING SECTION 13-37-240, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

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

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

(1) "Constituent services" means travel, mailing, and other expenses incurred to represent and serve constituents and authorized in rules adopted by the commissioner to implement the provisions of [sections 1 and 2].

(2) "Personal benefit" has the meaning provided in 13-37-240.

Section 2. Constituent accounts — reports. (1) A constituent services account may be established by a person elected to a statewide or legislative office or as a public service commissioner to pay for constituent services. A constituent services account may be established by filing an appropriate form with the commissioner.

(2) (a) A successful candidate for the legislature, a statewide elected office, or the public service commission may deposit only surplus campaign funds in a constituent services account.

(b) The money in the account may be used only for constituent services. The money in the account may not be used for personal benefit. Expenditures from a constituent services account may not be made when the holder of the constituent services account also has an open campaign account.

(3) A statewide elected official, legislator, or public service commissioner may not establish any account related to the public official's office other than a constituent services account. This subsection does not prohibit a statewide elected official, legislator, or public service commissioner from establishing a campaign account.

(4) The holder of a constituent services account shall file a quarterly report with the commissioner, by a date established by the commissioner by rule. The report must disclose the source of all money deposited in the account and enumerate expenditures from the account. The report must include the same information as required for a candidate reporting contributions under 13-37-229 and expenditures under 13-37-230. The report must be certified as provided in 13-37-231.

(5) The holder of a constituent services account shall close the account within 120 days after the account holder leaves public office.

Section 3. Section 13-37-240, MCA, is amended to read:

"13-37-240. Surplus campaign funds. (1) A candidate shall dispose of any surplus funds from the candidate's campaign within 120 days after the time of filing the closing campaign report pursuant to 13-37-228. In disposing of the surplus funds, a candidate may not contribute the funds to another campaign, including the candidate's own future campaign, or use the funds for personal benefit. *A successful candidate for a statewide elected or legislative office or for public service commissioner may establish a constituent services account as provided in [section 2].* The candidate shall provide a supplement to the closing campaign report to the commissioner showing the disposition of any surplus campaign funds.

(2) For purposes of this section, "personal benefit" means a use that will provide a direct or indirect benefit of any kind to the candidate or any member of the candidate's immediate family."

Section 4. Codification instruction. [Sections 1 and 2] are intended to be codified as an integral part of Title 13, chapter 37, and the provisions of Title 13, chapter 37, apply to [sections 1 and 2].

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

Approved May 14, 2007

CHAPTER NO. 488

[HB 491]

AN ACT PERMITTING TESTIMONY OF CERTAIN CHILD WITNESSES BY TWO-WAY ELECTRONIC AUDIO-VIDEO COMMUNICATION IN CRIMINAL CASES INVOLVING SEXUAL OR VIOLENT OFFENSES; AND REPEALING SECTION 46-16-216, MCA.

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

Section 1. Definitions. As used in [sections 2 through 4] and this section, the following definitions apply:

(1) "Child witness" means an individual who is:

(a) 13 years of age or younger at the time the individual is called as a witness in a criminal proceeding involving a sexual or violent offense; or

(b) under 16 years of age at the time that the individual is called as a witness in a criminal proceeding involving a sexual or violent offense and who is an individual with a developmental disability, as defined in 53-20-102.

(2) "Sexual offense" means any violation of or attempt, solicitation, or conspiracy to commit a violation of 45-5-502, 45-5-503, 45-5-504, 45-5-507, 45-5-603, or 45-5-625.

(3) "Violent offense" means 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, 45-5-210, 45-5-212, 45-5-213, 45-5-302, 45-5-303, 45-5-401, 45-6-103, or 45-9-132.

Section 2. Raising issue of testimony of child witness outside presence of defendant — motion by prosecution or defense. Upon a motion by the prosecution or defense if the defense intends to call a child witness other than the victim in its case in chief, a court shall conduct a hearing to consider whether the testimony of a child witness may be taken outside the presence of the defendant and communicated to the courtroom by two-way electronic audio-video communication.

Section 3. Hearing — procedure — evidence that may be received — protection for child witness. (1) A court shall conduct a hearing on a motion made under [section 2].

(2) The prosecution, if the prosecution made the motion pursuant to [section 2], or the defense, if the defense made the motion pursuant to [section 2], shall present evidence at the hearing made on the motion to prove the need for an order under [section 4].

(3) In ruling on the motion, the court shall consider the following factors:

(a) the age and maturity of the child witness;

(b) the possible effect that testifying in person might have on the child witness;

(c) the extent of the trauma that the child witness has already suffered;

(d) the nature of the testimony to be given by the child witness;

(e) the nature of the offense;

(f) threats made to the child witness or the child witness's family in order to prevent or dissuade the child witness from attending or giving testimony at any trial or court proceeding;

(g) conduct on the part of the defendant or the defendant's attorney that causes the child witness to be unable to continue the child witness's testimony; and

(h) any other matter that the court considers relevant.

(4) The court may consider hearsay evidence of reports or testimony by psychologists who have examined or treated the child witness.

Section 4. Order for two-way electronic audio-video communication testimony — finding by court — procedure for conducting testimony. (1) The court shall order that the testimony of a child witness be taken by two-way electronic audio-video communication if, after considering the factors set forth in [section 3(3)], the court finds by clear and convincing evidence that the child witness is unable to testify in open court in the presence of the defendant for any of the following reasons:

(a) the child witness is unable to testify because of fear caused by the presence of the defendant;

(b) the child witness would suffer substantial emotional trauma from testifying in the presence of the defendant; or

(c) conduct by the defendant or the defendant's attorney causes the child witness to be unable to continue testifying.

(2) If the court orders that the child witness's testimony be taken by two-way electronic audio-video communication, the testimony must be taken outside the courtroom in a suitable location designated by the judge. Examination and cross-examination of the child witness must proceed as though the child witness were testifying in the courtroom. The only persons who may be permitted in the room with the child witness during the child's testimony are:

(a) the judge or a judicial officer appointed by the court;

(b) the prosecutor;

(c) the defense attorney;

(d) the child's attorney;

(e) persons necessary to operate the two-way electronic audio-video communication equipment; and

(f) any person whose presence is determined by the court to be necessary to the welfare and well-being of the child witness.

(3) The defendant must be afforded a means of private, contemporaneous communication with the defendant's attorney during the testimony.

(4) This section does not preclude the presence of both a victim and the defendant in the courtroom together for purposes of establishing or challenging

the identification of the defendant when identification is a legitimate issue in the proceeding.

Section 5. Repealer. Section 46-16-216, MCA, is repealed.

Section 6. Codification instruction. [Sections 1 through 4] are intended to be codified as an integral part of Title 46, chapter 16, part 2, and the provisions of Title 46, chapter 16, part 2, apply to [sections 1 through 4].

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.

Approved May 14, 2007

CHAPTER NO. 489

[HB 829]

AN ACT PROVIDING A MEANS TO RATIFY THE IMPENDING WATER RIGHTS COMPACT AMONG THE BLACKFEET TRIBE, THE STATE OF MONTANA, AND THE UNITED STATES; CREATING A BLACKFEET TRIBE WATER RIGHTS COMPACT MITIGATION ACCOUNT; CREATING A BLACKFEET TRIBE WATER RIGHTS COMPACT INFRASTRUCTURE ACCOUNT; AUTHORIZING THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION TO ADMINISTER THE ACCOUNTS; PROVIDING A FUND TRANSFER; APPROPRIATING FUNDS FOR THE MITIGATION ACCOUNT; AND PROVIDING EFFECTIVE DATES.

WHEREAS, it is the policy of the state to seek negotiated settlements of federal and Indian reserved water rights claims in Montana under Title 85, chapter 2, part 7, MCA; and

WHEREAS, pursuant to this policy, the Montana Reserved Water Rights Compact Commission, under 85-2-702(1), MCA, is authorized to negotiate the settlement of water rights claims filed by Indian tribes or on their behalf by the United States claiming reserved waters within the state of Montana; and

WHEREAS, the Montana Reserved Water Rights Compact Commission, the Blackfeet Tribe, and the United States are near final agreement on a water rights compact; and

WHEREAS, a final Blackfeet Tribe-Montana water rights compact is essential to provide legal certainty with regard to the water rights of Indian and non-Indian water rights holders; and

WHEREAS, implementation of the compact will require state and federal cost-sharing, in amounts to be determined by future negotiation among the parties, for the renovation and upgrading of infrastructure on the reservation, which may include but is not limited to the Four Horns Reservoir; and

WHEREAS, state law requires legislative ratification of any compact entered into pursuant to 85-2-702, MCA; and

WHEREAS, a compact is expected to be agreed upon between the Blackfeet Tribe and the state of Montana shortly, and state legislative ratification is necessary.

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) "Blackfeet Tribe" means the Blackfeet Tribe of the Blackfeet Indian Reservation of Montana; and

(2) "Department" means the department of natural resources and conservation provided for in Title 2, chapter 15, part 33.

Section 2. Blackfeet Tribe water rights compact mitigation account — use. (1) There is an account within the state special revenue fund called the Blackfeet Tribe water rights compact mitigation account. The department shall administer the account. Up to $650,000 each fiscal year of interest and earnings on the account must be deposited in the account.

(2) The Blackfeet Tribe water rights compact mitigation account may be used only for:

(a) expenditures for grants to or matching funds for federal or other grants to water right holders under state law for water from Birch Creek, Badger Creek, Cut Bank Creek, the Two Medicine River, and the portion of the Milk River within the exterior boundaries of the Blackfeet Indian Reservation for projects approved by the department to enhance water availability or otherwise mitigate the economic and hydrologic impacts on water right holders under state law caused by the development of the Blackfeet Tribe's water rights under a water rights compact pursuant to 85-2-702 quantifying the water rights of the Blackfeet Tribe; and

(b) implementation of the water rights compact among the Blackfeet Tribe, the state, and the United States and any associated agreements as may be specified in the compact or agreements.

(3) (a) The department may expend up to $500,000 of the account to conduct preliminary feasibility studies and an associated environmental review for water compact purposes.

(b) The department may expend up to $650,000 each fiscal year of the interest and income on the escrow account provided for in subsection (4)(b) for the purposes described in subsection (2)(b).

(4) (a) At least $4.5 million of this account must be dedicated to mitigate impacts on water right holders under state law for use of water out of Birch Creek.

(b) The amount of $10 million in this account must be held in escrow. The department shall negotiate the terms of an escrow agreement.

(5) Except as provided in subsection (3), funds from this account may not be disbursed unless a water rights compact among the Blackfeet Tribe, the state, and the United States has been finally ratified by the legislature, the Congress of the United States, and the Blackfeet Tribe.

Section 3. Blackfeet Tribe water rights compact infrastructure account — use. (1) There is an account within the state special revenue fund called the Blackfeet Tribe water rights compact infrastructure account. The department shall administer the account.

(2) The Blackfeet Tribe water rights compact infrastructure account may be used only for water-related infrastructure projects within the exterior boundaries of the Blackfeet Indian reservation.

(3) Funds from this account may not be disbursed unless a water rights compact among the Blackfeet Tribe, the state, and the United States has been finally ratified by the legislature, the Congress of the United States, and the Blackfeet Tribe.

Section 4. Administrative rules. (1) The department shall adopt reasonable rules for implementing and administering [sections 1 through 3].

(2) In proposing rules, the department shall:

(a) consult with affected stakeholders, including the Pondera County conservation district and the Glacier County conservation district; and

(b) give priority to mitigating impacts on water right holders under state law who use water out of Birch Creek.

Section 5. Fund transfer. There is transferred $15 million from the state general fund to the Blackfeet Tribe water rights compact mitigation state special revenue account created in [section 2].

Section 6. Appropriation. (1) (a) There is appropriated $500,000 from the Blackfeet Tribe water rights compact mitigation account to the department of natural resources and conservation for the biennium ending June 30, 2009. The appropriation may be used solely for the purposes described in [section 2(3)(a)].

(b) Up to $650,000 each fiscal year of the interest and income on the escrow account provided for in [section 2] is appropriated to the department for the purposes described in [section 2(2)(b)].

(2) There is appropriated $14.5 million from the Blackfeet Tribe water rights compact mitigation account to the department of natural resources and conservation. This appropriation may be used solely for the purposes described in [section 2].

Section 7. Codification instruction. [Sections 1 through 4] are intended to be codified as an integral part of Title 85, chapter 20, and the provisions of Title 85, chapter 20, apply to [sections 1 through 4].

Section 8. Effective dates — contingency. (1) Except as provided in subsection (2), [this act] is effective on passage and approval.

(2) [Section 6(2)] is effective when a water rights compact among the Blackfeet Tribe, the state, and the United States has been finally ratified by the legislature, the congress of the United States, and the Blackfeet Tribe.

Approved May 14, 2007

CHAPTER NO. 490

[SB 22]

AN ACT REVISING THE ELIGIBILITY REQUIREMENTS FOR THE CHILDREN'S HEALTH INSURANCE PROGRAM; AMENDING SECTION 53-4-1004, MCA; AND PROVIDING AN EFFECTIVE DATE.

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

Section 1. Section 53-4-1004, MCA, is amended to read:

"53-4-1004. (Temporary) Eligibility for program — rulemaking. (1) To be considered eligible for the program, a child:

(a) must be 18 years of age or younger;

(b) must have a combined family income at or below ~~150%~~ *175%* of the federal poverty level or at a lower level determined by the department of public health and human services as provided in subsection (4);

(c) may not already be covered by private insurance that offers creditable coverage, as defined in 42 U.S.C. 300gg(c);

(d) may not be eligible for medicaid benefits; and

(e) must be a United States citizen or qualified alien and a Montana resident.

(2) The department of public health and human services shall adopt rules that establish the program's criteria for residency. The criteria must conform as nearly as practicable with the residency requirements for medicaid eligibility.

(3) Subject to 53-4-1009(3), rules governing eligibility may also include financial standards and criteria for income and resources, treatment of resources, and nonfinancial criteria.

(4) If the department determines that there is insufficient funding for the program, it may lower the percentage of the federal poverty level established in subsection (1)(b) in order to reduce the number of persons who may be eligible to participate or may limit the amount, scope, or duration of specific services provided. (Terminates on occurrence of contingency—sec. 15, Ch. 571, L. 1999.)"

Section 2. Effective date. [This act] is effective July 1, 2007.

Approved May 14, 2007

CHAPTER NO. 491

[HB 25]

AN ACT GENERALLY REVISING THE ELECTRIC UTILITY INDUSTRY RESTRUCTURING AND CUSTOMER CHOICE LAWS; ELIMINATING AND CLARIFYING CERTAIN DEFINITIONS; DEFINING CERTAIN TERMS; CLARIFYING CUSTOMER OPTIONS REGARDING PURCHASING ELECTRICITY SUPPLY; CLARIFYING PUBLIC UTILITY AND COOPERATIVE UTILITY EXEMPTIONS; CLARIFYING ELECTRICITY SUPPLY AND PROCUREMENT REQUIREMENTS; CLARIFYING THE APPROVAL PROCESS FOR ELECTRICITY SUPPLY RESOURCES; REQUIRING THE COMMISSION TO ADDRESS CARBON OFFSETS IN THE APPROVAL PROCESS; CLARIFYING USE OF GENERATION ASSETS; AMENDING SECTIONS 15-72-103, 15-72-104, 35-19-102, 69-1-114, 69-8-101, 69-8-103, 69-8-201, 69-8-210, 69-8-311, 69-8-402, 69-8-403, 69-8-411, 69-8-419, 69-8-420, 69-8-421, 69-8-602, 69-8-603, AND 69-8-1004, MCA; AND REPEALING SECTIONS 69-8-102, 69-8-104, 69-8-202, 69-8-203, 69-8-204, 69-8-208, 69-8-209, 69-8-211, 69-8-301, 69-8-302, 69-8-303, 69-8-304, 69-8-308, 69-8-309, 69-8-310, 69-8-404, 69-8-408, 69-8-409, AND 69-8-410, MCA.

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

Section 1. Section 15-72-103, MCA, is amended to read:

"15-72-103. Definitions. As used in this part, unless the context requires otherwise, the following definitions apply:

(1) "Customer" or "purchaser" means a person who acquires for consideration electricity for use or consumption and not for resale.

(2) "Distribution services provider" means a person controlling or operating distribution facilities for distribution of electricity to the public. A distribution services provider includes a purchaser who takes electricity directly from a transmission line *or substation* and a purchaser who generates electricity for the purchaser's own use but does not include electricity generated by the purchaser for noncommercial use or for agricultural use.

(3) "Person" means an individual, estate, trust, receiver, cooperative association, corporation, limited liability company, firm, partnership, joint venture, syndicate, or other entity, including any gas or electric utility owned or operated by a county, municipality, or other political subdivision of the state.

(4) "Transmission services provider" means a person *or entity* controlling or operating ~~transmission~~ facilities ~~as that term is defined in 69-8-103~~ *used for the transmission of electricity*."

Section 2. Section 15-72-104, MCA, is amended to read:

"15-72-104. Wholesale energy transaction tax — rate of tax — exemptions — cost recovery. (1) (a) Except as provided in subsection (3), a wholesale energy transaction tax is imposed upon electricity transmitted within the state as provided in this section. The tax is imposed at a rate of 0.015 cent per kilowatt hour of electricity transmitted by a transmission services provider in the state.

(b) For electricity produced in the state for delivery outside ~~of~~ the state, the taxpayer is the person owning or operating the electrical generation facility producing the electricity. The transmission services provider shall collect the tax from the person based upon the kilowatt hours introduced onto transmission lines from the electrical generation facility. The amount of kilowatt hours subject to tax must be reduced by 5% to compensate for transmission line losses.

(c) For electricity produced in the state for delivery within the state, the taxpayer is the distribution services provider. The transmission services provider shall collect the tax based upon the amount of kilowatt hours of electricity delivered to the distribution services provider. The taxpayer may apply for a refund for overpayment of taxes pursuant to 15-72-116.

(d) For electricity produced outside the state for delivery inside the state, the taxpayer is the distribution services provider. The transmission services provider shall collect the tax based upon the amount of kilowatt hours of electricity delivered to the distribution services provider.

(e) For electricity delivered to a distribution services provider that is a rural electric cooperative for delivery to purchasers that have opted for customer choice under the provisions of Title 69, chapter 8, part 3, the taxpayer is the distribution services provider. The transmission services provider shall collect the tax based on the amount of kilowatt hours of electricity delivered to the distribution services provider that is attributable to customers that have opted for customer choice.

(f) For electricity delivered to a distribution services provider that prior to May 2, 1999, was owned by a public utility as defined in 69-3-101, the tax is imposed on the successor distribution services provider. The transmission services provider shall collect the tax based upon the amount of kilowatt hours of electricity delivered to the distribution services provider.

(2) (a) If more than one transmission services provider transmits electricity, the last transmission services provider transmitting or delivering the electricity shall collect the tax.

(b) If the transmission services provider is an agency of the United States government, the distribution services provider receiving the electricity shall self-assess the tax subject to the provisions of this part.

(c) If an electrical generation facility located within the state produces electricity for sale inside and outside the state, sales within the state are considered to have come from electricity produced within the state for purposes of the tax imposed by this section.

(3) (a) Electricity transmitted through the state that is not produced or delivered in the state is exempt from the tax imposed by this section.

(b) Electricity produced in the state by an agency of the United States government or electricity produced from an electric energy generation facility, as defined in 90-5-101(3), constructed after May 1, 2001, that is within the exterior boundaries of a Montana Indian reservation for delivery outside ~~of~~ the state is exempt from the tax imposed by this section.

(c) Electricity produced by wind turbines erected on state land for which annual lease payments are made to the permanent school trust fund is exempt from the tax imposed by this section.

(d) Electricity delivered to a distribution services provider that is a municipal utility described in ~~69-8-103(5)(b)~~ *69-8-103(4)(b)* or a rural electric cooperative organized under the provisions of Title 35, chapter 18, is exempt from the tax imposed by this section.

(e) Electricity delivered to a purchaser that receives its power directly from a transmission or distribution facility owned by an entity of the United States government on or before May 2, 1997, or electricity that is transmitted exclusively on transmission or distribution facilities owned by an entity of the United States government on or before May 2, 1997, is exempt from the tax imposed by this section.

(4) A distribution services provider is allowed to recover the tax imposed by this section and the administrative costs to comply with this part in its rates."

Section 3. Section 35-19-102, MCA, is amended to read:

"35-19-102. Definitions. As used in this chapter, unless the context requires otherwise, the following definitions apply:

(1) "Distribution utility" means ~~the electricity distribution portion of a public utility as defined in 69-8-103~~ *a utility owning distribution facilities for distribution of electricity to the public*.

(2) "Residential customer" means a residential customer of a distribution utility.

(3) "Small commercial customer" means, for a distribution utility, individual accounts of a commercial customer with an average monthly demand in the previous calendar year of less than 100 kilowatts or a new commercial customer with an estimated average monthly demand of less than 100 kilowatts.

(4) "Small customer" means a residential customer or small commercial customer of a distribution utility."

Section 4. Section 69-1-114, MCA, is amended to read:

"69-1-114. Fees. (1) Each fee charged by the commission must be reasonable.

(2) Except for a fee assessed pursuant to 69-3-204(2), ~~69-8-421(7)~~ *69-8-421(10)*, or 69-12-423(2), a fee set by the commission may not exceed $500.

(3) All fees collected by the department under ~~69-8-421(7)~~ *69-8-421(10)* must be deposited in an account in the special revenue fund. Funds in this account must be used as provided in ~~69-8-421(7)~~ *69-8-421(10)*."

Section 5. Section 69-8-101, MCA, is amended to read:

"69-8-101. Short title. This chapter may be cited as the "Electric Utility Industry ~~Restructuring and Customer Choice~~ *Generation Reintegration* Act"."

Section 6. Section 69-8-103, MCA, is amended to read:

"69-8-103. Definitions. As used in this chapter, unless the context requires otherwise, the following definitions apply:

~~(1) "Aggregator" or "market aggregator" means an entity, licensed by the commission, that aggregates retail customers, purchases electrical energy, and takes title to electrical energy as an intermediary for sale to retail customers.~~

~~(2)~~*(1)* "Assignee" means any entity, including a corporation, partnership, board, trust, or financing vehicle, to which a utility assigns, sells, or transfers, other than as security, all or a portion of the utility's interest in or right to transition property. The term also includes an entity, corporation, public authority, partnership, trust, or financing vehicle to which an assignee assigns, sells, or transfers, other than as security, the assignee's interest in or right to transition property.

~~(3)~~*(2)* "Board" means the board of investments created by 2-15-1808.

~~(4) "Broker" or "marketer" means an entity, licensed by the commission, that acts as an agent or intermediary in the sale and purchase of electrical energy but that does not take title to electrical energy.~~

(3) "Carbon offset provider" means a qualified third-party entity that arranges for projects or actions that either reduce carbon dioxide emissions or that increase the absorption of carbon dioxide.

~~(5)~~*(4)* "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.

~~(6) "Customer" or "consumer" means a retail electric customer or consumer. The university of Montana, pursuant to 20-25-201(1), and Montana state university, pursuant to 20-25-201(2), are each considered a single retail electric customer or consumer with a single individual load.~~

(5) "Cost-effective carbon offsets" means any combination of certified actions that are taken to reduce carbon dioxide emissions or that increase the absorption of carbon dioxide, which collectively do not increase the cost of electricity produced annually on a per-megawatt-hour basis by more than 2.5%, including:

(a) actions undertaken by the applicant that reduce carbon dioxide emissions or that increase the absorption of carbon dioxide from a facility or equipment used to generate electricity; or

(b) actions by a carbon offset provider on behalf of the applicant.

~~(7)~~*(6)* "Customer-generator" means a user of a net metering system.

~~(8) "Default supplier" means a distribution services provider of a utility that has restructured in accordance with this chapter.~~

~~(9) "Default supply service" means the provision of electricity supply by a default supplier.~~

~~(10) "Distribution facilities" means those facilities by and through which electricity is received from a transmission services provider and distributed to the customer and that are controlled or operated by a distribution services provider.~~

~~(11) "Distribution services provider" means a utility owning distribution facilities for distribution of electricity to the public.~~

~~(12) "Electricity supplier" means any person, including aggregators, market aggregators, brokers, and marketers, offering to sell electricity to retail customers in the state of Montana.~~

(7) "Distribution facilities" means those facilities by and through which electricity is received from transmission facilities and distributed to a retail customer and that are controlled or operated by a utility.

~~(13)~~*(8)* "Electricity supply costs" means the actual costs ~~of~~ *incurred in* providing ~~default~~ *electricity* supply service *through power purchase agreements, demand-side management, and energy efficiency programs*, including but not limited to:

(a) capacity costs;

(b) energy costs;

(c) fuel costs;

(d) ancillary service costs;

~~(e) demand-side management and energy efficiency costs;~~

~~(f)~~*(e)* transmission costs, including congestion and losses;

~~(g) billing costs;~~

~~(h)~~*(f)* planning and administrative costs; *and* ~~and~~

~~(i)~~*(g)* any other costs directly related to the purchase of electricity~~,~~ *and the* management ~~of default electricity supply costs,~~ and provision of ~~default supply and related services.~~ *power purchase agreements.*

(9) "Electricity supply resource" means:

(a) contracts for electric capacity and generation;

(b) plants owned or leased by a utility or equipment used to generate electricity;

(c) customer load management and energy conservation programs; or

(d) other means of providing adequate, reliable service to customers, as determined by the commission.

(10) "Electricity supply service" means the provision of electricity supply and related services through power purchase agreements, the acquisition and operation of electrical generation facilities, demand-side management, and energy efficiency programs.

~~(14)~~*(11)* "Financing order" means an order of the commission adopted in accordance with 69-8-503 that authorizes the imposition and collection of fixed transition amounts and the issuance of transition bonds.

~~(15)~~*(12)* (a) "Fixed transition amounts" means those nonbypassable rates or charges, including but not limited to:

(i) distribution;

(ii) connection;

(iii) disconnection; and

(iv) termination rates and charges that are authorized by the commission in a financing order to permit recovery of transition costs and the costs of recovering, reimbursing, financing, or refinancing the transition costs and of acquiring transition property through a plan approved by the commission in the financing order, including the costs of issuing, servicing, and retiring transition bonds.

(b) If requested by the utility in the utility's application for a financing order, fixed transition amounts must include nonbypassable rates or charges to recover federal and state taxes in which the transition cost recovery period is modified by the transactions approved in the financing order.

~~(16) "Functionally separate" means a utility's separation of the utility's electricity supply, transmission, distribution, and unregulated retail energy services assets and operations.~~

(13) "Generation assets cost of service" means a return on invested capital and all costs associated with the acquisition, construction, administration, operation, and maintenance of a plant or equipment owned or leased by a public utility and used for the production of electricity.

~~(17)~~*(14)* "Interested person" means a retail electricity customer, the consumer counsel established in 5-15-201, the commission, or a utility.

~~(18)~~*(15)* "Large customer" means, for universal system benefits programs purposes, a customer with an individual load greater than a monthly average of 1,000 kilowatt demand in the previous calendar year for that individual load.

~~(19)~~*(16)* "Local governing body" means a local board of trustees of a rural electric cooperative.

~~(20)~~*(17)* "Low-income customer" means those energy consumer households and families with incomes at or below industry-recognized levels that qualify those consumers for low-income energy-related assistance.

~~(21)~~*(18)* "Net metering" means measuring the difference between the electricity distributed to and the electricity generated by a customer-generator that is fed back to the distribution system during the applicable billing period.

~~(22)~~*(19)* "Net metering system" means a facility for the production of electrical energy that:

(a) uses as its fuel solar, wind, or hydropower;

(b) has a generating capacity of not more than 50 kilowatts;

(c) is located on the customer-generator's premises;

(d) operates in parallel with the ~~distribution services provider's~~ *utility's* distribution facilities; and

(e) is intended primarily to offset part or all of the customer-generator's requirements for electricity.

~~(23)~~*(20)* "Nonbypassable rates or charges" means rates or charges that are approved by the commission and imposed on a customer to pay the customer's

share of transition costs or universal system benefits programs costs even if the customer has physically bypassed either the utility's transmission or distribution facilities.

~~(24) "Pilot program" means an experimental program using a select set of small customers to assess the potential for developing and offering customer choice of electricity supply to small customers in the future.~~

~~(25)~~*(21)* "Public utility" ~~means any electric utility~~ *has the meaning of a public utility* regulated by the commission pursuant to Title 69, chapter 3~~, on May 2, 1997, including the public utility's successors or assignees~~*, on May 2, 1997, including the public utility's successors or assignees*.

~~(26)~~*(22)* "Qualifying load" means, for payments and credits associated with universal system benefits programs, all nonresidential demand-metered accounts of a large customer within the utility's service territory in which the customer qualifies as a large customer.

~~(27) "Small customer" means a residential customer or a commercial customer who has an individual account with an average monthly demand in the previous calendar year of less than 50 kilowatts or a new residential or commercial customer with an estimated average monthly demand of less than 50 kilowatts of a public utility that has restructured pursuant to Title 35, chapter 19, or this chapter.~~

(23) "Retail customer" means a customer that purchases electricity for residential, commercial, or industrial end-use purposes and does not resell electricity to others.

~~(28)~~*(24)* "Transition bondholder" means a holder of transition bonds, including trustees, collateral agents, and other entities acting for the benefit of that bondholder.

~~(29)~~*(25)* "Transition bonds" means any bond, debenture, note, interim certificate, collateral, trust certificate, or other evidence of indebtedness or ownership issued by the board or other transition bonds issuer that is secured by or payable from fixed transition amounts or transition property. Proceeds from transition bonds must be used to recover, reimburse, finance, or refinance transition costs and to acquire transition property.

~~(30)~~*(26)* "Transition charge" means a nonbypassable rate or charge to be imposed on a customer to pay the customer's share of transition costs.

~~(31)~~*(27)* "Transition cost recovery period" means the period beginning on July 1, 1998, and ending when a utility customer does not have any liability for payment of transition costs.

~~(32)~~*(28)* "Transition costs" means:

(a) a public utility's net verifiable generation-related and electricity supply costs, including costs of capital, that become unrecoverable as a result of the implementation of ~~this chapter or of~~ federal law requiring retail open access or customer choice *or of this chapter*;

(b) those costs that include but are not limited to:

(i) regulatory assets and deferred charges that exist because of current regulatory practices and can be accounted for up to the effective date of the commission's final order regarding a public utility's transition plan and conservation investments made prior to universal system benefits charge implementation;

(ii) nonutility and utility power purchase contracts executed before May 2, 1997, including qualifying facility contracts;

(iii) existing generation investments and supply commitments or other obligations incurred before May 2, 1997, and costs arising from these investments and commitments;

(iv) the costs associated with renegotiation or buyout of the existing nonutility and utility power purchase contracts, including qualifying facilities and all costs, expenses, and reasonable fees related to issuing transition bonds; and

(v) the costs of refinancing and retiring of debt or equity capital of the public utility and associated federal and state tax liabilities or other utility costs for which the use of transition bonds would benefit customers.

~~(33) "Transition period" means the period ending July 1, 2027.~~

~~(34)~~*(29)* "Transition property" means the property right created by a financing order, including without limitation the right, title, and interest of a utility, assignee, or other issuer of transition bonds to all revenue, collections, claims, payments, money, or proceeds of or arising from or constituting fixed transition amounts that are the subject of a financing order, including those nonbypassable rates and other charges and fixed transition amounts that are authorized by the commission in the financing order to recover transition costs and the costs of recovering, reimbursing, financing, or refinancing the transition costs and acquiring transition property, including the costs of issuing, servicing, and retiring transition bonds. Any right that a utility has in the transition property before the utility's sale or transfer or any other right created under this section or created in the financing order and assignable under this chapter or assignable pursuant to a financing order is only a contract right.

~~(35) "Transmission facilities" means those facilities that are used to provide transmission services as determined by the federal energy regulatory commission and the commission.~~

~~(36) "Transmission services provider" means an entity controlling or operating transmission facilities.~~

(30) "Transmission facilities" means those facilities that are used to provide transmission services as determined by the federal energy regulatory commission and the commission and that are controlled or operated by a utility.

~~(37)~~*(31)* "Universal system benefits charge" means a nonbypassable rate or charge to be imposed on a customer to pay the customer's share of universal system benefits programs costs.

~~(38)~~*(32)* "Universal system benefits programs" means public purpose programs for:

(a) cost-effective local energy conservation;

(b) low-income customer weatherization;

(c) renewable resource projects and applications, including those that capture unique social and energy system benefits or that provide transmission and distribution system benefits;

(d) research and development programs related to energy conservation and renewables;

(e) market transformation designed to encourage competitive markets for public purpose programs; and

(f) low-income energy assistance.

~~(39)~~*(33)* "Utility" means any public utility or cooperative utility."

Section 7. Section 69-8-201, MCA, is amended to read:

"69-8-201. Public utility — ~~transition to customer choice~~ — *customer electricity supply service* options and requirements — ~~waiver~~ *exemption.* ~~(1) Before July 1, 2027, all public utility customers of a public utility that has restructured in accordance with this chapter must have the opportunity to choose an electricity supplier other than the default supplier.~~

~~(2) (a) A small customer of a public utility that has restructured in accordance with this chapter:~~

~~(i) must receive default supply services from the default supplier as provided in this chapter; and~~

~~(ii) may purchase electricity supply services through a commission-approved small customer electricity supply program as provided in this section.~~

~~(b) A small customer receiving electricity from a licensed supplier prior to July 1, 2003, may continue to receive electricity supply from a supplier other than the default supplier.~~

~~(c) Customers that represent separately metered services with an estimated average monthly demand of less than 50 kilowatts related to the same individual customer referred to in subsection (3) or (4) may be combined with the respective eligible customer load or loads.~~

~~(3) (a) Subject to subsection (3)(b), a customer of a public utility that has restructured in accordance with this chapter and that has an individual load with an average monthly demand of less than 5,000 kilowatts but greater than or equal to 50 kilowatts may choose an electricity supplier.~~

~~(b) The total average monthly billing demand for all customers that choose an electricity supplier pursuant to subsection (3)(a) in each calendar year may not exceed 20,000 kilowatts.~~

~~(c) A customer referred to in subsection (3)(a) receiving electricity from a licensed supplier prior to July 1, 2003, may continue to receive electricity supply from a supplier other than the default supplier.~~

~~(4)~~*(1)* (a) Except as provided in subsections ~~(4)(b)~~ *(1)(b)* ~~through (4)(c)~~ *and (1)(c)*, a *retail* customer ~~of a utility that has restructured in accordance with this chapter and~~ that has an individual load with an average monthly demand of greater than or equal to 5,000 kilowatts ~~shall purchase its entire electricity supply from the competitive marketplace~~ *and that is not purchasing electricity supply service from a public utility on [the effective date of this act] may not purchase electricity supply service from a public utility*.

~~(b) A customer referred to in subsection (4)(a) that is receiving its electricity supply from the competitive marketplace may make a one-time election to enter into a permanent power supply contract with the default supplier for service on or after July 1, 2004. These contracts must include the applicable provisions established by the commission pursuant to subsection (5). This election must be submitted to the commission in writing no later than December 31, 2003.~~

~~(c)~~*(b)* A ~~new~~ *retail* customer ~~with an estimated average monthly demand of greater than or equal to 5,000 kilowatts may enter into a power supply contract~~

~~with the default supplier in order to receive default supply service~~ *referred to in subsection (1)(a) may request electricity supply service from the public utility, and the public utility must provide electricity supply service if the retail customer demonstrates that the provision of electricity supply service to the retail customer will not adversely impact the public utility's other customers over the long term as determined by the commission.* ~~The new customer's election of an electricity supplier must be submitted in writing to the commission at least 90 days before delivery of electricity. These contracts must include the applicable provisions established by the commission pursuant to subsection (5).~~

~~(d) A customer referred to in subsection (4)(a) that was receiving electricity from the default supplier on July 1, 2003, may continue to receive electricity from the default supplier.~~

(c) If a public utility provides electricity supply service to a retail customer as provided in subsection (1)(b), that service is regulated by the commission and the customer may not, at a later date, purchase electricity supply service from another provider of electricity supply service.

~~(e) A customer referred to in subsection (4)(a) that is a public agency, as defined in 18-1-101, may enter into a power supply contract with the default supplier for default supply service for all or part of the public agency's load. These contracts must include the applicable provisions established by the commission pursuant to subsection (5).~~

~~(5) The commission shall adopt rules and establish rates and fees to enable customers to have reasonable opportunities to choose an electricity supplier or to receive default supply service in accordance with subsections (2) through (4), while providing protection for small customers from higher or more unstable default supply service rates than would otherwise result if these choices were not offered.~~

~~(6) An electricity supplier licensed by the commission to offer electricity supply service to small customers may petition the commission for the opportunity to provide electricity to small customers. The total average monthly demand for all customers referred to in subsection (2)(a) in each calendar year that receive service from an electricity supplier that is not the default supplier may not exceed 10,000 kilowatts. The commission shall ensure that electricity supply service provided pursuant to this subsection is consistent with the requirements in subsection (5) and the provision of default supply service pursuant to this chapter.~~

~~(7) Based on an analysis of the sources of costs of providing default supply service, the commission may:~~

~~(a) establish different categories of default supply service customers to assist with the implementation of this section;~~

~~(b) allocate default supply costs; and~~

~~(c) develop default supply rates.~~

~~(8) (a) Except as provided in subsection (8)(b), a customer receiving default supply service may not resell the electricity.~~

~~(b) A default supplier may implement demand reduction programs that reward customers for reducing demand under terms established by the commission.~~

(2) (a) A retail customer that has an individual load with an average monthly demand of less than 5,000 kilowatts that is not purchasing electricity from a

public utility on [the effective date of this act] may continue to purchase electricity from an electricity supplier. The retail customer may subsequently purchase electricity from a public utility subject to commission rule or order, but the customer may not, at a later date, choose to purchase electricity from another source.

(b) A retail customer that has an individual load with an average monthly demand of less than 5,000 kilowatts and that is currently purchasing electricity from a public utility may not choose to purchase electricity from another source after [the effective date of this act].

(3) Nothing in this section affects a retail customer's rights and obligations with respect to net metering, cogeneration, self-generation, or ancillary sales of electricity related to deviations from scheduled energy deliveries from nonutility suppliers, as may be provided for in law, commission rule or order, or a tariff approved by the public service commission or the federal energy regulatory commission.

~~(9)~~*(4)* (a) Except as provided in 69-5-101, 69-5-102, 69-5-104 through 69-5-112, ~~and~~ 69-8-402, *and subsection (4)(b) of this section,* a public utility currently doing business in Montana as part of a single integrated multistate operation, no portion of which lies within the basin of the Columbia River, ~~may defer compliance with this chapter until a time that the public utility can reasonably implement customer choice in the state of the public utility's primary service territory~~ *is exempt from the requirements of this chapter*.

(b) To the extent that a public utility described in subsection ~~(9)(a)~~ *(4)(a)* becomes the successor in interest of another public utility that has restructured in accordance with this chapter *before [the effective date of this act]*, ~~it shall assume responsibility only for the applicable transition plan of~~ *it is subject to the requirements of this chapter with respect to the service area of* the acquired public utility.

~~(10) Upon a request from a public utility with fewer than 50 customers, the commission shall waive compliance with the requirements of 69-8-104, 69-8-202 through 69-8-204, 69-8-208 through 69-8-211, 69-8-402, and this section.~~"

Section 8. Section 69-8-210, MCA, is amended to read:

"69-8-210. Public utilities — electricity supply — *environmentally preferred resources.* ~~(1) A public utility's distribution services provider shall provide default supply service.~~

~~(2)~~*(1)* The commission shall establish an electricity cost recovery mechanism that allows a ~~default supplier~~ *public utility* to fully recover prudently incurred electricity supply costs, subject to the provisions of 69-8-419 ~~and~~, 69-8-420*, and commission rules. The commission may include other utility costs and expenses in the cost recovery mechanism if it determines that including additional costs and expenses is reasonable and in the public interest*. The cost recovery mechanism must provide for prospective rate adjustments for cost differences resulting from cost changes, load changes, and the time value of money on the differences.

~~(3) The commission may direct a default supplier to offer its customers multiple default supply service options if the commission determines that those options are in the public interest and are consistent with the provisions of 69-8-104 and 69-8-201.~~

~~(4)~~*(2)* Notwithstanding any service options that the commission may require ~~pursuant to subsection (3), a default supplier~~*, a public utility* shall offer its

customers the option of purchasing a product composed of or supporting power from certified environmentally preferred resources that include but are not limited to wind, solar, geothermal, and biomass, subject to review and approval by the commission. The commission shall ensure that these resources have been certified as meeting industry-accepted standards.

~~(5) (a) Subject to subsection (5)(b), the commission shall, in reviewing the procurement of electricity supply by the default supplier, take into account the statewide economic benefits that are associated with the electricity supply procurement for the default supply stakeholders. The default supply stakeholders include the default supplier, customers of the default supplier, and the public.~~

~~(b) The consideration of economic benefits is secondary to the consideration of the costs and benefits to the consumer and other criteria established by law.~~

~~(6) If a public utility intends to be an electricity supplier through an unregulated division, then the public utility must be licensed as an electricity supplier pursuant to 69-8-404.~~"

Section 9. Section 69-8-311, MCA, is amended to read:

"69-8-311. Cooperative utility — *electricity supply service* — exemption. *(1) A local governing body shall establish the price for electricity supply service offered by a cooperative utility.*

~~(1) Within 1 year after May 2, 1997, a cooperative utility may file a notice with the commission that the cooperative utility does not intend to open the cooperative utility's distribution facilities to electricity suppliers and does not intend to adopt a transition plan.~~

(2) Except as otherwise provided in the universal system benefits program pursuant to 69-8-402, a cooperative utility ~~filing notice under this section~~ is exempt from the provisions and requirements of this chapter.

~~(2) A cooperative utility filing a notice under this section:~~

~~(a) may elect later to adopt a transition plan in accordance with this chapter; and~~

~~(b) may not use a public utility's distribution facilities unless preexisting contracts exist.~~"

Section 10. Section 69-8-402, MCA, is amended to read:

"69-8-402. Universal system benefits programs. (1) Universal system benefits programs are established for the state of Montana to ensure continued funding of and new expenditures for energy conservation, renewable resource projects and applications, and low-income energy assistance.

(2) Beginning January 1, 1999, 2.4% of each utility's annual retail sales revenue in Montana for the calendar year ending December 31, 1995, is established as the initial funding level for universal system benefits programs. To collect this amount of funds on an annualized basis in 1999, the commission shall establish rates for utilities subject to its jurisdiction and the governing boards of cooperatives shall establish rates for the cooperatives. These universal system benefits charge rates must remain in effect through December 31, 2009.

(a) The recovery of all universal system benefits programs costs imposed pursuant to this section is authorized through the imposition of a universal system benefits charge assessed at the meter for each local utility system customer as provided in this section.

(b) A utility must receive credit toward annual funding requirements for the utility's internal programs or activities that qualify as universal system benefits programs, including those amortized or nonamortized portions of expenditures for the purchase of power that are for the acquisition or support of renewable energy, conservation-related activities, or low-income energy assistance, and for large customers' programs or activities as provided in subsection (7). The department of revenue shall review claimed credits of the utilities and large customers pursuant to 69-8-414.

(c) A ~~utility's distribution services provider~~ *utility* at which the sale of power for final end use occurs is the utility that receives credit for the universal system benefits programs expenditure.

(d) A customer's ~~distribution services provider~~ *utility* shall collect universal system benefits funds less any allowable credits.

(e) For a utility to receive credit for low-income-related expenditures, the activity must have taken place in Montana.

(f) If a utility's or a large customer's credit for internal activities does not satisfy the annual funding provisions of subsection (2), then the utility shall make a payment to the universal system benefits fund established in 69-8-412 for any difference.

(3) Cooperative utilities may collectively pool their statewide credits to satisfy their annual funding requirements for universal system benefits programs and low-income energy assistance.

(4) A utility's transition plan must describe how the utility proposes to provide for universal system benefits programs, including the methodologies, such as cost-effectiveness and need determination, used to measure the utility's level of contribution to each program.

(5) A utility's minimum annual funding requirement for low-income energy and weatherization assistance is established at 17% of the utility's annual universal system benefits funding level and is inclusive within the overall universal system benefits funding level.

(a) A utility must receive credit toward the utility's low-income energy assistance annual funding requirement for the utility's internal low-income energy assistance programs or activities.

(b) If a utility's credit for internal activities does not satisfy its annual funding requirement, then the utility shall make a payment for any difference to the universal low-income energy assistance fund established in 69-8-412.

(6) An individual customer may not bear a disproportionate share of the local utility's funding requirements, and a sliding scale must be implemented to provide a more equitable distribution of program costs.

(7) (a) A large customer:

(i) shall pay a universal system benefits programs charge with respect to the large customer's qualifying load equal to the lesser of:

(A) $500,000, less the large customer credits provided for in this subsection (7); or

(B) the product of 0.9 mills per kilowatt hour multiplied by the large customer's total kilowatt hour purchases, less large customer credits with respect to that qualifying load provided for in this subsection (7);

(ii) must receive credit toward that large customer's universal system benefits charge for internal expenditures and activities that qualify as a universal system benefits programs expenditure, and these internal expenditures must include but not be limited to:

(A) expenditures that result in a reduction in the consumption of electrical energy in the large customer's facility; and

(B) those amortized or nonamortized portions of expenditures for the purchase of power at retail or wholesale that are for the acquisition or support of renewable energy or conservation-related activities.

(b) Large customers making these expenditures must receive a credit against the large customer's universal system benefits charge, except that any of those amounts expended in a calendar year that exceed that large customer's universal system benefits charge for the calendar year must be used as a credit against those charges in future years until the total amount of those expenditures has been credited against that large customer's universal system benefits charges.

(8) A public utility shall prepare and submit an annual summary report of the public utility's activities relating to all universal system benefits programs to the commission, the department of revenue, and the energy and telecommunications interim committee provided for in 5-5-230. A cooperative utility shall prepare and submit annual summary reports of activities to the cooperative utility's respective local governing body, the statewide cooperative utility office, and the energy and telecommunications interim committee. The statewide cooperative utility office shall prepare and submit an annual summary report of the activities of individual cooperative utilities, including a summary of the pooling of statewide credits, as provided in subsection (3), to the department of revenue and the energy and telecommunications interim committee. The annual report of a public utility or of the statewide cooperative utility office must include but is not limited to:

(a) the types of internal utility and customer programs being used to satisfy the provisions of this chapter;

(b) the level of funding for those programs relative to the annual funding requirements prescribed in subsection (2); and

(c) any payments made to the statewide funds in the event that internal funding was below the prescribed annual funding requirements.

(9) A utility or large customer filing for a credit shall develop and maintain appropriate documentation to support the utility's or the large customer's claim for the credit.

(10) (a) A large customer claiming credits for a calendar year shall submit an annual summary report of its universal system benefits programs activities and expenditures to the department of revenue and to the large customer's utility. The annual report of a large customer must identify each qualifying project or expenditure for which it has claimed a credit and the amount of the credit. Prior approval by the department of revenue or the utility is not required, except as provided in subsection (10)(b).

(b) If a large customer claims a credit that the department of revenue disallows in whole or in part, the large customer is financially responsible for the disallowance. A large customer and the large customer's utility may mutually agree that credits claimed by the large customer be first approved by the utility.

If the utility approves the large customer credit, the utility may be financially responsible for any subsequent disallowance."

Section 11. Section 69-8-403, MCA, is amended to read:

"69-8-403. Commission ~~authority~~ — rulemaking authority. ~~(1) Beginning on the effective date of a commission order regarding a public utility's transition plan, the commission shall regulate the public utility's retail transmission, distribution, and default supply services within the state of Montana, as provided in this chapter.~~

~~(2) The commission shall license electricity suppliers and enforce licensing provisions pursuant to 69-8-404.~~

~~(3) The commission shall promulgate rules that identify the licensees and ensure that the offered electricity supply is provided as offered and is adequate in terms of quality, safety, and reliability.~~

~~(4) The commission shall establish just and reasonable rates through established ratemaking principles for public utility default supply, distribution, and transmission services and shall regulate these services. The commission may approve rates and charges for those services based on alternative forms of ratemaking such as performance-based ratemaking, on a demonstration by the public utility that the alternative method complies with this chapter, and on the public utility's transition plan.~~

~~(5) The commission shall certify that a cooperative utility has adopted a transition plan that complies with this chapter. A cooperative utility's transition plan is considered certified 60 days after the cooperative utility files for certification.~~

~~(6) The commission shall promulgate rules that protect consumers, distribution services providers, and electricity suppliers from anticompetitive and abusive practices.~~

~~(7) (a) After July 1, 2010, the commission shall continuously monitor whether or not workable competition has developed for small customers.~~

~~(b) If the commission determines that workable competition has developed for small customers after July 1, 2010, the commission shall provide a report to the legislature that includes recommendations for legislative implementation of customer choice for small customers.~~

~~(8)~~ In addition to promulgating rules expressly provided for in this chapter, the commission may promulgate any other rules necessary to carry out the provision of this chapter.

~~(9) This chapter does not give the commission the authority to:~~

~~(a) regulate cooperative utilities in any manner other than reviewing certification filings for compliance with this chapter; or~~

~~(b) compel any change to a cooperative utility's certification filing made pursuant to this chapter.~~"

Section 12. Section 69-8-411, MCA, is amended to read:

"69-8-411. Nondiscriminatory access — ~~reciprocity~~. ~~Except as provided in 69-8-311, all electricity suppliers must be afforded open, fair, and nondiscriminatory access to customers and a comparable opportunity to compete. A distribution services provider or the distribution services provider's affiliates may not use another distribution services provider's facilities in the state of Montana to sell electricity to customers in the state of Montana unless~~

~~the first distribution services provider or the distribution services provider's affiliates offer comparable and nondiscriminatory access to the distribution services provider's distribution facilities within the state of Montana.~~ *(1) Nonutility generators and electricity suppliers must have open, fair, and nondiscriminatory access to a public utility's transmission and distribution facilities according to federal energy regulatory commission rules and regulations for purposes of serving those customers identified in 69-8-201(1) and (2).*

(2) Public utilities shall grant the retail customers identified in 69-8-201(1) and (2) and their electricity suppliers access to transmission and distribution facilities at rates and under terms and conditions comparable to the public utility's own access to those facilities or access by the public utility's affiliates.

(3) Public utilities shall file tariffs for transmission and distribution services regulated by the federal energy regulatory commission and the commission implementing subsections (1) and (2)."

Section 13. Section 69-8-419, MCA, is amended to read:

"69-8-419. ~~Default~~ *Electricity* supply resource planning and procurement — duties of ~~default supplier~~ *public utility* — objectives — commission rules. (1) The ~~default supplier~~ *public utility* shall:

(a) plan for future ~~default~~ *electricity* supply resource needs;

(b) manage a portfolio of ~~default~~ *electricity* supply resources; and

(c) procure new ~~default~~ *electricity* supply resources when needed.

(2) The ~~default supplier~~ *public utility* shall pursue the following objectives in fulfilling its duties pursuant to subsection (1):

(a) provide adequate and reliable ~~default supply services~~ *electricity supply service* at the lowest long-term total cost;

(b) conduct an efficient ~~default~~ *electricity* supply resource planning and procurement process that evaluates the full range of cost-effective electricity supply and demand-side management options;

(c) identify and cost-effectively manage and mitigate risks related to its obligation to provide ~~default~~ electricity supply service;

(d) use open, fair, and competitive procurement processes whenever possible; and

(e) provide ~~default supply services~~ *electricity supply service and related services* at just and reasonable rates.

(3) ~~By December 31, 2003, the~~ *By March 31, 2008, the* commission shall adopt rules that guide the ~~default~~ *electricity* supply resource planning and procurement processes used by the ~~default supplier~~ *public utility* and facilitate the achievement of the objectives in subsection (2) by the ~~default supplier~~ *public utility*. The rules must establish:

(a) goals, objectives, and guidelines that are consistent with the objectives in subsection (2) for:

(i) planning for future ~~default~~ *electricity* supply resource needs;

(ii) managing the portfolio of ~~default~~ *electricity* supply resources; and

(iii) procuring new ~~default~~ *electricity* supply resources;

(b) standards for the evaluation by the commission of the reasonableness of a power supply purchase agreement proposed by the ~~default supplier~~ *public utility*; and

(c) minimum filing requirements for an application by the ~~default supplier~~ *public utility* for ~~advanced approval of a proposed power supply purchase agreement~~ *approval of an electricity supply resource*."

Section 14. Section 69-8-420, MCA, is amended to read:

"69-8-420. ~~Default~~ *Electricity* supply resource procurement plans — comment on plans. (1) The ~~default supplier~~ *public utility* shall develop ~~default~~ *electricity* supply resource procurement plans. The plans must be submitted to the commission at intervals determined in rules adopted by the commission ~~pursuant to 69-8-419~~.

(2) ~~A default~~ *An electricity* supply resource procurement plan must demonstrate the ~~default supplier's~~ *public utility's* achievement of the objectives provided in 69-8-419 and compliance with ~~the rules adopted pursuant to 69-8-419~~ *commission rules*.

(3) The commission shall:

(a) review the ~~default~~ *electricity* supply resource procurement plan;

(b) provide an opportunity to the public to comment on the plan; and

(c) issue written comments that identify:

(i) any concerns of the commission regarding the ~~default supplier's~~ *public utility's* compliance with ~~the rules adopted pursuant to 69-8-419; and~~ *commission rules; and*

(ii) ways to remedy any concerns."

Section 15. Section 69-8-421, MCA, is amended to read:

"69-8-421. ~~Default supply filings — commission processing and approval~~ *Approval of electricity supply resources.* (1) A ~~default supplier~~ *public utility that removed its generation assets from its rate base pursuant to this chapter prior to [the effective date of this act]* may apply to the commission for *approval of an electricity supply resource that is not yet procured.* ~~advanced approval of a power supply purchase agreement that is:~~

~~(a) not executed; or~~

~~(b) executed with a provision that allows termination of the agreement if the commission does not find the agreement reasonable.~~

~~(2) (a) The commission shall issue an order on the default supplier's application for advanced approval of a power supply purchase agreement in a timely manner as provided in this subsection (2).~~

~~(b) In establishing an administrative procedure for reviewing an application for advanced approval, the commission shall consider any financing and market constraints and the due process rights of affected persons.~~

~~(c)~~*(2)* Within 45 days of the ~~default supplier's~~ *public utility's* submission of an application for ~~advanced approval~~ *approval*, the commission shall determine whether or not the application is adequate and in compliance with the commission's minimum filing requirements. If the commission determines that the application is inadequate, it shall explain ~~how the filing fails to comply with the objectives in 69-8-419 and the rules adopted pursuant to 69-8-419.~~ *the deficiencies.*

~~(d)~~*(3)* The commission shall issue an order within 180 days of receipt of an adequate application *for approval of a power purchase agreement from an existing generating resource* unless it determines that extraordinary circumstances require additional time.

(4) (a) Except as provided in subsections (4)(b) through (4)(d), the commission shall issue an order within 270 days of receipt of an adequate application for approval of a lease, an acquisition of an equity interest in a new or existing plant or equipment used to generate electricity, or a power purchase agreement for which approval would result in construction of a new electric generating resource. The commission may extend the time limit up to an additional 90 days if it determines that extraordinary circumstances require it.

(b) If an air quality permit pursuant to Title 75, chapter 2, is required for a new electrical generation resource or a modification to an existing resource, the commission shall hold the public hearing on the application for approval at least 30 days after the issuance of the final air quality permit.

(c) If a final air quality permit is not issued within the time limit pursuant to subsection (4)(a), the commission shall extend the time limit in order to comply with subsection (4)(b).

(d) The commission may extend the time limit for issuing an order for an additional 60 days following the hearing pursuant to subsection (4)(b).

~~(e)~~*(5)* To facilitate timely consideration of an application, the commission may initiate proceedings to evaluate planning and procurement activities related to a potential resource procurement prior to the ~~default supplier's~~ *public utility's* submission of an application for ~~approval~~ *approval*.

~~(3)~~*(6)* (a) The commission may approve or deny, in whole or in part, an application for ~~advanced approval of a power supply purchase agreement~~ *approval of an electricity supply resource*.

(b) The commission may consider all relevant information known up to the time that the administrative record in the proceeding is closed in the evaluation of an application for ~~advanced approval of a power supply purchase agreement~~ *approval*.

(c) A commission order granting ~~advanced approval of a power supply purchase agreement~~ *approval of an application* must include the following findings:

(i) ~~advanced approval of all or part of the agreement~~ *approval, in whole or in part,* is in the public interest; *and*

~~(ii) the agreement resulted from a reasonable effort by the default supplier to comply with the objectives in 69-8-419 and the rules adopted pursuant to 69-8-419; and~~

~~(iii) the price, quantity, duration, and other contract terms directly related to the price, quantity, and duration of the power supply purchase agreement are reasonable.~~

(ii) procurement of the electricity supply resource is consistent with the requirements in 69-3-201, the objectives in 69-8-419, and commission rules.

(d) The commission order may include a provision for allowable generation assets cost of service when the utility has filed an application for the lease or acquisition of an equity interest in a plant or equipment used to generate electricity.

(e) When issuing an order for the acquisition of an equity interest or lease in a facility or equipment that is constructed after January 1, 2007, and that is used to generate electricity that is primarily fueled by natural or synthetic gas, the commission shall require the applicant to implement cost-effective carbon offsets. Expenditures required for cost-effective carbon offsets pursuant to this subsection (6)(e) are fully recoverable in rates. By March 31, 2008, the commission shall adopt rules for the implementation of this subsection (6)(e).

~~(d)~~*(f)* The commission order may include other findings that the commission determines are necessary.

~~(e)~~*(g)* A commission order that denies ~~advanced approval~~ *approval* must describe why the findings required in subsection ~~(3)(c)~~ *(6)(c)* could not be reached.

~~(4)~~*(7)* Notwithstanding any provision of this chapter to the contrary, if the commission has issued an order containing the findings required under subsection ~~(3)(c)~~ *(6)(c)*, the commission may not subsequently disallow the recovery of costs ~~incurred under the agreement~~ *related to the approved electricity supply resource* based on contrary findings.

~~(5) If a default supplier does not apply for advanced approval of a power supply purchase agreement, the commission shall consider the prudence of the default supplier's resource procurement actions in the context of a default supplier's cost recovery filing pursuant to 69-8-210 or in a separate proceeding. The commission's decisions in these proceedings must be based on facts that were known or should reasonably have been known by the default supplier at the time of its procurement decisions.~~

(8) Until the state or federal government has adopted uniformly applicable statewide standards for the capture and sequestration of carbon dioxide, the commission may not approve an application for the acquisition of an equity interest or lease in a facility or equipment used to generate electricity that is primarily fueled by coal and that is constructed after January 1, 2007, unless the facility or equipment captures and sequesters a minimum of 50% of the carbon dioxide produced by the facility. Carbon dioxide captured by a facility or equipment may be sequestered offsite from the facility or equipment.

~~(6)~~*(9)* Nothing limits the commission's ability to subsequently, in any future ~~cost recovery~~ *rate* proceeding, inquire into the manner in which the ~~default supplier~~ *public utility* has managed*, dispatched, operated, or maintained any resource or managed any power supply purchase agreement* ~~a power supply purchase agreement~~ as part of its overall *resource* portfolio. The commission may subsequently disallow ~~default supply~~ *rate recovery for the* costs that result from the failure of a ~~default supplier~~ *public utility* to reasonably ~~administer power supply purchase agreements~~ *manage, dispatch, operate, maintain, or administer electricity supply resources* in ~~the context of its overall default supply portfolio management and service obligations.~~ *a manner consistent with 69-3-201, 69-8-419, and commission rules.*

~~(7)~~*(10)* The commission may engage independent *engineering, financial, and management* consultants or advisory services to evaluate a *public* utility's ~~default~~ *electricity* supply resource procurement plans and proposed ~~power supply purchase agreements~~ *electricity supply resources*. The consultants must have demonstrated knowledge and experience with electricity supply procurement and resource portfolio management, modeling, ~~and~~ risk management*, and engineering* practices. The commission shall charge a fee to

the ~~default supplier~~ *public utility* to pay for the costs of consultants or advisory services. These costs are recoverable in ~~default supply~~ rates.

(11) By March 31, 2008, the commission shall adopt rules prescribing minimum filing requirements for applications filed pursuant to this part."

Section 16. Section 69-8-602, MCA, is amended to read:

"69-8-602. ~~Distribution services provider~~ *Utility* net metering requirements. A ~~distribution services provider~~ *utility* shall:

(1) allow net metering systems to be interconnected using a standard kilowatt-hour meter capable of registering the flow of electricity in two directions, unless the commission determines, after appropriate notice and opportunity for comment:

(a) that the use of additional metering equipment to monitor the flow of electricity in each direction is necessary and appropriate for the interconnection of net metering systems, after taking into account the benefits and costs of purchasing and installing additional metering equipment; and

(b) how the costs of net metering are to be allocated between the customer-generator and the ~~distribution services provider~~ *utility*; and

(2) charge the customer-generator a minimum monthly fee that is the same as other customers of the electric utility in the same rate class. The commission shall determine, after appropriate notice and opportunity for comment if:

(a) the ~~distribution services provider~~ *utility* will incur direct costs associated with interconnecting or administering net metering systems that exceed any offsetting benefits associated with these net metering systems; and

(b) public policy is best served by imposing these costs on the customer-generator, rather than allocating these costs among the ~~distribution services provider's~~ *utility's* entire customer base."

Section 17. Section 69-8-603, MCA, is amended to read:

"69-8-603. Net energy measurement calculation. Consistent with the other provisions of this part, the net energy measurement must be calculated in the following manner:

(1) The ~~distribution services provider~~ *utility* shall measure the net electricity produced or consumed during the billing period, in accordance with normal metering practices.

(2) If the electricity supplied by the electricity supplier exceeds the electricity generated by the customer-generator and fed back to the electricity supplier during the billing period, the customer-generator must be billed for the net electricity supplied by the electricity supplier, in accordance with normal metering practices.

(3) If electricity generated by the customer-generator exceeds the electricity supplied by the electricity supplier, the customer-generator must be:

(a) billed for the appropriate customer charges for that billing period, in accordance with 69-8-602; and

(b) credited for the excess kilowatt hours generated during the billing period, with this kilowatt-hour credit appearing on the bill for the following billing period.

(4) On January 1, April 1, July 1, or October 1 of each year, as designated by the customer-generator as the beginning date of a 12-month billing period, any

remaining unused kilowatt-hour credit accumulated during the previous 12 months must be granted to the electricity supplier, without any compensation to the customer-generator."

Section 18. Section 69-8-1004, MCA, is amended to read:

"69-8-1004. Renewable resource standard — administrative penalty — waiver. (1) Except as provided in 69-8-1007 and subsection (11) of this section, a graduated renewable energy standard is established for public utilities as provided in subsections (2) through (4) of this section.

(2) In each compliance year beginning January 1, 2008, through December 31, 2009, each public utility shall procure a minimum of 5% of its retail sales of electrical energy in Montana from eligible renewable resources.

(3) (a) In each compliance year beginning January 1, 2010, through December 31, 2014, each public utility shall procure a minimum of 10% of its retail sales of electrical energy in Montana from eligible renewable resources.

(b) As part of their compliance with subsection (3)(a), public utilities shall purchase both the renewable energy credits and the electricity output from community renewable energy projects that total at least 50 megawatts in nameplate capacity.

(c) Public utilities shall proportionately allocate the purchase required under subsection (3)(b) based on each public utility's retail sales of electrical energy in Montana in the calendar year 2009.

(4) (a) In the compliance year beginning January 1, 2015, and in each succeeding compliance year, each public utility shall procure a minimum of 15% of its retail sales of electrical energy in Montana from eligible renewable resources.

(b) (i) As part of their compliance with subsection (4)(a), public utilities shall purchase both the renewable energy credits and the electricity output from community renewable energy projects that total at least 75 megawatts in nameplate capacity.

(ii) In meeting the standard in subsection (4)(b)(i), a public utility may include purchases made under subsection (3)(b).

(c) Public utilities shall proportionately allocate the purchase required under subsection (4)(b) based on each public utility's retail sales of electrical energy in Montana in the calendar year 2014.

(5) (a) In complying with the standards required under subsections (2) through (4), a public utility shall, for any given compliance year, calculate its procurement requirement based on the public utility's previous year's sales of electrical energy to retail customers in Montana.

(b) The standard in subsections (2) through (4) must be calculated on a delivered-energy basis after accounting for any line losses.

(6) A public utility has until 3 months following the end of each compliance year to purchase renewable energy credits for that compliance year.

(7) (a) In order to meet the standard established in subsections (2) through (4), a public utility may only use:

(i) electricity from an eligible renewable resource in which the associated renewable energy credits have not been sold separately;

(ii) renewable energy credits created by an eligible renewable resource purchased separately from the associated electricity; or

(iii) any combination of subsections (7)(a)(i) and (7)(a)(ii).

(b) A public utility may not resell renewable energy credits and count those sold credits against the public utility's obligation to meet the standards established in subsections (2) through (4).

(c) Renewable energy credits sold through a voluntary service such as the one provided for in ~~69-8-210(4)~~ *69-8-210(2)* may not be applied against a public utility's obligation to meet the standards established in subsections (2) through (4).

(8) Nothing in this part limits a public utility from exceeding the standards established in subsections (2) through (4).

(9) If a public utility exceeds a standard established in subsections (2) through (4) in any compliance year, the public utility may carry forward the amount by which the standard was exceeded to comply with the standard in either or both of the 2 subsequent compliance years. The carryforward may not be double-counted.

(10) Except as provided in subsection (11), if a public utility is unable to meet the standards established in subsections (2) through (4) in any compliance year, that public utility shall pay an administrative penalty, assessed by the commission, of $10 for each megawatt hour of renewable energy credits that the public utility failed to procure. A public utility may not recover this penalty in electricity rates. Money generated from these penalties must be deposited in the universal low-income energy assistance fund established in 69-8-412(1)(a).

(11) A public utility may petition the commission for a short-term waiver from full compliance with the standards in subsections (2) through (4) and the penalties levied under subsection (10). The petition must demonstrate that the:

(a) public utility has undertaken all reasonable steps to procure renewable energy credits under long-term contract, but full compliance cannot be achieved either because renewable energy credits cannot be procured or for other legitimate reasons that are outside the control of the public utility; or

(b) integration of additional eligible renewable resources into the electrical grid will clearly and demonstrably jeopardize the reliability of the electrical system and that the public utility has undertaken all reasonable steps to mitigate the reliability concerns."

Section 19. Use of generation assets. Generation assets acquired by a public utility pursuant to this chapter:

(1) must be used by the public utility to serve and benefit customers within the public utility's Montana service territory; and

(2) may not be removed from the rate base unless the commission finds that customers of the public utility will not be adversely affected.

Section 20. Codification instruction. [Section 19] is intended to be codified as an integral part of Title 69, chapter 8, part 4, and the provisions of Title 69, chapter 8, part 4, apply to [section 19].

Section 21. Repealer. Sections 69-8-102, 69-8-104, 69-8-202, 69-8-203, 69-8-204, 69-8-208, 69-8-209, 69-8-211, 69-8-301, 69-8-302, 69-8-303, 69-8-304, 69-8-308, 69-8-309, 69-8-310, 69-8-404, 69-8-408, 69-8-409, and 69-8-410, MCA, are repealed.

Section 22. 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 23. 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.

Approved May 14, 2007

CHAPTER NO. 492

[SB 4]

AN ACT ESTABLISHING A PROCUREMENT REBATE SPECIAL REVENUE ACCOUNT; PROVIDING FOR THE FUNDING AND USE OF MONEY IN THE ACCOUNT; AND PROVIDING AN EFFECTIVE DATE.

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

Section 1. Procurement rebate account — funding — use. (1) There is an account in the state special revenue fund established by 17-2-102 to be known as the procurement rebate special revenue account.

(2) All rebates credited to the department from using state procurement cards and contracts must be deposited in the procurement rebate special revenue account.

(3) The money in the account may be used only to:

(a) administer the state's procurement card programs; and

(b) reimburse applicable funds to the federal government.

(4) The unreserved, unexpended balance of the funds collected under this section must be deposited in the general fund by the close of the fiscal year.

Section 2. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 18, chapter 4, part 2, and the provisions of Title 18, chapter 4, part 2, apply to [section 1].

Section 3. Effective date. [This act] is effective July 1, 2007.

Approved May 16, 2007

CHAPTER NO. 493

[SB 12]

AN ACT REVISING THE COMMUNITY COLLEGE FUNDING STATUTES TO PROVIDE FOR CALCULATION OF THE STATE GENERAL FUND APPROPRIATION BASED ON VARIABLE AND FIXED COSTS; CLARIFYING THAT THE VARIABLE AND FIXED COSTS AND THE STATE SHARE ARE DETERMINED BY THE LEGISLATURE; PROVIDING DEFINITIONS; AMENDING SECTIONS 20-15-310 AND 20-15-312, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE.

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

Section 1. Section 20-15-310, MCA, is amended to read:

"20-15-310. Appropriation — *definitions.* *(1)* It is the intent of the legislature that all community college spending, other than from restricted funds*, designated funds,* or funds generated by an optional, voted levy, be governed by the provisions of this part and the state general appropriations act.

(2) (a) The state general fund appropriation must be ~~based on a budget amount per full-time equivalent student, as determined by the legislature~~ *determined as follows:*

(i) multiply the variable cost of education per student by the full-time equivalent student count and add the budget amount for the fixed cost of education; and

(ii) multiply the total in subsection (2)(a)(i) by the state share.

(b) The variable cost of education per student, the budget amount for fixed costs, and the state share must be determined by the legislature. The state share, expressed as a percentage, and the variable cost of education per student must be specified in the appropriations act appropriating funds to the community colleges for each biennium.

(3) The student count may not include those enrolled in community service courses as defined by the board of regents.

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

(a) "Cost of education" means the actual costs incurred by the community colleges during the budget base fiscal year, as reported on the current unrestricted operating fund schedule that is statutorily required to be submitted to the commissioner of higher education, minus any reversion and one-time-only expenditures that are included.

(b) "Fixed cost of education" means that portion of the cost of education, as determined by the legislature, that is not influenced by increases or decreases in student enrollment.

(c) "Variable cost of education per student" means that portion of the cost of education, as determined by the legislature, that is subject to change as a result of increases or decreases in student enrollment, divided by the actual student enrollment during the budget base fiscal year."

Section 2. Section 20-15-312, MCA, is amended to read:

"20-15-312. Calculation and approval of operating budget. (1) Annually by September 1, the board of trustees of a community college shall submit an operating budget to the board of regents for their review. The operating budget of the community college must be financed in the following manner:

(a) The general fund appropriation must ~~represent a specific percentage of the budget amount per full-time equivalent student, as determined by the legislature. This percentage must be specified in the appropriations act appropriating funds to the community colleges for each biennium. This percentage does not apply to any portion of the unrestricted budget in excess of the budget amount per full-time equivalent student, as determined by the legislature~~ *be determined pursuant to 20-15-310.*

(b) The mandatory levy amount must represent a specific percentage of the ~~budget amount per full-time equivalent student~~ *combined total of the fixed cost of education and the variable cost of education, as those terms are defined in 20-15-310, and* as determined by the legislature. This percentage must be

specified for each community college by the board of trustees of the district and approved by the board of regents.

(c) The funding obtained ~~in~~ *pursuant to* subsections (1)(a) and (1)(b) plus the revenue derived from tuition and fee schedules approved by the board of regents and unrestricted income from any other source is the amount of the unrestricted budget. A detailed expenditure schedule for the unrestricted budget must be submitted to the board of regents for their review and approval.

(d) The amount estimated to be raised by the voted levy must be detailed separately in an expenditure schedule.

(e) The spending of each restricted *or designated* funding source must be detailed separately in an expenditure schedule.

(f) The expenditure schedules provided in subsections (1)(c) through (1)(e) represent the total operating budget of the community college.

(2) The board of regents shall review the proposed total operating budget and all its components and make any changes it determines necessary. The board of trustees of a community college district shall operate within the limits of the operating budget approved by the board of regents."

Section 3. Effective date — applicability. [This act] is effective July 1, 2007, and applies to funds appropriated on or after July 1, 2007.

Approved May 16, 2007

CHAPTER NO. 494

[SB 25]

AN ACT CREATING THE CONTRACT HARVESTING PROGRAM; DEFINING TERMS FOR THE CONTRACT HARVESTING AND SALE OF FOREST PRODUCTS FROM STATE TRUST LANDS; AUTHORIZING CONTRACT HARVESTING OF TIMBER AND FOREST PRODUCTS ON STATE TRUST LANDS; AUTHORIZING THE SALE OF FOREST PRODUCTS BY THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION; CREATING A CONTRACT HARVESTING SUBACCOUNT FOR THE DEPOSIT OF GROSS PROCEEDS FROM CONTRACT HARVESTING SALES AND THE PAYMENT OF CONTRACT HARVESTING COSTS; PROVIDING RULEMAKING AUTHORITY FOR THE BOARD OF LAND COMMISSIONERS TO IMPLEMENT THE CONTRACT HARVESTING PROGRAM; AMENDING SECTIONS 77-1-613, 77-5-201, AND 77-5-204, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

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

Section 1. Statement of policy. (1) The application of contract harvesting on Montana's trust lands provides an opportunity to improve forest health and long-term productivity, increase options for managing forests in environmentally sensitive areas, and provide potential revenue benefits for trust beneficiaries.

(2) It is important that the department has clear authorization and direction for conducting contract harvesting, including marketing and selling log sorts and other forest products.

(3) A clear funding mechanism addressing the receipt of revenue and payment for costs associated with contract harvesting projects provides the

transparent process that allows beneficiaries to understand the costs and benefits associated with contract harvesting.

(4) Contract harvesting has the potential to result in increased bidder activity, better use and merchandising of products, improved harvesting results and environmental protection, and quicker completion of projects when time constraints are a factor.

Section 2. Definitions. As used in this part, unless the context indicates otherwise, the following definitions apply:

(1) "Contract harvesting" means a timber harvest or timber sale occurring on state trust lands by which:

(a) the department solicits bids and contracts with a firm or individual awarded the bid to:

(i) perform all necessary work to harvest and process trees into merchantable forest products;

(ii) sort trees pursuant to contract specifications and department use standards; and

(iii) transport and deliver the products to forest product purchasers; and

(b) the department sells the forest products to one or more forest product purchasers through the competitive bidding process pursuant to 77-5-201(1) and (2).

(2) "Contract harvesting costs" means expenses related to the production of log sorts or other merchantable products from a stand of timber and the transportation of the products to point-of-sale locations. These expenses may include but are not limited to:

(a) sale preparation and development costs;

(b) marketing of forest products and administration of contract harvesting contracts;

(c) road building and maintenance;

(d) labor for felling, bucking, yarding, and loading;

(e) scaling of forest products; and

(f) the transportation of sorted logs and other merchantable products from the harvest site to a point of sale.

(3) "Decked" means a pile of logs or other merchantable forest products that have been prepared for sale or shipment and placed upon a landing.

(4) "Forest health concerns" means issues that can be addressed through management or harvest of merchantable or nonmerchantable trees and includes:

(a) forested lands that are overcrowded or stagnant and that are showing declining annual growth;

(b) wildland/urban interface areas where timber harvest or forest management is necessary to prevent catastrophic or other damage to forested lands, livestock, buildings, or other infrastructure;

(c) fire fuel buildup and treatment on forested lands;

(d) forested lands susceptible to imminent or repeated insect or disease attack and timber degradation;

(e) forested lands that are in a high state of decline or decay or are rapidly deteriorating;

(f) forested lands with high recreational use and high degradation risk; and

(g) forested lands under drought stress.

(5) "Forest products" means any product produced from the forest that the department can sell through competitive bid or direct negotiation.

(6) "Log sorts" means trees or portions of trees that are grouped and sorted into various product categories, including but not limited to pulp logs, saw logs, and house logs.

(7) "Saw logs" means merchantable timber prepared and sorted as decked, scaled logs and sold f.o.b., as defined in 30-2-319, at a designated location, expressed in terms of dollars per thousand board feet or dollars per ton.

(8) "Scaled" means the measured volume, weight, or other measurement of a log, load of logs, or other products.

(9) "Stumpage" means the value of timber as it exists, uncut, within a harvest unit, expressed in terms of dollars per thousand board feet, dollars per ton, or other appropriate value per unit designation.

(10) (a) "Timber" means any wood growth on state trust land, mature or immature, alive or dead, standing or down, that is capable of furnishing merchantable raw material used in the manufacture of lumber or other forest products.

(b) The term does not include cultivated Christmas trees.

Section 3. Contract harvesting authorized. (1) Under direction of the board and after submitting the various portions of the sale for bid, as described in 77-5-201, the department is authorized to sell timber and forest products from contract harvesting sales through the competitive bidding process pursuant to 77-5-201(1) and (2) and to contract with firms and individuals for the removal of timber and forest products from state trust lands, the preparation of those materials into merchantable form, the transportation of those materials to a point of sale, and other purposes that the department determines to be necessary.

(2) Except as provided in subsection (3), the department may not conduct contract harvesting on state trust lands in an amount greater than 10% of the annual sustained yield.

(3) If the department is addressing forest health concerns as provided in [section 4], the department may exceed the annual sustained harvest level by up to 5% using contract harvesting, provided that the contract harvest volume in excess of the annual sustained harvest level contains no more than 25% merchantable saw log volume.

Section 4. Contract harvesting to address forest health concerns. All contract harvesting sales meant to address specific forest health concerns must be designed to:

(1) improve the overall health, productivity, and long-term revenue potential for the timber stand;

(2) be consistent with the state forest land management plan; and

(3) comply with all applicable state laws, rules, and regulations.

Section 5. Rules. (1) (a) The board may adopt rules to implement the contract harvesting program. The board shall evaluate each proposed contract harvest to determine if, in the board's judgment, contract harvesting will fulfill its duty to prudently obtain the maximum long-term revenue for the trust beneficiaries or to address forest health concerns or other environmental concerns.

(b) The board shall adopt rules describing the procedures necessary to ensure that the trust beneficiaries receive the full market value of the forest products.

(2) The board may adopt rules that impose specific appraisal requirements and sale procedures for any forest products directly marketed and sold by the department.

Section 6. Contract harvesting account — authorized expenditures — termination. (1) An account, called the contract harvesting account, must be created as a subaccount of the timber sale account established in 77-1-613, in which to deposit gross revenue and for the payment of expenditures associated with contract harvesting sales. All proceeds of the sale of forest products from a contract harvesting sale must be deposited into this account and must be retained in the account to be used to pay for all contract harvesting costs, as provided in subsection (2).

(2) Expenditures may be credited against the account for contract harvesting costs. Personnel services costs for state employees may not be credited against the account.

(3) An amount equal to the contract harvesting costs must be retained in the account and must be deducted from the gross proceeds to determine the net proceeds. The net proceeds from the sale of the forest products must be distributed to the appropriate trust.

(4) An initial account balance must be created by transferring up to $500,000 into the contract harvesting account from the timber sale account.

(5) If the contract harvesting program is terminated or discontinued for more than 10 years, any balance remaining in the contract harvesting account in excess of $500,000 must be distributed to the appropriate trust. The remaining balance up to $500,000 must be transferred back to the timber sale account provided for in 77-1-613.

Section 7. Section 77-1-613, MCA, is amended to read:

"77-1-613. Deduction of portion of income received from sale of timber from state trust lands — creation of account. (1) There is an account in the state special revenue fund called the state timber sale account. Money in the account may be appropriated by the legislature for use by the department in the manner set out in this section to enhance the revenue creditable to the trusts. There must be placed in the account an amount from timber sales on state lands each fiscal year equal to the amount appropriated from the account for the corresponding fiscal year.

(2) Timber sale program funds deducted under subsection (1) must be directly applied to timber sale preparation, ~~and~~ *timber sale* documentation*, and contract harvesting costs as provided in [section 6]*.

(3) In order to increase the volume of timber sold at the earliest possible time while continuing to meet the requirements of applicable state and federal laws and in order to avoid unnecessary delays and extra costs that would result from

increasing its permanent staff, the department may contract for services that will enable achievement of the purposes of this section and that will achieve the highest net return to the trusts.

(4) To maximize overall return to the trusts, the timely salvage of timber must be considered. However, salvage timber sales may not adversely affect the implementation of green timber sales programs."

Section 8. Section 77-5-201, MCA, is amended to read:

"77-5-201. Sale of timber. (1) Under the direction of the board, the department may sell the timber crop and other crops of the forests after examination, estimate, appraisal, and report and under any rules established by the board. *Timber or forest products sold from state trust lands may be sold by a stumpage method or a lump-sum method or marketed by the state through contract harvesting as provided in [sections 1 through 6].*

(2) Timber proposed for sale in excess of 100,000 board feet must be advertised in a paper of the county in which the timber is situated for a period of at least 30 days, during which time the department must receive sealed bids up to the hour of the closing of the bids, as specified in the notice of sale.

(3) (a) In cases of emergency ~~due to~~ *because of* fire, insect, fungus, parasite, or blowdown *or to address forest health concerns* or in cases when the department is required to act immediately to take advantage of access granted by permission of an adjoining landowner, timber proposed for sale not in excess of 1 million board feet may be advertised by invitation to bid for a period of not less than 10 days. The department may reject any ~~or all~~ bids, upon approval of the board, or it shall award the sale to the highest responsible bidder.

(b) (i) In cases when the department is required to act immediately to take advantage of access granted by permission of an adjoining landowner and there is only one potential buyer with legal access, the department may negotiate a sale of timber not in excess of 1 million board feet without offering the timber for bid if the sale is for fair market value.

(ii) The provisions of subsection (3)(b)(i) do not apply to situations when the only access is totally controlled by a potential purchaser of the timber, in which case the department shall seek to negotiate permanent, reciprocal access.

(c) In the situations described in subsections (3)(a) and (3)(b)(i), the department is not required to comply with the provisions of 75-1-201(1) to the extent that compliance is precluded by limited time available to take advantage of the sales opportunities described by this subsection (3)."

Section 9. Section 77-5-204, MCA, is amended to read:

"77-5-204. Sale of timber — fee for forest improvement. (1) The board may sell timber on state lands~~, at a price per 1,000 board feet, when appropriate, that,~~ *or other forest products removed from state lands, as provided in [sections 1 through 6], at a per unit price when,* in the board's judgment, *it* is in the best interest of the state, provided that live timber is not sold for less than full market value.

(2) Timber sold or cut from state lands must be cut and removed under rules that may be prescribed by the board for standing timber preservation and fire prevention. In all cases, the board shall require the person cutting the timber to pile and burn or otherwise dispose of the brush and slash in the manner that may be prescribed by the board.

(3) Before the sale of timber is granted, the value of the timber must be appraised under the direction of the department, upon the request and subject to the approval of the board. An appraisal must show as nearly as possible the *per unit* value ~~per 1,000 board feet~~, when appropriate, of all merchantable ~~timber~~ *forest products*.

(4) In addition to the price of the ~~timber~~ *forest products* established under subsection (1), the board may require a timber *or other forest product* purchaser to pay a fee for forest improvement. Revenue from the fee must be deposited in the state special revenue fund to the credit of the department and, as appropriated by the legislature, may be used only for:

(a) disposing of logging slash;

(b) acquiring access and maintaining roads necessary for timber harvesting on state lands;

(c) reforesting, thinning, and otherwise improving the condition and income potential of forested state lands; and

(d) complying with legal requirements for timber harvesting."

Section 10. Coordination instruction. If either House Bill No. 231 or Senate Bill No. 75 and [this act] are passed and approved and if they contain a section that amends 77-1-613, then the sections amending 77-1-613 are void and 77-1-613 must be amended as follows:

"77-1-613. ~~Deduction of portion of income received from~~ *Administrative costs associated with* sale of timber from state trust lands ~~— creation of account~~. (1) ~~There is an account in the state special revenue fund called the state timber sale account. Money in the account may be appropriated by the legislature for use by the department in the manner set out in this section to enhance the revenue creditable to the trusts. There must be placed in the account an amount from timber sales on state lands each fiscal year equal to the amount appropriated from the account for the corresponding fiscal year.~~ *The department may use funds appropriated from the trust land administration account, provided for in 77-1-108, for timber sale preparation, timber sale documentation, and contract harvesting costs as provided in [section 6 of Senate Bill No. 25].*

~~(2) Timber sale program funds deducted under subsection (1) must be directly applied to timber sale preparation and documentation.~~

~~(3)~~*(2)* In order to increase the volume of timber sold at the earliest possible time while continuing to meet the requirements of applicable state and federal laws and in order to avoid unnecessary delays and extra costs that would result from increasing its permanent staff, the department may contract for services that will enable achievement of the purposes of this section and that will achieve the highest net return to the trusts.

~~(4)~~*(3)* To maximize overall return to the trusts, the timely salvage of timber must be considered. However, salvage timber sales may not adversely affect the implementation of green timber sales programs *conducted pursuant to 77-5-201*."

Section 11. Coordination instruction. If either House Bill No. 231 or Senate Bill No. 75 and [this act] are passed and approved, then [section 6 of this act] must read as follows:

"NEW SECTION. **Section 6. Contract harvesting account — authorized expenditures — termination.** (1) An account, called the contract

harvesting account, must be created as a subaccount of the trust land administration account established in 77-1-108, in which to deposit gross revenue and for the payment of expenditures associated with contract harvesting sales. All proceeds of the sale of forest products from a contract harvesting sale must be deposited into this account and must be retained in the account to be used to pay for all contract harvesting costs, as provided in subsection (2).

(2) Expenditures may be credited against the account for contract harvesting costs. Personnel services costs for state employees may not be credited against the account.

(3) An amount equal to the contract harvesting costs must be retained in the account and must be deducted from the gross proceeds to determine the net proceeds. The net proceeds from the sale of the forest products must be distributed to the appropriate trust.

(4) An initial account balance must be created by transferring up to $500,000 of timber harvest revenue into the contract harvesting account from the trust land administration account.

(5) If the contract harvesting program is terminated or discontinued for more than 10 years, any balance remaining in the contract harvesting account in excess of $500,000 must be distributed to the appropriate trust. The remaining balance up to $500,000 must be transferred back to the trust land administration account provided for in 77-1-108."

Section 12. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 13. Codification instruction. [Sections 1 through 6] are intended to be codified as an integral part of Title 77, chapter 5, part 2, and the provisions of Title 77, chapter 5, part 2, apply to [sections 1 through 6].

Section 14. Effective date. [This act] is effective on passage and approval.

Approved May 16, 2007

CHAPTER NO. 495

[SB 27]

AN ACT CLARIFYING THE RIGHT OF A GRANDPARENT TO HAVE CONTACT WITH A GRANDCHILD IN LIGHT OF DECISIONS BY THE U.S. SUPREME COURT AND THE MONTANA SUPREME COURT; AMENDING SECTION 40-9-102, MCA; AND PROVIDING AN APPLICABILITY DATE.

WHEREAS, the Legislature enacted the principal grandparent-grandchild contact statute, section 40-9-102, MCA, in 1979 and has not amended that statute since 1997; and

WHEREAS, since 1997, the statute has provided that a grandparent wanting to have contact with a grandchild could petition a District Court to grant that contact and that the court must grant the petition if it found that the contact was "in the best interest of the child"; and

WHEREAS, since 1997, the United States Supreme Court and the Montana Supreme Court have both held that a parent's right to the custody, care, and

control of a child is founded upon a parent's constitutional right to liberty and have also held that it is the constitutionally protected right of a fit parent to determine who the parent's child may or may not associate with; and

WHEREAS, the Montana Supreme Court held on May 9, 2006, in the case of Polasek v. Omura, that a District Court for Cascade County committed reversible error when the District Court granted a petition for grandparent-grandchild contact under section 40-9-102, MCA, against the wishes of the custodial parent who had not been found to be an unfit parent, based upon the single statutory criteria that the contact was "in the best interest of the child"; and

WHEREAS, the Montana Supreme Court held in Polasek v. Omura that before a District Court could use the "best interest of the child" standard, the District Court must first determine whether the child's parent was a fit parent and, if the District Court determines the parent to be a fit parent and an objecting fit parent, that the presumption in favor of the parent's wishes has been rebutted; and

WHEREAS, because of the rulings of the U.S. Supreme Court and the Montana Supreme Court, section 40-9-102, MCA, is now misleading to grandparents in that the statute implies that a grandparent may petition a District Court to award, and the District Court may grant, grandparent-grandchild contact without consideration of the wishes of a custodial parent, or even over the objection of a custodial parent, and without consideration of the fitness of that parent; and

WHEREAS, the Legislature believes in the constitutional right of parents to control the actions and conduct of their children and believes that third parties should not be allowed, through the courts, to control the actions of those children if the parents are fit and proper parents; and

WHEREAS, the Legislature believes that both parents and grandparents must have a clear understanding or "road map" of parental rights and a grandparent's right to contact with a grandchild and that those rights should be clear in state law and easily located in state statutes by both parents and grandparents alike.

THEREFORE, it is the purpose of the Legislature to make Montana statutes reflect the holding of the U.S. Supreme Court in Troxel v. Granville and of the Montana Supreme Court in Polasek v. Omura regarding the constitutional rights of custodial parents to determine who a child may or may not have contact with by providing that before a District Court may grant grandparent-grandchild contact over the objection of a custodial parent, the District Court must inquire into the fitness of the parent and approve the petition for contact only if the parent is found to be unfit and the contact is in the best interest of the child or, if the court determines the parent to be a fit parent, the contact petitioned for is in the best interest of the child and the presumption in favor of the parent's wishes has been rebutted.

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

Section 1. Section 40-9-102, MCA, is amended to read:

"40-9-102. Grandparent-grandchild contact. (1) Except as provided in subsection (5), the district court may grant to a grandparent of a child reasonable rights to contact with the child, including but not limited to rights regarding a child who is the subject of, or as to whom a disposition has been made during, an administrative or court proceeding under Title 41 or this title.

The department of public health and human services must be given notice of a petition for grandparent-grandchild contact regarding a child who is the subject of, or as to whom a disposition has been made during, an administrative or court proceeding under Title 41 or this title.

(2) Before a court may grant a petition brought pursuant to this section for grandparent-grandchild contact over the objection of a parent whose parental rights have not been terminated, the court shall make a determination whether the objecting parent is a fit parent. A determination of fitness and granting of the petition may be made only after a hearing, upon notice as determined by the court.

(3) A determination of unfitness may be made only if the court, based upon clear and convincing evidence, makes one or more of the determinations provided in 42-2-608(1) or finds that one or more of the events provided for in that subsection have occurred.

(4) Grandparent-grandchild contact may be granted over the objection of a parent determined by the court pursuant to subsection (2) to be unfit only if the court also determines by clear and convincing evidence that the contact is in the best interest of the child.

~~(2)~~*(5)* Grandparent-grandchild contact granted under this section *over the objections of a fit parent* may be granted only upon a finding by the court, ~~after a hearing~~ *based upon clear and convincing evidence*, that the contact *with the grandparent* would be in the best interest of the child *and that the presumption in favor of the parent's wishes has been rebutted.*

~~(3)~~*(6)* A person may not petition the court under this section more often than once every 2 years unless there has been a significant change in the circumstances of:

(a) the child;

(b) the child's parent, guardian, or custodian; or

(c) the child's grandparent.

~~(4)~~*(7)* The court may appoint an attorney to represent the interests of a child with respect to grandparent-grandchild contact when the interests are not adequately represented by the parties to the proceeding.

~~(5)~~*(8)* This section does not apply if the child has been adopted by a person other than a stepparent or a grandparent. Grandparent-grandchild contact granted under this section terminates upon the adoption of the child by a person other than a stepparent or a grandparent.

(9) A determination pursuant to subsection (2) that a parent is unfit has no effect upon the rights of a parent, other than with regard to grandparent-grandchild contact if a petition pursuant to this section is granted, unless otherwise ordered by the court."

Section 2. Applicability. [This act] applies to a petition for grandparent-grandchild contact filed in accordance with Title 40, chapter 9, part 1, after October 1, 2007.

Approved May 16, 2007

CHAPTER NO. 496

[SB 31]

AN ACT ALLOWING CONTINUED CUSTODY OF A CHILD BY THE CHILD'S CARETAKER RELATIVE FOLLOWING VOLUNTARY SURRENDER OF THE CHILD BY A PARENT OF THE CHILD UNDER CIRCUMSTANCES INDICATING ABANDONMENT; PROVIDING FOR AN EX PARTE ORDER BY A DISTRICT COURT; PROHIBITING A PEACE OFFICER OR COURT FROM REQUIRING SURRENDER OF THE CHILD BY THE CARETAKER RELATIVE EXCEPT IN CERTAIN CIRCUMSTANCES; PROVIDING IMMUNITY; AND PROVIDING AN APPLICABILITY DATE.

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

Section 1. Legislative finding and purpose — definitions. (1) The legislature recognizes that the right of parents to the custody and control of their children is based upon the liberties secured by the United States and Montana constitutions and that a parent's right to that custody and control is therefore normally supreme to the interests of other persons. The legislature also recognizes a growing phenomenon in which absent or otherwise unavailable parents have temporarily surrendered the custody and care of a child to a grandparent or other caretaker relative for a lengthy period of time. The legislature finds that a caretaker relative frequently offers a child a loving, stable, and secure environment in which to live, make friends, and attend school, which is an environment not provided by a parent who temporarily abandons a child. However, a child is deprived of that caring and safe environment when a parent returns to claim the child with little or no notice to the caretaker relative. This situation, which in some instances has occurred multiple times with the same child, is disruptive to the more stable life offered by the caretaker relative and may violate the child's rights ensured by Article II, section 15, of the Montana constitution, such as the right under Article II, section 3, of the Montana constitution of seeking safety, health, and happiness. For these reasons, it is the purpose of the legislature in enacting [section 2] and this section to exercise its police powers for the health and welfare of children who have been abandoned by their parents to the care of relatives and to create a procedure, applicable in limited situations caused by the voluntary surrender of a child by a parent, under circumstances indicating abandonment, whereby a child in the care of a relative may remain with that relative while the issue of abandonment by the parent is reviewed and determined by a court of law. The legislature believes that this temporary infringement on the right of a parent to the custody and control of a minor child is justified by the possibility of abandonment by the parent, because the welfare of the child is at stake, and because of the likely violation of the child's rights ensured by Article II, section 15, of the Montana constitution.

(2) As used in [section 2] and this section, the following definitions apply:

(a) "Caretaker relative" or "relative" means an individual related to a child by blood, marriage, or adoption by another individual, who has care and custody of a child but who is not a parent, foster parent, stepparent, or legal guardian of the child.

(b) "Parent" means a biological or adoptive parent or other legal guardian of a child.

Section 2. Caretaker relative rights upon return of parent — continuing custody affidavit — review, finding, and order by district

court — limited reconsideration — immunity. (1) If custody of a child has been voluntarily given to a relative of the child by a parent of the child and the child has remained with that relative for at least 6 months under circumstances in which it is unclear whether or when the parent will return and retake custody of the child, the provisions of this section apply unless, during that 6-month period, the parent expresses to the relative a firm intention and a date on which the parent will return and resume custody of the child and subsequently adheres to that schedule.

(2) Upon a return of the parent and an expression by the parent of an intent by that parent to reassert the parent's right of custody and control over the child, the caretaker relative may file, without payment of a filing fee, with the district court in the county of the relative's residence a detailed affidavit as provided in this section. The affidavit must contain the following matters, the exclusion of any of which makes the affidavit void:

(a) the identification of:

(i) the caretaker relative, including the relative's address;

(ii) the child in the custody of the relative; and

(iii) the parent demanding custody of the child, including the parent's address, if known;

(b) a statement of the facts, as nearly as can be determined, of:

(i) the date, time, and circumstances surrounding the voluntary surrender of the custody of the child to the caretaker relative, including any conversation between the relative and the parent concerning the purpose of the parent's absence and when the parent would return and resume custody of the child;

(ii) the reason for the surrender of the child to the relative, as far as is known by the relative;

(iii) the efforts made by the relative to care for the child, including:

(A) facts explaining the nature of the home provided by the relative for the child;

(B) the schooling of the child while in the relative's custody; and

(C) the socialization of the child with other children and adults, both inside and outside the family of the caretaker relative; and

(iv) whether any contact was made by the child's parent with the relative, the child, or both, during the absence of the parent and if so, the date, time, and circumstances of that contact, including any conversation between the relative and the parent concerning when the parent would return and resume custody of the child;

(c) a statement by the caretaker relative as to why the relative wishes to maintain custody of the child;

(d) a warning, in at least 14-point type, to the caretaker relative in the following language: "WARNING: DO NOT SIGN THE FOREGOING AFFIDAVIT IF ANY OF THE ABOVE STATEMENTS ARE INCORRECT, OR YOU WILL BE COMMITTING AN OFFENSE PUNISHABLE BY FINE, IMPRISONMENT, OR BOTH."; and

(e) a notarized signature of the caretaker relative following a written declaration that the affidavit is made under oath and under penalty of the laws

of Montana governing the giving of false sworn testimony and that the information stated by the caretaker relative in the affidavit is true and correct.

(3) A copy of the affidavit filed with the district court must be provided by the caretaker relative to the child's parent, if the address or location of the parent is known to the relative, and may be provided to the department of public health and human services. A caretaker relative may maintain temporary custody of the child for 5 days following the return of the parent and the demand by the parent for custody of the child pending completion of the affidavit and the order of the district court. During that 5-day period, the caretaker relative may not be deprived of the custody of the child by a peace officer or by the order of a court unless a court finds, upon petition by the child's parent and after a hearing and upon notice to the caretaker relative as the court shall require, that:

(a) the child has not been in the custody of the caretaker relative for at least 6 months;

(b) the caretaker relative has committed child abuse or neglect with regard to the child in the custody of the relative; or

(c) the action by the caretaker relative to make and file the affidavit with the district court in accordance with this section was not made in good faith.

(4) Upon receipt of the caretaker relative's affidavit pursuant to subsection (3), the department may proceed pursuant to 41-3-202 as if a report of abandonment of the child had been received.

(5) (a) Within 48 hours of the filing of the affidavit, the district court shall review the affidavit and determine ex parte whether the affidavit contains prima facie evidence that the child was abandoned by the child's parent. If the court determines that there is prima facie evidence that the child was abandoned by the child's parent, the court shall within 3 business days of its determination of prima facie evidence enter appropriate findings of fact concerning the abandonment and enter an ex parte order approving and ordering continued custody and control of the child by the caretaker relative. An order of the district court pursuant to this subsection approving and ordering continued custody by the caretaker relative is effective for 14 days following entry of the order.

(b) If the court determines that the affidavit does not provide prima facie evidence of abandonment by the parent, the court shall within 3 business days of its determination make appropriate findings of fact and order the child returned to the parent. Upon receipt of the written findings and order of the court, the caretaker relative shall surrender the custody and control of the child to the child's parent.

(c) During or after the 14-day period established under subsection (5)(a), the caretaker relative may commence a parenting plan proceeding under 40-4-211 or petition the court to be appointed the guardian of the minor under 72-5-225.

(6) Upon entry of an order by the district court pursuant to subsection (5)(a), a copy of the order must be sent to the child's parent, if the address of the parent is known.

(7) The child's parent may, after receipt of the court's findings and order ordering continued custody of a child by a caretaker relative, apply to the court, upon notice to the caretaker relative as the court shall provide, for a reconsideration of the court's order approving continued custody of the child by the relative. The court shall reconsider its order and may reverse its order based upon presentation of evidence of nonabandonment. Pending a reconsideration

pursuant to this subsection, custody of the child must remain with the relative unless the order of the district court approving that custody expires or a court has ordered a change of custody pursuant to subsection (3).

(8) [(a)] A caretaker relative refusing to surrender custody of a child while acting in good faith and in accordance with this section is immune from civil or criminal action brought because of that refusal.

[(b) A peace officer acting in good faith and taking or refusing to take custody of a child from a relative in accordance with this section and the entity employing the officer is immune from civil or criminal action or professional discipline brought because of the taking of or refusal to take custody of the child.]

(9) Subject to availability of appropriations, the attorney general shall prepare a form for the affidavit provided for in this section and shall distribute the form as the attorney general determines appropriate.

Section 3. Codification instruction. [Sections 1 and 2] are intended to be codified as an integral part of Title 40, and the provisions of Title 40 apply to [sections 1 and 2].

Section 4. Two-thirds vote required — contingent voidness. Because [section 2(8)(b)] 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 its passage. If [this act] is not approved by at least two-thirds of the members of each house of the legislature, then the bracketed language in [section 2(8)] is void.

Section 5. Applicability. [This act] applies to the voluntary surrender of a child by the child's parent to a caretaker relative occurring on or after October 1, 2007.

Approved May 16, 2007

CHAPTER NO. 497

[SB 74]

AN ACT GENERALLY REVISING THE MONTANA TITLE LOAN ACT; INCLUDING TITLE LOAN LICENSEES IN THE DEFINITION OF REGULATED LENDERS; EXPANDING THE SCOPE OF THE ACT TO INCLUDE PAWNBROKERS; AUTHORIZING THE DEPARTMENT OF ADMINISTRATION TO CONDUCT INVESTIGATIONS AND TO ISSUE SUBPOENAS AND CEASE AND DESIST ORDERS; AUTHORIZING THE DEPARTMENT TO SEEK COURT-ORDERED INJUNCTIONS; PROVIDING FOR RESTITUTION; AND AMENDING SECTIONS 31-1-111, 31-1-802, 31-1-803, 31-1-811, 31-1-816, 31-1-817, AND 31-1-825, MCA.

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

Section 1. 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, *title loan licensee,* development corporation, bank holding company, or a 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 2. Section 31-1-802, MCA, is amended to read:

"31-1-802. Purpose — rules — ~~scope~~ — fees. (1) The purpose of this part is to protect consumers who enter into short-term, high-rate loans with lenders from abuses that occur in the credit marketplace when the lenders are unregulated.

(2) The department may adopt rules to implement the provisions of this part. The rules may include but are not limited to rules establishing forms and procedures for licensing, rules pertaining to acceptable practices at a business location, rules establishing disclosure requirements, and rules establishing complaint and hearing procedures.

~~(3) This part does not apply to pawnbrokers.~~

~~(4)~~*(3)* This part may not be construed as affecting in any way the method of perfecting security interests on personal property provided for elsewhere in law.

~~(5)~~*(4)* Fees collected under this part must be deposited in an account in the state special revenue fund to be used by the department in carrying out its supervisory functions under this part.

(5) This part does not apply to a person who makes less than four loans a year and complies with the provisions of Title 31, chapter 1, part 1."

Section 3. Section 31-1-803, MCA, is amended to read:

"31-1-803. Definitions. For the purposes of this part, the following definitions apply:

(1) "Borrower" means the owner of any titled personal property who pledges the property to a title lender pursuant to a title loan agreement.

(2) "Capital assets" means the assets of a person less the liabilities of that person. Assets and liabilities must be measured according to generally accepted accounting principles.

(3) "Certificate of title" means a state-issued certificate of title or certificate of ownership for personal property deposited with a title lender as security for a title loan pursuant to a title loan agreement.

(4) "Department" means the department of administration provided for in 2-15-1001.

(5) "Person" means an individual, corporation, partnership, limited partnership, limited liability company, limited liability partnership, association, or other entity.

(6) "Pledged property" means personal property the ownership of which is evidenced and delineated by a state-issued certificate of title.

(7) "Title lender" means a person who has qualified to engage in the business of making title loans pursuant to this part and maintains at least one title loan office in this state.

(8) "Title loan" means ~~a loan secured by an unencumbered state-issued certificate of title or certificate of ownership to personal property, with an original term of 30 days.~~ *a nonpurchase money loan secured by an unencumbered state-issued certificate of title or certificate of ownership to personal property that is designated as a title loan by the department.*

(9) "Title loan agreement" means a written agreement between a borrower and a title lender in a form that complies with the requirements of this part.

(10) "Title loan office" means the location or premises where a title lender regularly conducts business.

(11) "Titled personal property" means any personal property the ownership of which is evidenced and delineated by a state-issued certificate of title."

Section 4. Section 31-1-811, MCA, is amended to read:

"31-1-811. License revocation or suspension — *unlicensed activity — restitution* — penalty. (1) If the department finds, after *providing a 10-day written* notice *that includes a statement of alleged violations* and *a* hearing or *an* opportunity for hearing, as provided in the Montana Administrative Procedure Act, 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, ~~or~~ 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 title loans. In addition, the department may issue an order requiring restitution to borrowers and reimbursement of the department's cost in bringing the administrative action.*

(2) 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.

~~(2)~~*(3)* 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) 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) All civil penalties collected pursuant to this section must be deposited in the state general fund."

Section 5. Investigations by department — subpoenas — oaths — examination of witnesses and evidence. (1) The department may investigate any matter, upon complaint or otherwise, if it appears that a person

has engaged in or offered to engage in any act or practice that is in violation of any provision of this part or any rule adopted or order issued by the department pursuant to this part.

(2) The department may issue subpoenas to compel the attendance of witnesses and the production of documents, papers, books, records, and other evidence before it in any matter over which it has jurisdiction, control, or supervision pertaining to this part. The department may administer oaths and affirmations to a person whose testimony is required.

(3) If a person refuses to obey a subpoena or to give testimony or produce evidence as required by the subpoena, a judge of the district court of Lewis and Clark County or the county in which the licensed premises are located may, upon application and proof of the refusal, issue a subpoena or subpoena duces tecum for the witness to appear before the department to give testimony and produce evidence as may be required. The clerk of court shall then issue the subpoena, as directed, under the seal of the court, requiring the person to whom it is directed to appear at the time and place designated in it.

(4) If a person served with a subpoena refuses to obey the subpoena or to give testimony or produce evidence as required by the subpoena, the department may proceed under the contempt provisions of Title 3, chapter 1, part 5.

(5) Failure to comply with the requirements of subsection (4) is punishable pursuant to 45-7-309.

Section 6. Cease and desist orders. (1) If it appears to the department that a person has engaged in or is about to engage in any act or practice constituting a violation of any provision of this part or any rule adopted or order issued by the department pursuant to this part, the department may issue an order directing the person to cease and desist from continuing the act or practice after reasonable notice and opportunity for a hearing. The order may apply only to the alleged act or practice constituting a violation of this chapter. The department may issue a temporary order pending the hearing that:

(a) remains in effect until 10 days after the hearings examiner issues proposed findings of fact and conclusions of law and a proposed order; or

(b) becomes final if the person to whom notice is addressed does not request a hearing within 10 days after receipt of the notice.

(2) A violation of an order issued pursuant to this section is subject to the penalty provisions of this part.

Section 7. Injunctions — receivers. (1) Whenever the department has reason to believe that a person is using, has used, or is about to knowingly use any method, act, or practice that violates any provision of this part or any rule adopted or order issued by the department pursuant to this part, the department, upon determining that proceeding would be in the public interest, may bring an action in the name of the state against the person to restrain by temporary or permanent injunction or temporary restraining order the use of the unlawful method, act, or practice.

(2) The notice for an action pursuant to subsection (1) must state generally the relief sought and must be served at least 20 days before the hearing of the action in which the relief sought is a temporary or permanent injunction. The notice for a temporary restraining order is governed by 27-19-315.

(3) An action under this section may be brought in the district court in the county in which a person resides or has the person's principal place of business

or in the district court of Lewis and Clark County if the person is not a resident of this state or does not maintain a place of business in this state.

(4) A district court may issue temporary or permanent injunctions or temporary restraining orders to restrain and prevent violations of this part, and an injunction must be issued without bond to the department.

(5) In addition to all other means provided by law for the enforcement of a restraining order or injunction, the court in which the action is brought may impound and appoint a receiver for the property and business of the defendant, including books, papers, documents, or records pertaining to the property or business, or as much of the property or business as the court considers reasonably necessary to prevent violations of this part. The receiver, when appointed and qualified, has the powers and duties as to custody, collection, administration, winding up, and liquidation of the property and business that are conferred upon the receiver by the court.

Section 8. Section 31-1-816, MCA, is amended to read:

"31-1-816. Title loan requirements — liability of borrower — right of rescission — arbitration. (1) Any licensed title lender may engage in the business of making loans secured by a certificate of title subject to the provisions of this part.

(2) ~~Every~~ *Each* title loan *must have a term of 30 days and* must be reduced to writing in a title loan agreement. Each title loan agreement must provide that:

(a) the title lender agrees to make a loan of money to the borrower and that the borrower agrees to give the title lender a security interest in unencumbered titled personal property owned by the borrower;

(b) the borrower consents to the title lender keeping possession of the certificate of title;

(c) (i) the borrower has the exclusive right to redeem the certificate of title by repaying the loan of money in full and by complying with the title loan agreement for an agreed period of time;

(ii) the borrower may rescind the transaction if, by 5 p.m. of the title lender's first business day following the day that the loan was executed, the borrower provides the title lender with cash or certified funds equaling 100% of the amount loaned to the borrower. A title lender may not charge a borrower any fee or interest if the borrower rescinds the loan as provided in this subsection (2)(c)(ii). Except as provided in this subsection (2)(c)(ii), a borrower does not have a right to rescind the loan unless the title lender agrees to the rescission.

(d) (i) the title ~~lender~~ *loan* may *be* ~~renew~~ *renewed* ~~the title loan~~ for additional 30-day periods beyond the original term provided that beginning with the sixth ~~extension or continuation~~ *renewal*, and for each subsequent ~~extension or continuation~~ *renewal*, the borrower ~~must~~ *shall* reduce the principal amount by at least 10% of the original principal amount of the loan; and

(ii) if the borrower fails to reduce the principal amount as required by subsection (2)(d)(i), the title lender may at its option:

(A) declare outstanding principal and any finance charges due and payable; or

(B) solely for the purpose of calculating the finance charge, reduce the amount of the principal balance by 10%, with the understanding that that

portion of the principal is still owed by the borrower but that portion of the loan may not accrue interest or finance charges after that date;

(e) when the certificate of title is redeemed, the title lender shall release its security interest in the titled personal property and return the personal property certificate of title to the borrower;

(f) (i) upon failure of the borrower to redeem the certificate of title at the end of the original 30-day agreement period or at the end of any agreed-upon 30-day renewal ~~or subsequent renewals~~, the borrower shall deliver the titled personal property to the title lender at the location specified in the title loan agreement; and

(ii) the borrower shall deliver the titled personal property to the title lender in substantially the same condition that it was in at the time that the borrower entered into the loan, minus normal wear and tear;

(g) if the borrower fails to deliver the titled personal property to the title lender, the title lender must be allowed to take possession of the titled personal property;

(h) upon obtaining possession of the titled personal property, the title lender is authorized to sell the titled personal property and to convey to the buyer good title, subject to the waiting periods provided for in 31-1-820; and

(i) a borrower who does not redeem a pledged certificate of title is not personally liable to the title lender to repay principal, interest, or expenses incurred in connection with the title loan and that the title lender shall look solely to the titled personal property for satisfaction of the amounts owed under the title loan agreement.

(3) The security interest provided for in subsection (2)(a) is not perfected unless it is filed in accordance with 61-3-103.

(4) Any borrower who obtains a title loan from a title lender under false pretenses by hiding or not disclosing the existence of a valid prior lien or security interest affecting the titled personal property is personally liable to the title lender for the full amount stated in the title loan agreement, including interest and expenses incurred by the title lender in connection with the loan.

(5) (a) A loan agreement may not contain a mandatory arbitration clause that is oppressive, unconscionable, unfair, or in substantial derogation of a borrower's rights.

(b) A mandatory arbitration clause that complies with the applicable standards of the American arbitration association must be presumed to not violate the provisions of subsection (5)(a)."

Section 9. Section 31-1-817, MCA, is amended to read:

"31-1-817. Interest rates — fees charged. (1) The maximum rate of interest that a title lender ~~shall~~ *may* contract for and ~~must~~ receive for making and carrying any title loan authorized by this part may not exceed:

(a) 25% for each 30-day period for the portion of a loan that does not exceed $2,000;

(b) 18% for each 30-day period for the portion of a loan exceeding $2,000 but not exceeding $4,000; and

(c) ~~a~~ 10% ~~percentage rate~~ for each 30-day period, plus fees, on the portion of a loan that exceeds $4,000.

(2) Title lenders may charge their actual costs of recording liens on borrowers' certificates of title.

(3) Title lenders may charge a service charge, as provided in 27-1-717, if there are insufficient funds to pay a check on the date of presentment. Title lenders may not collect damages under 27-1-717(3) based upon the presentment of an insufficient funds check."

Section 10. Section 31-1-825, MCA, is amended to read:

"31-1-825. Prohibited acts. (1) A title lender may not:

(a) accept a pledge from a person under 18 years of age;

(b) make any title loan agreement giving the title lender any recourse against the borrower other than the rights granted title lenders under this part;

(c) accept any waiver, in writing or otherwise, of any right or protection accorded a borrower pursuant to this part;

(d) fail to exercise reasonable care to protect from loss or damage certificates of title or titled personal property in the physical possession of the title lender;

(e) purchase titled personal property for personal use that was repossessed from the borrower by the title lender;

(f) enter into a title loan agreement unless the borrower presents clear title to the titled personal property at the time that the loan is made and the title is retained in the physical possession of the title lender;

(g) hold a title for more than 30 calendar days without perfecting the title lender's security interest;

(h) threaten to use or use a criminal process in this or any other state to collect on the loan made to a consumer in this state or any civil process to collect the payment of titled loans not available to title lenders under this part;

(i) use any device or title loan agreement that would have the effect of charging or collecting more fees, charges, or interest than those allowed by this part;

(j) engage in unfair, deceptive, or fraudulent practices in the making or collection of a title loan;

(k) charge any fee that is not specifically allowed under the provisions of this part;

~~(k)~~*(l)* knowingly violate any provision of or rule promulgated pursuant to this part; or

~~(l)~~*(m)* include any of the following provisions in the title loan agreement:

(i) a hold harmless clause, provided that a title lender is not liable to the borrower or a third party for injuries to or damages sustained by the borrower or a third party as the result of an accident involving personal property to which the title lender holds the certificate of title;

(ii) a confession of judgment clause;

(iii) any assignment of or order for payment of wages or other compensation for services;

(iv) a provision in which the consumer agrees not to assert any claim or defense arising out of the contract; or

(v) a waiver of any provision of this part.

(2) If a title lender enters into a transaction contrary to this section, any lien or security interest obtained by the title lender is void."

Section 11. Codification instruction. [Sections 5 through 7] are intended to be codified as an integral part of Title 31, chapter 1, part 8, and the provisions of Title 31, chapter 1, part 8, apply to [sections 5 through 7].

Approved May 16, 2007

CHAPTER NO. 498

[SB 92]

AN ACT GENERALLY REVISING THE MONTANA MORTGAGE BROKER AND LOAN ORIGINATOR LICENSING ACT; ELIMINATING EXCEPTIONS TO THE EXPERIENCE AND EXAMINATION REQUIREMENTS FOR LICENSING; PROVIDING THAT AN INDIVIDUALLY LICENSED MORTGAGE BROKER MAY ONLY WORK FOR ONE EMPLOYING ENTITY; PROVIDING GUIDELINES IN CASES OF TERMINATION OF EMPLOYMENT OF INDIVIDUALLY LICENSED MORTGAGE BROKERS; REVISING RECORDKEEPING REQUIREMENTS; CLARIFYING WHO PAYS CERTAIN FEES; PROVIDING FOR INVESTIGATIONS BY THE DEPARTMENT OF ADMINISTRATION; ESTABLISHING REQUIREMENTS FOR CEASE AND DESIST ORDERS; REVISING LICENSE REVOCATION AND SUSPENSION PROVISIONS AND PENALTY PROVISIONS; AMENDING SECTIONS 32-9-103, 32-9-108, 32-9-109, 32-9-110, 32-9-115, 32-9-117, 32-9-121, 32-9-122, 32-9-123, 32-9-124, 32-9-125, 32-9-126, 32-9-130, AND 32-9-133, MCA; AND REPEALING SECTIONS 32-9-111 AND 32-9-131, MCA.

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

Section 1. Section 32-9-103, MCA, is amended to read:

"32-9-103. Definitions. As used in this part, the following definitions apply:

(1) "Bona fide third party" means a person or entity that provides services relative to residential mortgage loan transactions. The term includes but is not limited to real estate appraisers and credit reporting agencies.

(2) "Borrower" means an individual who is solicited to purchase or who purchases the services of a mortgage broker for other than commercial mortgage lending.

(3) "Branch office" means a location other than a licensee's principal place of business.

~~(3)~~*(4)* "Department" means the department of administration provided for in 2-15-1001, acting through its division of banking and financial institutions.

~~(4)~~*(5)* "Designated manager" means a person *located in this state* employed by a mortgage broker entity, other than a sole proprietorship, as the person responsible for operating the business at the location where the person is employed. A designated manager must be licensed as a mortgage broker.

~~(5)~~*(6)* "Entity" means a business organization, other than a sole proprietorship or an individual person, that provides mortgage broker services.

~~(6)~~*(7)* "Lender" means an entity that funds or services a residential mortgage loan.

~~(7)~~*(8)* "Loan originator" means a licensed individual employed by a mortgage broker to assist borrowers by originating a residential loan.

~~(8)~~*(9)* "Mortgage" means a consensual interest in real property located in Montana, including improvements, securing a debt evidenced by a mortgage, trust indenture, deed of trust, or other lien on real property.

~~(9)~~*(10)* "Mortgage banker" means a person or entity that makes, services, or buys and sells mortgage loans and that may be required to submit audited financial statements to the United States department of housing and urban development, the United States department of veterans affairs, the federal national mortgage association, the federal home loan mortgage corporation, or the government national mortgage association.

~~(10)~~*(11)* "Mortgage broker" means a person or entity that provides services for a fee as an intermediary between a borrower and a lender in obtaining financing for the borrower that is to be secured by a residential dwelling for between one and four families.

~~(11)~~*(12)* "Originate" means:

(a) to negotiate or arrange or to offer to negotiate or arrange a mortgage loan between a borrower and a person or entity that makes or funds mortgage loans;

(b) to issue a commitment for a mortgage loan to a borrower; or

(c) to place, assist in placing, or find a mortgage loan for a borrower.

~~(12)~~*(13)* "Trust account" means a depository account with a financial institution that provides deposit insurance that is separate and distinct from any personal, business, or other account of the mortgage broker and that is maintained solely for the holding and payment of bona fide third-party fees."

Section 2. Section 32-9-108, MCA, is amended to read:

"32-9-108. Overall licensing requirements. All persons and entities desiring to conduct business as a mortgage broker or to work as a loan originator shall apply to the department for a license and pay a license fee under the provisions of this part ~~on or after July 1, 2004~~. ~~Except as provided in 32-9-111, applicants~~ *Applicants* shall comply with all requirements of this part, including but not limited to requisite work experience, successful completion of an examination, and completion of an application approved by the department. All licenses issued under this section are nontransferable and nonassignable."

Section 3. Section 32-9-109, MCA, is amended to read:

"32-9-109. Experience requirements. (1) ~~Except as provided in 32-9-111:~~

(a) ~~an~~ *An* individual applying for a license as a mortgage broker must have a minimum of 3 years of experience working as a loan originator, as a mortgage banker, or in a related field~~; and~~.

(b) ~~an~~ *An* individual applying for a license as a loan originator must have a minimum of 6 months of experience working in a related field.

(2) The department shall by rule establish what constitutes work in a related field."

Section 4. Section 32-9-110, MCA, is amended to read:

"32-9-110. Examination requirements. (1) ~~Except as provided in 32-9-111, all individuals~~ *Individuals* seeking a mortgage broker's license and

individuals seeking a loan originator's license shall submit to an examination provided for by the department. The department may use a third party to perform examination and grading services.

(2) The examination must be designed to demonstrate that the applicant possesses competency to originate loans. The test may cover subject matter areas including but not limited to:

(a) knowledge of this part;

(b) knowledge of disclosures and protections that borrowers are entitled to by state and federal law;

(c) the ability to read, understand, and explain appraisal basics, credit reports, and title commitments; and

(d) the ability to evaluate credit, calculate a basic debt-to-income ratio, calculate loan-to-value ratios, and complete a basic loan application."

Section 5. Section 32-9-115, MCA, is amended to read:

"32-9-115. Application for mortgage broker license. (1) An application for a mortgage broker license must include:

(a) the proposed *principal* location of the business, with a photograph of ~~each~~ *the principal* location *and each branch office* at which business will be transacted. If the business is to be conducted out of a residence, verification must be supplied concerning compliance with all zoning laws and regulations. *The application for an individual mortgage broker intending to work as an employee of another mortgage broker must contain the name and principal address of the licensed employing mortgage broker.*

(b) (i) the name and address of the sole proprietor;

(ii) the name and address of each partner; or

(iii) the name and address of any person that owns 10% or more of a mortgage broker entity that is other than a sole proprietorship or partnership;

(c) evidence of an irrevocable letter of credit or surety bond required by 32-9-123;

(d) a statement as to whether the applicant or, to the best of the applicant's knowledge, any shareholder, member, partner, designated manager, or employee of the applicant is currently under investigation, has been convicted of or has pleaded guilty to any felony or criminal offense involving fraud or dishonesty, or has been subject to any adverse civil judgment for any conduct involving fraudulent or dishonest dealing; and

(e) evidence that the designated manager meets the requirements for licensure as a mortgage broker.

(2) The department shall investigate each individual applicant. The investigation shall include a criminal records check based on the fingerprints of each individual applicant and a civil records check. The department shall require each individual applicant to file a set of the applicant's fingerprints, taken by a law enforcement agency, and any other information necessary to complete a statewide and nationwide criminal check with the criminal investigation bureau of the department of justice for state processing and with the federal bureau of investigation for federal processing. All costs associated with the criminal history check are the responsibility of the applicant. Criminal history records provided to the department under this section are confidential, and the department may use the records only to determine if the applicant is

eligible for licensure. If an investigation outside this state is necessary, the department may require the applicant to advance sufficient funds to pay the actual expenses of the investigation. The department may deny the application if the applicant's criminal history demonstrates any felony criminal convictions or other convictions involving fraud or dishonesty or if the applicant has had any adverse civil judgments involving fraudulent or dishonest dealings."

Section 6. Section 32-9-117, MCA, is amended to read:

"32-9-117. Fees — license renewal — disposition of fees. (1) (a) Except as provided in subsection (1)(b), an individual mortgage broker or an entity seeking licensure as a mortgage broker shall pay an initial nonrefundable license application fee of $500. A loan originator shall pay an initial nonrefundable license application fee of $400. An applicant shall pay one-half of these initial nonrefundable license application fees for any license period of less than 6 months.

(b) An individual who is seeking licensure as a mortgage broker and who is the sole owner of an entity that is seeking licensure as a mortgage broker shall pay a single initial nonrefundable license application fee of $500.

(2) The license of a mortgage broker or loan originator is valid for a 1-year period and expires on June 30. Every licensee shall, on or before May 31 of the year, *submit a renewal application and* pay to the department a renewal fee in an amount set by the department by rule. *The department shall establish by rule the requirements for renewal applications.* The department shall establish a single renewal fee for individuals and entities described in subsection (1)(b) that are licensed as mortgage brokers. An individual described in subsection (1)(b) may act as a designated manager under 32-9-122 and is not subject to any additional license fees for acting in the capacity of a designated manager. The fees set by the department must be commensurate with the costs of the program. Failure to submit required information or fees within the time prescribed automatically revokes the license.

(3) An application for renewal must be accompanied by evidence that the continuing education requirements provided for in 32-9-118 have been met and that there has not been a material change in the status of the licensee in the preceding 12 months.

(4) All fees collected under this section must be deposited in the department's state special revenue fund to be used by the department in administering the provisions of this part."

Section 7. Section 32-9-121, MCA, is amended to read:

"32-9-121. In-state office requirement — records maintenance — advertising requirement. (1) *Except for an individual mortgage broker working as an employee of a licensed mortgage broker, a* ~~A~~ person or entity licensed as a mortgage broker shall maintain at least one physical office located in this state either on its own accord or in conjunction with another licensed mortgage broker or regulated lender located in this state. Licensees shall maintain *books, accounts, records, and* copies of residential mortgage loan files and trust account records *that are necessary to enable the department to determine whether a licensee is in compliance with the applicable laws and rules. The required materials must be maintained* at the Montana office location where services are provided *and the materials must be maintained in accordance with generally accepted accounting principles and good business*

practices. Each office location must have at least one phone line. Licensees shall pay state income tax on all income earned in Montana.

(2) A mortgage broker shall maintain a residential mortgage file for a minimum of 5 years from the date of the last activity pertaining to the file. A mortgage broker shall maintain trust account records for a minimum of 5 years.

(3) (a) In any printed, published, televised, e-mail, or internet advertisement for the provision of services, the following information must be included:

(i) a name, address, and license number for each mortgage broker or loan originator advertising as an individual; or

(ii) the name, address, and license number only of the licensed entity when the licensed entity is advertising on its own behalf or as an entity with one or more mortgage brokers or loan originators also listed.

(b) For the purposes of this subsection (3), advertising does not include stationery or business forms but does include business cards. A business card must include a mortgage broker's or loan originator's license number but is not required to list the entity's license number if the entity's name is listed."

Section 8. Section 32-9-122, MCA, is amended to read:

"32-9-122. Requirement for designated manager. (1) A mortgage broker that is not a sole proprietorship shall designate to the department an individual *within its organization who is located in this state and is* licensed as a mortgage broker ~~within its organization~~ as the designated manager of the organization.

(2) If the designated manager ceases to act in that capacity, within 15 days the mortgage broker shall designate another individual licensed as a mortgage broker as designated manager and shall submit information in writing to the department establishing that the subsequent designated manager is in compliance with the provisions of this part.

(3) If the employment of a designated manager is terminated, the mortgage broker shall return the designated manager's license to the department within 5 business days of the termination."

Section 9. Section 32-9-123, MCA, is amended to read:

"32-9-123. Irrevocable letter of credit or surety bond — notice of legal action. (1) Each ~~licensee other than a loan originator~~ *mortgage broker other than an individual mortgage broker working as an employee of a mortgage broker* shall maintain at all times an irrevocable letter of credit or surety bond, naming the department as a beneficiary, in the amount of $25,000 for each *principal* location *and branch office* identified in the application for licensure. The department shall use the proceeds of the letters of credit or surety bonds to reimburse borrowers or bona fide third parties who successfully demonstrate a financial loss because of an act of a licensee that violates the provisions of this part.

(2) A mortgage broker or loan originator shall give notice to the department by certified mail within 15 days of the mortgage broker's or loan originator's knowledge of the initiation of an investigation or the entry of a judgment in a criminal or civil action. The notice must be given if the investigation or the legal action is in any state and involves a mortgage broker, anyone having an ownership interest in a mortgage broker entity, or a loan originator. In the case of a legal action, the notice must include a copy of the criminal or civil judgment."

Section 10. Limitations on individual mortgage brokers — license display — termination. (1) An individual mortgage broker working as an employee may not transact business for more than one employing mortgage broker.

(2) The original license issued to an individual mortgage broker working as an employee must be provided to the employing mortgage broker and maintained at the employing mortgage broker's main office. A copy of the individual mortgage broker's license must be displayed at the office where the individual mortgage broker principally transacts business.

(3) (a) If the employment of an individual mortgage broker that is not a designated manager is terminated, the employing mortgage broker shall return the individual mortgage broker's license to the department within 5 business days after the termination.

(b) For a period of 6 months after the termination of employment, the individual mortgage broker may request the transfer of the license to another employing mortgage broker by submitting to the department a relocation application containing any information the department requires by rule, along with a fee established by the department by rule.

(c) The license of any individual mortgage broker that is not transferred to another mortgage broker within the 6-month period is terminated, and the individual may not engage in any residential mortgage loan origination activity until the individual complies with department procedures to reinstate the individual's license.

Section 11. Section 32-9-124, MCA, is amended to read:

"32-9-124. Prohibitions — required disclosure. (1) A mortgage broker or loan originator may not do any of the following:

(a) retain original documents owned by the borrower and submitted in connection with the loan application;

(b) directly or indirectly employ any scheme to defraud or mislead a borrower, a lender, or any other person;

(c) make any misrepresentation or deceptive statement in connection with a residential mortgage loan, including but not limited to interest rates, points, costs at closing, or other financing terms or conditions; ~~or~~

(d) fail to pay a bona fide third party later than 30 days after recording of the loan closing documents or 90 days after completion of the bona fide third-party service, whichever is earlier, unless otherwise agreed by the parties~~.~~*;*

(e) accept any fees or compensation at closing that were not disclosed as required by state or federal law;

(f) accept any fees or compensation in excess of those allowed by state or federal law; or

(g) sign a borrower's application or related documents on behalf of or in lieu of another mortgage broker or loan originator.

(2) Prior to providing mortgage broker services to a borrower, the licensee, in addition to other disclosures required by this part*, subsection (3) of this section,* and other state and federal laws, shall provide to the borrower at the time of application a written disclosure containing substantially the following language, which must be signed by the borrower:

"MORTGAGE LOAN ORIGINATION DISCLOSURE

(Name of licensee) is a licensed mortgage broker in Montana authorized to provide mortgage brokerage services to you in connection with your real estate loan. Lenders whose loan products we distribute generally provide their loan products to us at a wholesale rate. The rate you pay may be higher.

SECTION 1. NATURE OF RELATIONSHIP. In connection with this mortgage loan:

(1) (name of licensee) is acting as an independent contractor and not as your agent;

(2) (name of licensee) enters into separate independent contractor agreements with various lenders; and

(3) while (name of licensee) seeks to assist you in meeting your financial needs, (name of licensee) does not distribute products of all lenders or investors in the market and cannot guarantee the lowest price or best terms available.

SECTION 2. OUR COMPENSATION.

(1) The retail price (name of licensee) offers you, including the interest rate, total points, and fees, will include (name of licensee's) compensation.

(2) In some cases, (name of licensee) may be paid all of (name of licensee's) compensation by either you or the lender.

(3) Alternatively, (name of licensee) may be paid a portion of (name of licensee's) compensation by both you and the lender. For example, in some cases, if you would rather pay a lower interest rate, you may pay more money in upfront points and fees. Also, in some cases, if you would rather pay less money up front, you may be able to pay some or all of our compensation indirectly through a higher interest rate, in which case (name of licensee) will be paid directly by the lender.

(4) (Name of licensee) may also be paid by the lender based on the value of the mortgage loan or related servicing rights in the market place or based on other services, goods, or facilities performed or provided by (name of licensee) to the lender.

By signing below, you acknowledge that you have received a copy of this disclosure."

(3) The disclosure must include the address of the department's division of banking and financial institutions, the division's phone number and website, and a statement informing borrowers that the division can provide information about whether a mortgage broker or loan originator is licensed as well as other legally available information."

Section 12. Section 32-9-125, MCA, is amended to read:

"32-9-125. Trust accounts — ~~fees other than~~ bona fide third-party fees. (1) Every mortgage broker doing business in this state shall:

(a) maintain a trust account at a financial institution located in this state whose deposits or shares are insured, and the trust account funds may not be commingled with any other funds of the mortgage broker;

(b) deposit into the trust account any bona fide third-party fee that the mortgage broker receives ~~unless the borrower pays the bona fide third party directly~~; and

(c) pay third-party fees to a bona fide third party from the mortgage broker's trust account unless the borrower*, the seller, or another person involved in the transaction* pays the bona fide third party directly.

(2) A mortgage broker may not charge or receive, directly or indirectly, fees for assisting a borrower in obtaining a mortgage until all of the services that the mortgage broker has agreed to perform for the borrower are completed. A mortgage broker may not charge a residential loan application fee in excess of the amount allowed by federal law. Prior to completion of services, the fees provided for in subsection (3) incurred by a bona fide third party in assisting the borrower to obtain a mortgage must be paid.

(3) The following fees must be paid ~~directly~~ by the borrower*, the seller, or another person involved in the transaction directly* to the bona fide third party providing the services or must be ~~deposited~~ *paid* by the borrower, ~~if applicable, into the mortgage broker's trust account~~ *the seller, or another person involved in the transaction to the mortgage broker* for payment of services performed by the bona fide third party:

(a) credit report fees;

(b) notary fees;

(c) title search, appraisal, or survey fees;

(d) rate-lock fees not exceeding 3% of the mortgage loan amount; and

(e) fees paid directly by the borrower*, the seller, or another person involved in the transaction* to a state or federal government agency or instrumentality for purposes of processing a mortgage application relating to a government-sponsored or guaranteed mortgage program.

(4) The department shall by rule define the meaning of "another person involved in the transaction"."

Section 13. Investigations by department — subpoenas — oaths — examination of witnesses and evidence. (1) For the purposes of this part, the department or the department's authorized representatives must be given free access to the offices and places of business and files of all licensees. The department may investigate any matter, upon complaint or otherwise, if it appears that a person has engaged in or offered to engage in any act or practice that is in violation of any provision of this part or any rule adopted or order issued by the department pursuant to this part.

(2) The department may issue subpoenas to compel the attendance of witnesses and the production of documents, papers, books, records, and other evidence before it in any matter over which it has jurisdiction, control, or supervision pertaining to this part. The department may administer oaths and affirmations to a person whose testimony is required.

(3) If a person refuses to obey a subpoena or to give testimony or produce evidence as required by the subpoena, a judge of the district court of Lewis and Clark County or the county in which the licensed premises are located may, upon application and proof of the refusal, issue a subpoena or subpoena duces tecum for the witness to appear before the department to give testimony and produce evidence as may be required. The clerk of court shall then issue the subpoena, as directed, under the seal of the court, requiring the person to whom it is directed to appear at the time and place designated in the subpoena.

(4) If a person served with a subpoena refuses to obey the subpoena or to give testimony or produce evidence as required by the subpoena, the department may proceed under the contempt provisions of Title 3, chapter 1, part 5.

(5) Failure to comply with the requirements of a court-ordered subpoena is punishable pursuant to 45-7-309.

Section 14. Cease and desist orders. (1) If it appears to the department that a person has engaged in or is about to engage in any act or practice constituting a violation of any provision of this part or any rule adopted or order issued by the department pursuant to this part, the department may issue an order directing the person to cease and desist from continuing the act or practice after reasonable notice and opportunity for a hearing. The order may apply only to the alleged act or practice constituting a violation of this chapter. The department may issue a temporary order pending the hearing that:

(a) remains in effect until 10 days after the hearings examiner issues proposed findings of fact and conclusions of law and a proposed order; or

(b) becomes final if the person to whom notice is addressed does not request a hearing within 10 days after receipt of the notice.

(2) A violation of an order issued pursuant to this section is subject to the penalty provisions of this part.

Section 15. Section 32-9-126, MCA, is amended to read:

"32-9-126. Revocation, suspension, and reinstatement of licenses. (1) The department, upon giving the licensee 10 days' written notice, which includes a statement of the grounds for the proposed suspension or revocation, and informing the licensee that the licensee has the right to be heard at an administrative hearing if requested by the licensee, may suspend or revoke a license if it finds that the licensee has violated any provision of this part.

(2) All notices, hearing schedules, and orders must be mailed to the licensee by certified mail to the address for which the license was issued.

(3) 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.

~~(2)~~*(4)* The department may reinstate any suspended or revoked license ~~upon a showing that the licensee has corrected all deficiencies~~ *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 revoked for cause, an application may not be made for the issuance of a new license or the reinstatement of a revoked license for a period of 6 months from the date of revocation*."

Section 16. Section 32-9-130, MCA, is amended to read:

"32-9-130. Department authority — rulemaking. (1) The department shall adopt rules necessary to carry out the intent and purposes of this part. The rules adopted are binding on all licensees and enforceable through the power of suspension or revocation of licenses.

(2) The rules must address:

(a) revocation or suspension of licenses for cause;

(b) investigation of applicants, ~~and~~ licensees*, and unlicensed persons alleged to have violated a provision of this part* and handling of complaints made by any person in connection with any business transacted by a licensee;

(c) holding contested case hearings pursuant to the Montana Administrative Procedure Act and issuing cease and desist orders, orders of restitution, and orders for the recovery of administrative costs;

~~(c)~~*(d)* prescribing forms for applications;

~~(d)~~*(e)* developing or approving tests to be given as a prerequisite for licensure;

~~(e)~~*(f)* approval of programs for continuing education; and

~~(f)~~*(g)* establishing fees for testing, continuing education programs, and license renewals.

(3) The department may seek a writ or order restraining or enjoining, temporarily or permanently, any act or practice violating any provision of this part.

(4) (a) The department may at any time examine any mortgage broker transaction and may examine the residential mortgage loan files, trust account records, and other information related to mortgage loan transactions of a licensee.

(b) When conducting a financial examination or an audit of a licensee, the department may require the licensee to pay a fee of $300 per day for each examiner performing the financial examination or audit.

(c) If any examination fees are not paid within 30 days of the department's mailing of an invoice, the license of the mortgage broker or designated manager for the mortgage broker entity may be suspended or revoked.

(5) (a) The department may:

(i) exchange information with federal and state regulatory agencies, the attorney general, the consumer protection office of the department, and the legislative auditor; ~~and~~

(ii) exchange information other than confidential information with the mortgage asset research institute, inc., and other similar organizations*; and*

(iii) refer any matter to the appropriate law enforcement agency for prosecution of a violation of this part.

(b) Except as provided in subsection (5)(a)(i), the department shall treat all confidential criminal justice information as confidential unless otherwise required by law.

(6) The department shall prepare, at least once each calendar year, a roster listing the name and locations for each mortgage broker and a roster of all loan originators and designated managers and the name of their employing brokers. *The roster must be available to interested persons and to the general public.*"

Section 17. Section 32-9-133, MCA, is amended to read:

"32-9-133. Penalties — *restitution.* (1) ~~A person who acts or offers to act in any capacity as a mortgage broker or loan originator without a license in this state or while a license is suspended or revoked is subject to the penalty provisions of subsections (3) and (5).~~

~~(2) Any person who violates a provision of this part or a rule adopted under this part is subject to the penalty provisions of subsection (3).~~ *If the department finds, after providing a 10-day written notice that includes a statement of alleged violations and a hearing or an opportunity for hearing, as provided in the Montana Administrative Procedure Act, that any person, licensee, or officer,*

agent, employee, or representative of the person or licensee, whether licensed or unlicensed, has violated any of the provisions of this part, has failed to comply with the rules, 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 $5,000 for the first violation and not to exceed $10,000 for each subsequent violation.

(2) The department may issue an order requiring restitution to borrowers and reimbursement of the department's cost in bringing the administrative action. In addition, the department 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 mortgage broker business.

(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) For a first violation of subsection (1) or (2), the department may impose a fine of not less than $5,000 or more than $10,000. For a second or subsequent violation, the department may impose a fine of not less than $10,000 or more than $20,000. Each violation of the provisions of subsection (1) or (2) constitutes a separate offense.~~

(4) The fines must be deposited in the state general fund.

(5) ~~A~~ *In addition to the penalties in subsection (1), a* person practicing as a mortgage broker or loan originator without being licensed as required under subsection (1) is guilty of a misdemeanor and may be punished by a fine of not less than $250 or more than $1,000, by imprisonment in the county jail for not less than 90 days or more than 1 year, or both. Each violation of the provisions of subsection (1) constitutes a separate offense."

Section 18. Repealer. Sections 32-9-111 and 32-9-131, MCA, are repealed.

Section 19. Codification instruction. [Sections 10, 13, and 14] are intended to be codified as an integral part of Title 32, chapter 9, part 1, and the provisions of Title 32, chapter 9, part 1, apply to [sections 10, 13, and 14].

Approved May 16, 2007

CHAPTER NO. 499

[SB 103]

AN ACT GENERALLY REVISING LOCAL GOVERNMENT FIRE PROTECTION LAWS; CHANGING THOSE WHO MAY PETITION FOR CREATION, ANNEXATION, DIVISION, AND DISSOLUTION OF RURAL FIRE DISTRICT FROM FREEHOLDERS TO OWNERS OF 40 PERCENT OR MORE OF THE REAL PROPERTY WITHIN THE PROPOSED DISTRICT AND OWNERS OF PROPERTY REPRESENTING 40 PERCENT OR MORE OF THE TAXABLE VALUE OF THE PROPERTY WITHIN THE PROPOSED DISTRICT AND CHANGING THE PERCENTAGE OF PETITIONERS REQUIRED; ALLOWING CERTAIN CITIES AND TOWNS TO BE INCLUDED IN A RURAL FIRE DISTRICT; PROHIBITING SIGNATURES FROM BEING WITHDRAWN FROM A PETITION AFTER A CERTAIN TIME PERIOD; REVISING THE POWERS AND DUTIES OF RURAL FIRE

DISTRICT TRUSTEES; REMOVING LIMITATIONS ON TRUSTEES' ABILITY TO ENTER INTO CONTRACTS FOR FIRE PROTECTION SERVICES; PROVIDING THAT TWO OR MORE RURAL FIRE DISTRICTS THAT CONSOLIDATE RESULT IN A NEW RURAL FIRE DISTRICT FOR MILL LEVY PURPOSES; REVISING HOW A RURAL FIRE DISTRICT MAY BE DIVIDED AND THE REQUIREMENTS FOR DIVISION; ALLOWING TERRITORY WITHIN CERTAIN CITIES AND TOWNS TO BE ANNEXED INTO A RURAL FIRE DISTRICT; REQUIRING A COUNTY GOVERNING BODY TO EITHER PROVIDE DIRECT FIRE PROTECTION TO COUNTY LAND OR TO ENTER INTO AN AGREEMENT FOR THAT PROTECTION; REMOVING THE PROHIBITION ON MORE THAN ONE FIRE COMPANY FOR CERTAIN LOCATIONS; REMOVING THE PROVISION THAT RURAL FIRE DISTRICT CHIEFS SERVE WITHOUT COMPENSATION; REMOVING THE PROVISION ALLOWING VOLUNTARY URBAN FIRE CREWS FOR USE IN RURAL AREAS; AMENDING SECTIONS 7-33-2101, 7-33-2102, 7-33-2103, 7-33-2104, 7-33-2105, 7-33-2106, 7-33-2107, 7-33-2109, 7-33-2120, 7-33-2121, 7-33-2123, 7-33-2124, 7-33-2125, 7-33-2126, 7-33-2127, 7-33-2128, 7-33-2202, 7-33-2205, 7-33-2206, 7-33-2210, 7-33-2311, 7-33-2313, AND 7-33-2401, MCA; AND REPEALING SECTIONS 7-33-2122, 7-33-2204, AND 7-33-2207, MCA.

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

Section 1. Section 7-33-2101, MCA, is amended to read:

"7-33-2101. Rural fire districts authorized — petition. *(1)* The board of county commissioners is authorized to establish fire districts in any unincorporated territory or*, subject to subsection (2), incorporated third-class city or* town upon presentation of a petition in writing signed by ~~the owners of 50% or more of the area of the privately owned lands included within the proposed district who constitute a majority of the taxpayers who are freeholders of such area and whose names appear upon the last-completed assessment roll~~ *the owners of 40% or more of the real property in the proposed district and owners of property representing 40% or more of the taxable value of property in the proposed district.*

(2) (a) Third-class cities and towns may be included in the district upon approval by the city or town governing body.

(b) A third-class city or town may withdraw from a district 2 years after providing to the board of county commissioners notice of intent to withdraw."

Section 2. Section 7-33-2102, MCA, is amended to read:

"7-33-2102. Notice of hearing. The board shall, within 10 days after the receipt of the petition, give notice of the hearing at least 10 days prior to the hearing:

(1) by mailing a copy of the notice as provided in 7-1-2122 *or as provided in 7-1-4129 if the proposed district or a portion of the proposed district is in an incorporated third-class city or town* to each ~~freeholder~~ *registered voter and real property owner residing* in the *proposed* district ~~at the address shown in the assessment roll~~; and

(2) by publishing the notice as provided in 7-1-2121 *or as provided in 7-1-4127 if the proposed district or portion of the proposed district is in an incorporated third-class city or town.*"

Section 3. Section 7-33-2103, MCA, is amended to read:

"7-33-2103. Hearing on petition — decision. (1) *(a)* The board shall ~~proceed to~~ hear the petition at the time set or at any time within 5 days ~~thereafter to which the same is postponed or continued with due notice and may grant the same unless it is established thereat~~ *of the time set if reasonable notice of the postponement is given. The board may establish the district unless it determines* that the petition bears insufficient signatures ~~as above required~~ or, if originally sufficient, that by reason of written withdrawals ~~thereof~~ *of signatures* it has become insufficient.

(b) Signatures may not be withdrawn fewer than 20 days before the date set for adoption of the petition.

(2) The board may adjust the boundaries of the proposed district to reflect ~~any freeholder's~~ *the* written request *of any real property owner who resides in the proposed district* for subtraction or annexation of parcels of the ~~freeholder's~~ *property owner's* land adjacent to the boundary line of the proposed district. ~~Such~~ *The* written request must be submitted to the board prior to or on the date set for hearing on the petition.

(3) The board shall render its decision within 30 days after the hearing."

Section 4. Section 7-33-2104, MCA, is amended to read:

"7-33-2104. Operation of fire districts. ~~Whenever the~~ *When a* board of county commissioners ~~shall have established~~ *establishes* a fire district in any unincorporated territory~~,~~ *or incorporated third-class city or* town, ~~or village, said~~ *the* commissioners:

(1) may contract with a city, town, ~~or~~ private fire company*, or other public entity* to furnish *all* fire protection *services* for property within ~~said~~ *the* district; or

(2) shall appoint five qualified trustees to govern and manage the ~~affairs of the~~ fire district."

Section 5. Section 7-33-2105, MCA, is amended to read:

"7-33-2105. Powers and duties of trustees. (1) The trustees*:*

(a) shall prepare and adopt suitable bylaws~~.~~*;*

~~(2)~~*(b)* ~~The trustees~~ have the authority to provide adequate and standard firefighting and emergency response apparatus, equipment, personnel, housing, and facilities, including real property *and emergency medical services and equipment*, for the protection of the district*;*~~. They shall~~

(c) may appoint and form fire companies that have the same duties, exemptions, and privileges as other fire companies *for retirement purposes only;*~~.~~

~~(3) The trustees~~ *(d)* shall prepare annual budgets and request special levies for the budgets. The budget laws relating to county budgets must, as far as applicable, apply to fire districts.

(e) may enter into contracts as provided in 7-33-2107; and

(f) may pledge income to secure financing of the district as provided in 7-33-2109.

(2) All money received by the trustees must be deposited in the county treasurer's office and credited to the fire district."

Section 6. Section 7-33-2106, MCA, is amended to read:

"7-33-2106. Details relating to board of trustees of fire district. (1) (a) The five trustees initially appointed by the county commissioners hold

staggered terms of office until their successors are elected or appointed and qualified as provided in this section.

(b) The initial trustees' terms of office must be drawn by lot and include:

(i) 3 years for one trustee;

(ii) 2 years for two trustees; and

(iii) 1 year for two trustees.

(c) Upon expiration of the terms provided in subsection (1)(b), each trustee shall serve a 3-year term of office.

(2) Trustees must be elected as provided in 13-1-104(3), 13-1-401, and subsection (3) of this section or appointed as provided in subsection (4) of this section. The term of office is 3 years beginning at the first district meeting following their election or appointment and continuing until their successors are elected or appointed and qualified. Appointments to fill vacancies occurring during the term of office of a trustee must be made by the county governing body and appointees shall hold office until the next regular election. An elector, as defined in Title 13, who resides in the district or any holder of title to lands within the district who presents a proof of payment of taxes on the lands at the polling place is eligible to vote in the election.

(3) Candidates for the office of trustee of the fire district to be filled by election may be nominated by petition filed with the election administrator or deputy election administrator at least 75 days before the election day and signed by at least five electors of the district.

(4) If the number of candidates is equal to or less than the number of positions to be elected, the election administrator may cancel the election in accordance with 13-1-304. If an election is not held, the county governing body shall declare elected by acclamation each candidate who filed a nominating petition for a position. If a nomination is not made for one or more trustee offices, the county governing body shall appoint one or more trustees as necessary to fill those offices. A trustee taking office pursuant to this subsection serves the trustee term of office as if that trustee had been elected.

(5) The trustees shall organize by choosing ~~a~~ presiding ~~officer~~ *officers* and appointing one member to act as secretary."

Section 7. Section 7-33-2107, MCA, is amended to read:

"7-33-2107. Contracts for fire protection services. (1) The trustees of ~~such~~ *a* fire district~~, provided that the owners of 10% of the taxable value of the property in any such fire district may elect to make such a contract:~~

~~(a) may contract with the council of any city or town or with the trustees of any other fire district established in any unincorporated territory, town, or village which has any boundary line lying within 5 straight-line miles of any boundary line of such district, whether the city or town or other fire district shall lie within the same county or another county, for the extension of fire protection service by the city or town or by such other fire district to property included within such district; and~~

~~(b) may agree to pay a reasonable consideration therefor.~~

~~(2) Likewise, the trustees may contract to permit such fire district's equipment and facilities to be used by the cities, towns, or other fire districts which have any boundary lines lying within 5 straight-line miles of any boundary line of such district.~~

~~(3) Likewise, the trustees may enter into contracts with public or private parties under which such district fire company may extend fire protection to public or private property lying outside of such district or any other district or city limits but within 5 straight-line miles of any boundary line of such district, whether such public or private property shall lie within the same county or another county. Such district fire company may use such fire district's equipment and facilities outside of such district in the performance of such contracts~~ *may enter into contracts for fire protection services.*

~~(4)~~*(2)* All money received from ~~such~~ contracts ~~shall~~ *must* be deposited in the county treasurer's office and credited to the fire district fund holding ~~such~~ *the* contracts.

~~(5)~~*(3)* The relationship between the fire district and the ~~city, town, or private fire service shall be~~ *entity with which the district has contracted is* that of an independent contractor."

Section 8. Section 7-33-2109, MCA, is amended to read:

"7-33-2109. Tax levy, debt incurrence, and bonds authorized. (1) At the time of the annual levy of taxes, the board of county commissioners may, subject to 15-10-420, levy a special tax upon all property within a rural fire district for the purpose of buying or maintaining fire protection facilities, including real property, and apparatus, including emergency response apparatus, for the district or for the purpose of paying to a city, town, or private fire service the consideration provided for in any contract with the council of the city, town, or private fire service for the purpose of furnishing fire protection service to property within the district. The tax must be collected as are other taxes.

(2) The board of county commissioners or the trustees, if the district is governed by trustees, may pledge the income of the district, subject to the requirements and limitations of 7-33-2105~~(3)~~*(1)(d)*, to secure financing necessary to procure equipment and buildings, including real property, to house the equipment.

(3) In addition to the levy authorized in subsection (1), a district may borrow money by the issuance of bonds to provide funds for the payment of all or part of the cost of buying or maintaining fire protection facilities, including real property, and apparatus, including emergency response apparatus, for the district.

(4) The amount of debt incurred pursuant to subsection (2) and the amount of bonds issued pursuant to subsection (3) and outstanding at any time may not exceed 1.1% of the total assessed value of taxable property, determined as provided in 15-8-111, within the district, as ascertained by the most recent assessment for state and county taxes prior to the incurrence of debt or the issuance of the bonds.

(5) The bonds must be authorized, sold, and issued and provisions must be made for their payment in the manner and subject to the conditions and limitations prescribed for the issuance of bonds by counties under Title 7, chapter 7, part 22."

Section 9. Section 7-33-2120, MCA, is amended to read:

"7-33-2120. Consolidation of fire districts — *mill levy limitations.* (1) Two or more rural fire districts may consolidate to form a single rural fire district upon an affirmative vote of each rural fire district's board of trustees. At

the time they vote to consolidate, the boards of trustees ~~must~~ *shall* also adopt a consolidation plan. The plan must contain:

(a) a timetable for consolidation, including the effective date of consolidation, which must be after the time allowed for protests to the creation of the consolidated rural fire district under subsection (3);

(b) the name of the new rural fire district;

(c) a boundary map of the new rural fire district; and

(d) the estimated financial impact of consolidation on the average taxpayer within the proposed district.

(2) Within 14 days of the date that the trustees vote to consolidate, notice of the consolidation must be published as provided in 7-1-2121 *or as provided in 7-1-4127 if the district or part of the district is in an incorporated third-class city or town* in each county in which any part of the consolidated fire district will be located. A public hearing on the consolidation must be held within 14 days of the first publication of notice. The hearing must be held before the joint boards of trustees at a time and place set forth in the publication of notice.

(3) ~~Property owners of~~ *Real property owners in* each affected rural fire district may submit written protests opposing consolidation to the trustees of their district. If within 21 days of the first publication of notice ~~more than 50%~~ *the owners of 40% or more* of the ~~property owners~~ *real property in an existing district and owners of property representing 40% or more of the taxable value of property* in an existing district protest the consolidation, it is void.

(4) After consolidation, the former rural fire districts constitute a single rural fire district governed under the provisions of 7-33-2104 through 7-33-2106.

(5) The consolidation of two or more rural fire districts pursuant to this section results in the creation of a new rural fire district for the purposes of determining mill levy limitations."

Section 10. Section 7-33-2121, MCA, is amended to read:

"7-33-2121. Division of fire district authorized. Fire districts may be divided as provided in ~~7-33-2122 through~~ *7-33-2123,* 7-33-2124*, and [section 11]*."

Section 11. Division of district — petition — plan for division. (1) (a) A fire district's board of trustees may vote to divide the district upon an affirmative vote of the board and upon receipt of a petition signed by the owners of 40% or more of the real property within the area proposed to be detracted from the original district and owners of property representing 40% or more of the taxable value of property in the area proposed to be detracted from the original district.

(b) The petition must describe the boundaries of the proposed detracted area and the boundaries of the remaining area.

(2) At the time it votes to divide, the board shall adopt a division plan that contains:

(a) a timetable for division, including the effective date, that must be after the time allowed for protests to the division;

(b) the names of the new rural fire districts;

(c) the boundary maps of the new districts;

(d) the estimated financial impact of the division on an owner of a home valued at $100,000; and

(e) a method for the fair and equitable division of the assets and liabilities of the original district among the new districts.

(3) The board of trustees shall forward the plan to the board of county commissioners in the county where the districts are located.

(4) Within 21 days of receipt of the plan, the board of county commissioners shall set a date for a public hearing on the division and shall give notice of the hearing as provided in 7-1-2121 or as provided in 7-1-4127 if any part of the proposed detracted area is within the limits of an incorporated city or town.

Section 12. Section 7-33-2123, MCA, is amended to read:

"7-33-2123. Decision on petition for division — protest. The petition ~~shall~~ *must* be granted and the original districts ~~shall thereupon~~ *must* be divided into separate districts unless at the time of the hearing on ~~such~~ *the* petition protests ~~shall be~~ *are* presented by ~~the owners of 50% or more of the area of the privately owned lands included within the entire original district who constitute a majority of the taxpayers who are freeholders of~~ *the owners of 40% or more of the real property in the entire original district and owners of property representing 40% or more of the taxable value of property in* the entire original district ~~and whose names appear upon the last-completed assessment roll~~. If ~~such~~ *the* required ~~amount~~ *number* of protests are presented, the petition for division ~~shall be disallowed~~ *may not be approved*."

Section 13. Section 7-33-2124, MCA, is amended to read:

"7-33-2124. Distribution of assets and liabilities following division. (1) Upon the division of districts, ~~money on hand shall be apportioned between the divided areas according to their respective taxable valuations. All other assets of the original district shall become the property of the remaining area, but a reasonable value shall be placed upon such other assets, and the remaining area shall become indebted to the detracted area for its proportionate share thereof, based upon taxable valuations~~ *the assets and liabilities of the original rural fire district must be distributed in accordance with the division plan as provided in [section 11].*

(2) Any detracted area ~~shall remain~~ *is* liable for any existing warrant and bonded indebtedness of the original district."

Section 14. Section 7-33-2125, MCA, is amended to read:

"7-33-2125. Annexation of adjacent territory not contained in a fire district. (1) Adjacent territory *within or outside of the limits of an incorporated third-class city or town* that is not already a part of a fire district may be annexed in the following manner:

(a) A petition in writing by ~~the owners of 50% or more of the area of privately owned lands of the adjacent area proposed to be annexed who constitute a majority of the taxpaying freeholders~~ *the owners of 40% or more of the real property within the proposed area to be annexed and owners of property representing 40% or more of the taxable value of property* within the proposed area to be annexed ~~and whose names appear upon the last-completed assessment roll~~ must be presented to the board of trustees of the district for approval. If the proposed annexation is approved by the board of trustees, the petition must be presented to the board of county commissioners.

(b) At the first regular meeting of the board of county commissioners after the presentation of the petition, the commissioners shall set a date to hold a hearing on the petition. The date of the hearing may not be less than 4 weeks after the date of the presentation of the petition to the board of county commissioners. The board of county commissioners shall publish notice of the hearing as provided in 7-1-2121 *or as provided in 7-1-4127 if any part of the area proposed to be annexed is within an incorporated third-class city or town*.

(2) On the date set for the hearing, the board of county commissioners shall consider the petition and any objections to the annexation. The board shall approve the annexation unless a protest petition signed by ~~a majority of the landowners of~~ *at least 40% of the owners of real property in the area proposed for annexation and owners of property representing 40% or more of the taxable value of the property in* the area proposed for annexation is presented at the hearing, in which case the annexation must be disapproved.

(3) The annexed territory is liable for any outstanding warrant and bonded indebtedness of the original district.

(4) (a) Territory that is within the limits of an incorporated third-class city or town may only be annexed upon the approval of the city or town governing body.

(b) A third-class city or town may withdraw from the district territory that has been annexed under this section 2 years after providing to the board of county commissioners notice of intent to withdraw."

Section 15. Section 7-33-2126, MCA, is amended to read:

"7-33-2126. Annexation of adjacent territory contained in a fire district. (1) Adjacent territory that is already a part of a fire district may withdraw from ~~such~~ *the* fire district and become annexed to another fire district in the following manner:

(a) A petition in writing by ~~the owners of 50% or more of the privately owned lands of an area which is part of any organized fire district who constitute a majority of the taxpaying freeholders~~ *40% or more of the owners of real property within the area proposed to be transferred and owners of 40% or more of the taxable value of the property* within ~~such~~ *the* area ~~according to the last-completed assessment roll shall~~ *proposed to be transferred must* be presented to the county commissioners, asking that ~~such~~ *the* area be transferred to and included in any other organized fire district to which ~~said~~ *the* area is adjacent. The petition must ~~set forth~~ *describe* the change of boundaries to be affected by ~~such~~ *the* proposed transfer of area.

(b) The commissioners shall hold a hearing on the petition in accordance with the procedure outlined in ~~7-33-2122~~ *[section 11]*. The ~~withdrawal and annexation shall~~ *transfer must* be allowed unless protests are presented at the hearing by ~~the owners of 50% or more of the area of the privately owned lands included within either district affected who constitute a majority of the taxpaying freeholders of~~ *the owners of 40% or more of the real property in either district and owners of property representing 40% or more of the taxable value in* either district ~~according to the last-completed assessment roll~~.

(2) The ~~withdrawals and annexation shall~~ *transfer may* be allowed only upon a showing of more advantageous proximity and communications with the firefighting facilities of the other district."

Section 16. Section 7-33-2127, MCA, is amended to read:

"7-33-2127. Withdrawal by owner of individual tract adjacent to municipality. In lieu of the detraction procedure ~~set forth~~ *provided* in ~~7-33-2122 and~~ 7-33-2123 *and [section 11]*, whenever a person owns land adjacent to a city or town and wishes to have only that land annexed to the city or town, the land may be detracted as follows:

(1) The owner shall mail notice to the chairman of the trustees of the fire district or, if none, to the board of county commissioners of ~~his~~ *the owner's* intention to request annexation.

(2) The owner shall attach a copy of this notice of intention to ~~his~~ *the* petition to the municipal governing body requesting annexation.

(3) Following adoption of the annexation order under 7-2-4714, the land is detracted from the fire district."

Section 17. Section 7-33-2128, MCA, is amended to read:

"7-33-2128. Dissolution of fire district. ~~Any~~ *(1) Subject to subsection (2), a* fire district organized under this part may be dissolved by the board of county commissioners upon presentation of a petition ~~therefor~~ *for dissolution* signed by ~~the owners of 50% or more of the area of the privately owned lands included within such fire district who constitute a majority of the taxpayers who are freeholders of such~~ *the owners of 40% or more of the real property in the area and owners of property representing 40% or more of the taxable value of property in the* area ~~and whose names appear upon the last-completed assessment roll~~. The procedure and requirements ~~outlined~~ *provided* in 7-33-2101 through 7-33-2103 ~~shall~~ apply to ~~such~~ requests for dissolution of fire districts.

(2) A board of county commissioners may not dissolve a fire district that includes territory within the limits of an incorporated third-class city or town unless the dissolution is approved by the governing body of the city or town."

Section 18. Section 7-33-2202, MCA, is amended to read:

"7-33-2202. Functions of county governing body. *(1)* The county governing body, with respect to rural fire control, shall carry out the specific authorities and duties imposed in this section~~:~~.

~~(1)~~*(2)* The governing body shall:

(a) provide for the organization of volunteer rural fire control crews; and

(b) provide for the formation of county volunteer fire companies.

~~(2)~~*(3)* The governing body shall appoint a county rural fire chief and ~~such~~ *as many* district rural fire chiefs, subject to the direction and supervision of the county rural fire chief, as it considers necessary.

~~(3)~~*(4)* The county governing body shall, within the limitations of 7-33-2205, ~~through 7-33-2209~~ *7-33-2206, 7-33-2208, and 7-33-2209*, *either:*

(a) directly protect ~~the range, farm, and forest lands within the county~~ from fire *land in the county that is not in a forest fire protection district, as provided in 76-13-204, or under the protection of a municipality, state agency, or federal agency; or*

(b) enter into an agreement for forest fire protection with a recognized agency, as that term is defined in 76-13-102.

~~(4)~~*(5)* The county governing body may enter into mutual aid agreements for itself and for county volunteer fire companies with:

(a) other fire districts;

(b) unincorporated municipalities;

(c) incorporated municipalities;

(d) state agencies;

(e) private fire prevention agencies;

(f) federal agencies;

(g) fire service areas; or

(h) governing bodies of other political subdivisions.

~~(5)~~*(6)* If the county governing body has not concluded a mutual aid agreement, the county governing body, a representative of the county governing body, or an incident commander may request assistance pursuant to 10-3-209."

Section 19. Section 7-33-2205, MCA, is amended to read:

"7-33-2205. Establishment of fire season — permit requirements — reimbursement of costs. (1) The county governing body may in its discretion establish fire seasons annually, during which a person may not ignite or set a ~~forest~~ fire, *including a* slash-burning fire, land-clearing fire, debris-burning fire, or open fire within the county protection area on any residential or commercial property, forest, range, or croplands subject to the provisions of this part without having obtained an official written permit or permission to ignite or set a fire from the recognized protection agency for that protection area.

(2) A permit or permission is not needed for recreational fires measuring less than 48 inches in diameter that are surrounded by a nonflammable structure and for which a suitable source of extinguishing the fire is available.

(3) A person who purposely ignites a fire in violation of this section shall reimburse the county governing body or recognized protection agency for costs incurred for any fire suppression activities resulting from the illegal fire*, as provided in 50-63-103*."

Section 20. Section 7-33-2206, MCA, is amended to read:

"7-33-2206. Violations. A person who ignites or sets a ~~forest~~ fire, *including a* slash-burning fire, land-clearing fire, debris-burning fire, or open fire on any residential or commercial property, forest, range, or cropland subject to the provisions of this part without first having obtained a written permit or permission from the recognized protection agency for that protection area to ignite or set the fire is guilty of a misdemeanor."

Section 21. Section 7-33-2210, MCA, is amended to read:

"7-33-2210. State to be reimbursed for forest fire suppression activities in noncooperating counties. A county that has not entered into a cooperative or other written agreement with the state for forest protection shall reimburse the state for costs incurred by the state in connection with state fire suppression activities resulting from a forest fire emergency *on land* in that county *that is not in a forest fire protection district, as provided in 76-13-204, or protected through an agreement with a recognized agency, as provided in 7-33-2202(4)(b)*."

Section 22. Section 7-33-2311, MCA, is amended to read:

"7-33-2311. Fire companies authorized. (1) Fire companies in unincorporated towns and villages are organized by filing with the county clerk of the county in which they are located a certificate in writing, signed by the presiding officer and secretary, ~~setting forth~~ *providing* the date of organization,

name, officers, and roll of active and honorary members or a copy of the certificate provided for in 19-17-402. The certificate and filing must be renewed annually on or before September 1.

~~(2) A town or village is not allowed more than one company for each 1,000 inhabitants, but one company must be allowed in a city, town, or village in which the population is less than 1,000.~~

~~(3)~~*(2)* A fire company is not allowed more than 28 certificate members."

Section 23. Section 7-33-2313, MCA, is amended to read:

"7-33-2313. Powers and duties of chief — request for assistance — definitions. (1) The chief of every fire ~~department~~ *company* shall inquire into the cause of every fire occurring in the town in which the chief serves as the chief and shall keep a record of every fire. The chief shall aid in the enforcement of all fire ordinances, examine buildings in the process of erection, report violations of ordinances relating to prevention or extinguishment of fires and, when directed by the proper authorities, institute prosecutions for the violation of those ordinances, and perform other duties as may be imposed upon the chief by proper authority. The chief's compensation, if any, must be fixed and paid by the city or town authorities. The chief shall attend all fires, with the chief's badge of office conspicuously displayed. The chief shall prevent injury to, take charge of, and preserve all property rescued from fires and return it to the owner on the payment of the expenses incurred in saving and keeping it. The amount of the expenses, when not agreed to, must be fixed by a justice of the peace.

(2) The chief shall devise and formulate or cause to be devised and formulated a course or plan of instruction or training program making available to each regular member of the chief's ~~department~~ *company* not less than 30 hours of instruction each year in matters pertaining to firefighting. The chief shall supervise the operation of the training plan or program and maintain training records for each current and former firefighter for the purposes of the public employees' retirement board provided for in 2-15-1009.

(3) If the county commissioners, trustees of a fire district, or governing body of a fire service area have not concluded a mutual aid agreement to protect an unincorporated town or village against natural incidents, emergencies, or disasters or incidents, emergencies, or disasters caused by persons, the chief may request assistance pursuant to 10-3-209.

(4) As used in this section, ~~"incidents",~~ "disasters", ~~or~~ "emergencies"*, and "incidents" have* ~~has~~ the meaning provided in 10-3-103."

Section 24. Section 7-33-2401, MCA, is amended to read:

"7-33-2401. Fire service area — establishment — alteration — dissolution. (1) Upon receipt of a petition signed by at least 30 owners of real property in the proposed service area, or by a majority of the owners of real property if there are no more than 30 owners of real property in the proposed service area, the board of county commissioners may establish a fire service area within an unincorporated area not part of a rural fire district in the county to provide the services and equipment set forth in 7-33-2402.

(2) To establish a fire service area, the board shall:

(a) pass a resolution of intent to form the area, with public notice as provided in 7-1-2121 ~~and written notice as provided in 7-1-2122~~;

(b) hold a public hearing no earlier than 30 or later than 90 days after passage of the resolution of intent;

(c) at the public hearing:

(i) accept written protests from property owners of the area of the proposed area; and

(ii) receive general protests and comments relating to the establishment of the fire service area and its boundaries, rates, kinds, types, or levels of service, or any other matter relating to the proposed fire service area; and

(d) pass a resolution creating the fire service area. The area is created effective 60 days after passage of the resolution unless by that date more than 50% of the property owners of the proposed fire service area protest its creation.

(3) Based on testimony received in the public hearing, the board in the resolution creating the fire service area may establish different boundaries, establish a different fee schedule than proposed, change the kinds, types, or levels of service, or change the manner in which the area will provide services to its residents.

(4) The board of county commissioners may alter the boundaries or the kinds, types, or levels of service or dissolve a fire service area, using the procedures provided in subsection (2). The board of county commissioners shall alter the boundaries of a fire service area to exclude any area that is annexed by a city or town, using the procedures provided in subsection (2). Any existing indebtedness of a fire service area that is dissolved remains the responsibility of the owners of property within the area, and any assets remaining after all indebtedness has been satisfied must be returned to the owners of property within the area."

Section 25. Repealer. Sections 7-33-2122, 7-33-2204, and 7-33-2207, MCA, are repealed.

Section 26. Coordination instruction. If Senate Bill No. 145 and [this act] are both passed and approved, then 7-33-2202 must read as follows:

"**7-33-2202. Functions of county governing body.** *(1)* The county governing body, with respect to rural fire control, shall carry out the specific authorities and duties imposed in this section~~:~~.

~~(1)~~*(2)* The governing body shall:

(a) provide for the organization of volunteer rural fire control crews; and

(b) provide for the formation of county volunteer fire companies.

~~(2)~~*(3)* The governing body shall appoint a county rural fire chief and ~~such~~ *as many* district rural fire chiefs, subject to the direction and supervision of the county rural fire chief, as it considers necessary.

~~(3)~~*(4)* ~~The~~ *Pursuant to 76-13-105(3), the* county governing body shall, within the limitations of 7-33-2205*,* ~~through 7-33-2209~~ *7-33-2206, 7-33-2208, and 7-33-2209*, *either:*

(a) directly protect ~~the range, farm, and forest lands within the county~~ from fire *land in the county that is not in a forest fire protection district, as provided in 76-13-204, or under the protection of a municipality, state agency, or federal agency; or*

(b) enter into an agreement for forest fire protection with a recognized agency, as that term is defined in 76-13-102.

~~(4)~~*(5)* The county governing body may enter into mutual aid agreements for itself and for county volunteer fire companies with:

(a) other fire districts;

(b) unincorporated municipalities;

(c) incorporated municipalities;

(d) state agencies;

(e) private fire prevention agencies;

(f) federal agencies;

(g) fire service areas; or

(h) governing bodies of other political subdivisions.

~~(5)~~*(6)* If the county governing body has not concluded a mutual aid agreement, the county governing body, a representative of the county governing body, or an incident commander may request assistance pursuant to 10-3-209."

Section 27. Codification instruction. [Section 11] is intended to be codified as an integral part of Title 7, chapter 33, part 21, and the provisions of Title 7, chapter 33, part 21, apply to [section 11].

Approved May 16, 2007

CHAPTER NO. 500

[SB 115]

AN ACT DIRECTING THAT ALL MONEY COLLECTED BY COURTS AS RESTITUTION FOR THE ILLEGAL KILLING OR POSSESSION OF CERTAIN WILDLIFE BE CREDITED TO THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS FOR HUNTER EDUCATION AND ENFORCEMENT; AMENDING SECTION 87-1-114, MCA; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Montana is experiencing an increase in the number of organized wildlife crimes and a corresponding need for additional indepth investigative and trial preparation support necessary for the successful prosecution of wildlife crimes in order to control the unlawful commercialization of the state's public wildlife resources; and

WHEREAS, directing all money collected as restitution for the illegal killing or possession of certain wildlife to the department of fish, wildlife, and parks for law enforcement or hunter education will assist in paying for additional criminal investigators needed to address the increase in organized wildlife crimes.

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

Section 1. Section 87-1-114, MCA, is amended to read:

"87-1-114. Disposition of proceeds. ~~(1) Except as provided in subsection (2), all~~ *All* money collected by a court pursuant to 87-1-111 through 87-1-113 and 87-1-115 must be remitted to the department of revenue for deposit in the state special revenue fund account to the credit of the department for hunter education purposes or for enforcement.

~~(2) Money collected pursuant to subsection (1) in excess of $60,000 annually must be remitted to the department of revenue for deposit in the state general fund.~~"

Section 2. Effective date. [This act] is effective July 1, 2007.

Approved May 16, 2007

CHAPTER NO. 501

[SB 127]

AN ACT TO REVISE LAWS RELATING TO THE SALE AND DISTRIBUTION OF WINE BY WINERIES; ALLOWING ALL LICENSED WINERIES TO MAKE LIMITED SALES TO LICENSED WINE RETAILERS; AMENDING SECTIONS 16-3-219, 16-3-301, 16-3-401, 16-3-402, 16-3-404, 16-3-411, 16-3-418, 16-4-107, 16-4-501, 16-4-906, 16-6-104, AND 16-6-314, MCA.

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

Section 1. Section 16-3-219, MCA, is amended to read:

"16-3-219. Dock sales restricted. ~~A beer wholesaler or a table wine distributor may not deliver beer~~ *Beer* or wine *may not be delivered* to a licensed retailer at any location other than the retailer's licensed premises, except that a retailer located within the territory for which a wholesaler has been appointed to distribute a brand may personally or through ~~his~~ *an* employee obtain from the wholesaler's warehouse quantities of beer not exceeding three barrels in packaged or draft form. An all-beverages licensee may upon presentation of ~~his~~ *the licensee's* license or a photocopy of ~~his~~ *the* license personally obtain from any wholesaler's warehouse ~~such~~ *the* quantities of beer as ~~he~~ *the licensee* and the wholesaler may agree to buy and sell."

Section 2. Section 16-3-301, MCA, is amended to read:

"16-3-301. Unlawful purchases, transfers, sales, or deliveries — presumption of legal age. (1) It is unlawful for a licensed retailer to purchase or acquire beer *or wine* from anyone except a brewer*, winery,* or wholesaler licensed under the provisions of this code.

(2) It is unlawful for a licensed retailer to transport beer *or wine* from one licensed premises or other facility to any other licensed premises owned by the licensee.

(3) It is unlawful for a licensed wholesaler to purchase beer or wine from anyone except a brewery, wholesaler, or winery licensed or registered under the provisions of this code.

~~(3)~~*(4)* It is unlawful for any licensee, a licensee's employee, or any other person to sell, deliver, or give away or cause or permit to be sold, delivered, or given away any alcoholic beverage to:

(a) any person under 21 years of age; or

(b) any person actually, apparently, or obviously intoxicated.

~~(4)~~*(5)* Any person under 21 years of age or any other person who knowingly misrepresents the person's qualifications for the purpose of obtaining an alcoholic beverage from the licensee is equally guilty with the licensee and, upon conviction, is subject to the penalty provided in 45-5-624. However, nothing in this section may be construed as authorizing or permitting the sale of an alcoholic beverage to any person in violation of any federal law.

~~(5)~~*(6)* It is mandatory under the provisions of this code that all licensees display in a prominent place in their premises a placard, issued by the

department, stating fully the consequences for violations of the provisions of this code by persons under 21 years of age.

~~(6)~~*(7)* For purposes of 45-5-623 and this title, the establishment of the following facts by a person making a sale of alcoholic beverages to a person under the legal age constitutes prima facie evidence of innocence and a defense to a prosecution for sale of alcoholic beverages to a person under the legal age:

(a) the purchaser falsely represented and supported with documentary evidence that an ordinary and prudent person would accept that the purchaser was of legal age to purchase alcoholic beverages;

(b) the appearance of the purchaser was such that an ordinary and prudent person would believe the purchaser to be of legal age to purchase alcoholic beverages; and

(c) the sale was made in good faith and in reasonable reliance upon the representation and appearance of the purchaser that the purchaser was of legal age to purchase alcoholic beverages. (See compiler's comments for contingent termination of certain text.)"

Section 3. Section 16-3-401, MCA, is amended to read:

"16-3-401. Short title — public policy — purpose. (1) This part may be cited as the "Wine Distribution Act".

(2) The public policy of the state of Montana is to maintain a system to provide for, regulate, and control the acquisition, importation, and distribution of table wine ~~by licensed table wine distributors~~.

(3) This part governs ~~relationships between suppliers and table wine distributors~~ *wineries, table wine distributors, and wine retailers*~~, and because the legislature recognizes the public interest and the interests of suppliers and table wine distributors in the fair, efficient, and competitive distribution of table wine, this part is intended to:~~

~~(a) protect the table wine distributor's independence in managing the distributor's business, including the establishment of selling prices; and~~

~~(b) encourage table wine distributors to devote their best efforts to the sale and distribution of the table wines they sell and distribute~~."

Section 4. Section 16-3-402, MCA, is amended to read:

"16-3-402. Importation of wine — records. (1) ~~All~~ *Except as provided in 16-3-411 and 16-4-901, all* table wine manufactured outside of Montana and shipped into Montana must be consigned to and shipped to a licensed table wine distributor and be unloaded by the distributor into the distributor's warehouse in Montana or subwarehouse in Montana. The distributor shall distribute the table wine from the warehouse or subwarehouse.

(2) The distributor shall keep records at the distributor's principal place of business of all table wine, including the name or kind received, on hand, sold, and distributed. The records may at all times be inspected by the department.

(3) Table wine that has been shipped ~~into~~ *into* Montana ~~and that has not been shipped to and distributed from a warehouse of a licensed table wine distributor~~ *in violation of this code* must be seized by any peace officer or representative of the department and may be confiscated in the manner as provided for the confiscation of intoxicating liquor."

Section 5. Section 16-3-404, MCA, is amended to read:

"16-3-404. Monthly report of table wine distributor *and retailer.* *(1)* ~~Every~~ *Each* licensed table wine distributor shall, on or before the ~~fifteenth~~ *15th* day of each month, make an exact return to the department of revenue ~~of~~ *reporting* the amount of table wine purchased or acquired by ~~him~~ *the distributor* during the previous month, the amount of table wine sold and delivered by ~~him~~ *the distributor* during the previous month, and the amount of inventory on hand in the manner and form ~~as shall be~~ prescribed by the department. The department ~~shall have~~ *has* the right at any time to make an examination of the table wine distributor's books and ~~of his~~ premises and otherwise check the accuracy of ~~such~~ *the* return or check the alcoholic content of table wine ~~which he~~ *that the distributor* may have on hand.

(2) Each wine retailer licensed to do business in this state shall, on or before the 15th day of each month, in the manner and form prescribed by the department, make a return to the department reporting the amount of wine purchased directly from any out-of-state winery in the previous month."

Section 6. Section 16-3-411, MCA, is amended to read:

"16-3-411. ~~Domestic winery~~ *Winery.* (1) A winery located in Montana and licensed pursuant to 16-4-107 may:

(a) import in bulk, bottle, produce, blend, store, transport, or export wine it produces;

(b) sell wine it produces at wholesale to wine distributors;

(c) sell wine it produces at retail at the winery directly to the consumer for consumption on or off the premises;

(d) provide, without charge, wine it produces for consumption at the winery;

(e) purchase from the department or its licensees brandy or other distilled spirits for fortifying wine it produces;

(f) obtain a special event permit under 16-4-301; ~~or~~

(g) perform those operations and cellar treatments that are permitted for bonded winery premises under applicable regulations of the United States department of the treasury*; or*

(h) sell wine at the winery to a licensed retailer who presents the retailer's license or a photocopy of the license.

(2) (a) ~~A winery that is located in Montana and licensed pursuant to 16-4-107 and that has an annual production of 25,000 gallons or less of wine may sell wine to retail licensees that are licensed to sell wine under this code.~~ *A winery licensed pursuant to section 16-4-107 may sell and deliver wine produced by the winery directly to licensed retailers if the winery:*

(i) uses the winery's own equipment, trucks, and employees to deliver the wine and the wine delivered pursuant to this subsection (2)(a)(i) does not exceed 4,500 cases a year;

(ii) contracts with a licensed table wine distributor to ship and deliver the winery's wine to the retailer; or

(iii) contracts with a common carrier to ship and deliver the winery's wine to the retailer and:

(A) the wine shipped and delivered by common carrier is shipped directly from the producer's winery or bonded warehouse;

(B) individual shipments delivered by common carrier are limited to three cases a day for each licensed retailer; and

(C) the shipments delivered by common carrier do not exceed 4,500 cases a year.

(b) A winery making sales to retail licensees under the provisions of this subsection (2) is considered a table wine distributor for the purposes of collecting taxes on table wine, as provided in 16-1-411.

~~(b)~~*(c)* ~~The~~ *If a* winery ~~may use~~ *uses* a common carrier for delivery of the wine to licensed *table* wine distributors and retailers~~. A shipment by common carrier is subject to the provisions of 16-3-106 and~~ *the shipment* must be:

(i) in boxes that are marked with the words: "Wine Shipment From ~~Montana Licensee~~ *Montana-Licensed Winery* to Montana Licensee";

(ii) ~~made~~ *delivered* to the premises of a ~~Montana-licensed~~ *licensed table* wine distributor or *licensed* retailer ~~licensed by the state and~~ who is in good standing; and

(iii) signed for by the wine distributor or retailer or its employee or agent.

~~(c)~~*(d)* In addition to any records required to be maintained under 16-4-107, a winery that distributes wine within the state under this subsection (2) shall maintain records of all sales and shipments. The winery shall*, on or before the 15th day of each month, in the manner and form prescribed by the department, make a return reporting the amount of wine* ~~furnish monthly and other reports concerning quantities and prices of table wine~~ that it ~~ships~~ *shipped* in the state *during the preceding month*, names and addresses of consignees *or retailers*, and other information that the department may determine to be necessary to ensure that distribution of table wines within this state conforms to the requirements of this code."

Section 7. Section 16-3-418, MCA, is amended to read:

"16-3-418. Dual appointments — equal support — alternate supplier — dock sales. (1) (a) A supplier may appoint one or more table wine distributors to distribute its table wines in a specified territory. If the supplier appoints two or more table wine distributors to sell its table wines in the same or overlapping territories, the supplier shall offer the same prices, delivery, terms, and promotional support to each table wine distributor.

(b) A supplier may not appoint more than one table wine distributor to distribute its hard cider in a specified territory.

(c) For the purposes of this subsection (1), "table wine" has the meaning assigned in 16-1-106, but does not include hard cider.

(2) (a) The holder of an all-beverages license under chapter 4, part 2, may, upon presentation of the license or a photocopy of the license, personally obtain from any distributor's warehouse a quantity of table wine that the licensee may agree to buy and that the distributor may agree to sell.

(b) The holder of a license that permits on-premises consumption of alcoholic beverages under 16-4-401(2) may, upon presentation of the license or a photocopy of the license, personally or through an employee, obtain from ~~any~~ *a* winery*,* ~~described~~ *as provided* in ~~16-3-411(2)(a)~~ *16-3-411(1)(h),* a quantity of table wine that the licensee may agree to buy and that the winery may agree to sell."

Section 8. Section 16-4-107, MCA, is amended to read:

"16-4-107. ~~Domestic winery~~ *Winery* license — winery and importer registration. (1) (a) Wine, other than for personal consumption in conformity with federal exemptions from holding a basic permit as a bonded winery, may be manufactured *or directly distributed to retailers* within the state only by a licensed ~~domestic~~ winery. An application for a ~~domestic~~ winery license must be accompanied by a fee of $400, which constitutes the first annual license fee, and a licensee shall in each succeeding year pay an annual fee as provided in 16-4-501. ~~Domestic winery~~ *Winery* licensees *located in Montana* ~~shall~~ *must* hold the appropriate basic permit required by the United States department of the treasury and be qualified for a license in accordance with the provisions of 16-4-401(4). *Winery licensees located in another state must hold the appropriate basic permit required by the United States department of the treasury and the appropriate license to manufacture wine from the state in which the winery is located and shall provide all other information required by the department.*

(b) A ~~domestic~~ winery *located in Montana that is* licensed to do business in the state shall, each quarter and in the manner and form prescribed by the department, report to the department the amount of wine manufactured or imported by the winery in the previous quarter and the winery's inventory. The department may at any time examine a winery's books.

(2) A winery that is not located in the state or an importer of table wines that holds the appropriate license from the United States ~~of America~~ *department of the treasury* and that desires to distribute its table wines within this state *through licensed table wine distributors only* shall apply to the department of revenue for registration on forms to be prepared and furnished by the department. Each winery ~~will~~ *shall* furnish the department with a copy of each container label currently used by the winery on its products imported into Montana. The department shall require the winery or importer to agree to furnish monthly and other reports concerning quantities and prices of table wine *that* it ships into the state, names and addresses of consignees, and any other information that the department may determine to be necessary to ensure that importation and distribution of table wines within this state conform to the requirements of this code. A winery or importer of table wines may not ship table wines into this state until the registration is granted by the department. The registration may be canceled or suspended by the department upon a finding after notice and hearing that the registrant has not complied with the terms of its registration."

Section 9. Section 16-4-501, MCA, is amended to read:

"16-4-501. License and permit fees. (1) Each beer licensee licensed to sell either beer or table wine only~~,~~ or both beer and table wine~~,~~ under the provisions of this code~~,~~ shall pay a license fee. Unless otherwise specified in this section, the fee is an annual fee and is imposed as follows:

(a) (i) each brewer and each beer importer, wherever located, whose product is sold or offered for sale within the state, $500;

(ii) for each storage depot, $400;

(b) (i) each beer wholesaler, $400; each ~~domestic~~ winery ~~producing more than 25,000 gallons of wine, $400; each domestic winery producing 25,000 gallons or less of wine~~, $200; each table wine distributor, $400;

(ii) for each subwarehouse, $400;

(c) each beer retailer, $200;

(d) (i) for a license to sell beer at retail for off-premises consumption only, the same as a retail beer license;

(ii) for a license to sell table wine at retail for off-premises consumption only, either alone or in conjunction with beer, $200;

(e) any unit of a nationally chartered veterans' organization, $50.

(2) The permit fee under 16-4-301(1) is computed at the following rate:

(a) $10 a day for each day that beer and table wine are sold at events, activities, or sporting contests, other than those applied for pursuant to 16-4-301(1)(c); and

(b) $1,000 a season for professional sporting contests or junior hockey contests held under the provisions of 16-4-301(1)(c).

(3) The permit fee under 16-4-301(2) is $10 for the sale of beer and table wine only or $20 for the sale of all alcoholic beverages.

(4) Passenger carrier licenses must be issued upon payment by the applicant of an annual license fee in the sum of $300.

(5) The annual license fee for a license to sell wine on the premises, when issued as an amendment to a beer-only license pursuant to 16-4-105, is $200.

(6) The annual renewal fee for:

(a) a brewer producing 20,000 or fewer barrels of beer, as defined in 16-1-406, is $200; and

(b) resort retail all-beverages licenses within a given resort area is $2,000 for each license.

(7) ~~Each~~ *Except as provided in this section, each* licensee licensed under the quotas of 16-4-201 shall pay an annual license fee as follows:

(a) ~~except as provided in this section,~~ for each license outside of incorporated cities and incorporated towns or in incorporated cities and incorporated towns with a population of less than 2,000, $250 for a unit of a nationally chartered veterans' organization and $400 for all other licensees;

(b) ~~except as provided in this section,~~ for each license in incorporated cities with a population of more than 2,000 and less than 5,000 or within a distance of 5 miles, measured in a straight line from the nearest entrance of the premises to be licensed to the nearest boundary of the city, $350 for a unit of a nationally chartered veterans' organization and $500 for all other licensees;

(c) ~~except as provided in this section,~~ for each license in incorporated cities with a population of more than 5,000 and less than 10,000 or within a distance of 5 miles, measured in a straight line from the nearest entrance of the premises to be licensed to the nearest boundary of the city, $500 for a unit of a nationally chartered veterans' organization and $650 for all other licensees;

(d) for each license in incorporated cities with a population of 10,000 or more or within a distance of 5 miles, measured in a straight line from the nearest entrance of the premises to be licensed to the nearest boundary of the city, $650 for a unit of a nationally chartered veterans' organization and $800 for all other licensees;

(e) the distance of 5 miles from the corporate limits of any incorporated cities and incorporated towns is measured in a straight line from the nearest entrance of the premises to be licensed to the nearest boundary of the city or town; and where the premises of the applicant to be licensed are situated within 5 miles of

the corporate boundaries of two or more incorporated cities or incorporated towns of different populations, the license fee chargeable by the larger incorporated city or incorporated town applies and must be paid by the applicant. When the premises of the applicant to be licensed are situated within an incorporated town or incorporated city and any portion of the incorporated town or incorporated city is without a 5-mile limit, the license fee chargeable by the smaller incorporated town or incorporated city applies and must be paid by the applicant.

(f) an applicant for the issuance of an original license to be located in areas described in subsections (6) and (7)(d) shall provide an irrevocable letter of credit from a financial institution that guarantees that applicant's ability to pay a $20,000 license fee. A successful applicant shall pay a one-time original license fee of $20,000 for a license issued. The one-time license fee of $20,000 may not apply to any transfer or renewal of a license issued prior to July 1, 1974. ~~All~~ *However, all* licenses~~, however,~~ are subject to the specified annual renewal fees.

(8) The fee for one all-beverages license to a public airport is $800. This license is nontransferable.

(9) The annual fee for a retail beer and wine license to the Yellowstone airport is $400.

(10) The annual fee for a special beer and table wine license for a nonprofit arts organization under 16-4-303 is $250.

(11) The annual fee for a distillery is $600.

(12) The license fees provided in this section are exclusive of and in addition to other license fees chargeable in Montana for the sale of alcoholic beverages.

(13) In addition to other license fees, the department of revenue may require a licensee to pay a late fee of 33 1/3% of any license fee delinquent on July 1 of the renewal year or 1 year after the licensee's anniversary date, 66 2/3% of any license fee delinquent on August 1 of the renewal year or 1 year and 1 month after the licensee's anniversary date, and 100% of any license fee delinquent on September 1 of the renewal year or 1 year and 2 months after the licensee's anniversary date.

(14) All license and permit fees collected under this section must be deposited as provided in 16-2-108."

Section 10. Section 16-4-906, MCA, is amended to read:

"16-4-906. Out-of-state brewery or winery registration — limitation on shipping — penalty. (1) Each out-of-state brewery or winery desiring to ship beer or wine to a person holding a connoisseur's license shall register with the department on forms provided by the department.

(2) The annual limit on out-of-state shipments to all connoisseur's license holders is:

(a) 1,440 bottles or 60 cases of beer for breweries; and

(b) 720 bottles or 60 cases of wine for wineries.

(3) For any shipment into the state that exceeds the limits provided for in subsection (2), the out-of-state brewery or winery shall distribute the brewery's or winery's product through a licensed wholesale distributor *or for a winery properly licensed pursuant to 16-4-107 through direct shipment to licensed retailers in accordance with the provisions of 16-3-411.*

(4) An out-of-state brewery or winery that violates the provisions of this section is subject to the penalties provided for in 16-6-302."

Section 11. Section 16-6-104, MCA, is amended to read:

"16-6-104. Unlawful alcoholic beverage — seizure — forfeiture. (1) Any investigator or peace officer who finds an alcoholic beverage ~~which he~~ *and who* has reasonable cause to believe ~~is had~~ *that the alcoholic beverage was obtained* or kept by any person in violation of the provisions of this code may ~~forthwith~~ seize and remove the ~~same~~ *alcoholic beverage* and the packages in which the alcoholic beverage is kept, and upon conviction of the person, the alcoholic beverage and all packages containing the ~~same shall~~ *alcoholic beverages are*, in addition to any other penalty prescribed by this code, ~~ipso facto be~~ forfeited to the state of Montana.

(2) Any beer *or wine* ~~which~~ *that* has been shipped into Montana ~~and has not been shipped to and distributed from a warehouse of a licensed wholesaler~~ *in violation of this code* ~~shall~~ *must* be seized by any peace officer or representative of the department and may be confiscated in the manner as provided for the confiscation of alcoholic beverages."

Section 12. Section 16-6-314, MCA, is amended to read:

"16-6-314. Penalty for violating code — revocation of license — penalty for violation by underage person. (1) A person who violates a provision of this code is guilty of a misdemeanor punishable as provided in 46-18-212, except as otherwise provided in this section.

(2) If a retail licensee is convicted of an offense under this code, the licensee's license must be immediately revoked or, in the discretion of the department, ~~such other~~ *another* sanction *must be* imposed as ~~may be authorized~~ *provided* under 16-4-406.

(3) A person under 21 years of age who violates ~~16-3-301(4)~~ *16-3-301(5)* or 16-6-305(3) is subject to the penalty provided in 45-5-624(2) or (3). (See compiler's comments for contingent termination of certain text.)"

Approved May 16, 2007

CHAPTER NO. 502

[SB 153]

AN ACT REVISING PROFESSIONAL AND OCCUPATIONAL LICENSING LAWS; CREATING EMERITUS STATUS FOR ARCHITECTS; CREATING A RETIREMENT LICENSE FOR PLUMBERS; REVISING THE BOARD OF REALTY REGULATION; REVISING THE BOARD OF PRIVATE SECURITY PATROL OFFICERS AND INVESTIGATORS; CLARIFYING THE DEFINITION OF "LICENSE"; PROVIDING BOARDS WITH PERMISSION TO REQUIRE STATE, REGIONAL, OR NATIONAL CERTIFICATION; EXPANDING THE UNPROFESSIONAL CONDUCT DESCRIPTION; ADDING ELEVATOR CONTRACTORS, MECHANICS, AND INSPECTORS TO THOSE COVERED BY THE UNPROFESSIONAL CONDUCT STATUTE; ADDING NATUROPATHIC PHYSICIAN, PHYSICIAN ASSISTANT, AND OPTOMETRIST TO DEFINITIONS RELATING TO NURSING; REMOVING THE OATH REQUIREMENT TO APPLY FOR A LICENSE AS A NURSE; CLARIFYING APPLICATION REQUIREMENTS FOR OPTOMETRISTS; CLARIFYING THE APPLICATION PROCESS FOR SPEECH-LANGUAGE

PATHOLOGISTS AND AUDIOLOGISTS; CLARIFYING TRAINEE LICENSE TERMS FOR HEARING AID DISPENSERS; REVISING TERMS FOR A VETERINARY LICENSE; REVISING RULEMAKING AUTHORITY FOR THE BOARD OF ALTERNATIVE HEALTH CARE; CLARIFYING LICENSING PROCEDURE FOR NATUROPATHIC PHYSICIANS; REVISING DISTRIBUTION OF CERTAIN LICENSEE FEES FOR OUTFITTERS; CLARIFYING CONDITIONS FOR DENYING, SUSPENDING, OR REVOKING AN OUTFITTER'S, GUIDE'S, OR PROFESSIONAL GUIDE'S LICENSE; REQUIRING PUBLICATION OF A LIST OF LICENSED OUTFITTERS; PROVIDING PENALTIES FOR NONCOMPLIANCE BY REAL ESTATE BROKERS OR PROPERTY MANAGERS WITH TRUST ACCOUNT PROVISIONS; CREATING ENDORSEMENT PROVISIONS FOR A SUPERVISING REAL ESTATE BROKER; CREATING A TEMPORARY LICENSE FOR ELEVATOR INSPECTORS; REVISING THE NAME OF AMBULATORY SURGICAL FACILITIES; PROVIDING ACUPUNCTURISTS WITH LIEN RIGHTS; AMENDING SECTIONS 2-15-1757, 2-15-1781, 25-1-1104, 33-36-103, 37-1-130, 37-1-131, 37-1-302, 37-1-401, 37-1-410, 37-8-102, 37-8-405, 37-8-415, 37-10-302, 37-15-302, 37-16-405, 37-18-306, 37-26-201, 37-26-403, 37-47-318, 37-47-341, 37-51-102, 37-51-301, 37-51-302, 37-60-101, 37-60-103, 37-60-202, 37-60-301, 37-60-302, 37-60-303, 37-60-304, 37-60-309, 37-60-310, 37-60-314, 37-60-402, 37-60-403, 37-60-409, 37-73-208, 50-32-314, 71-3-1111, 71-3-1112, 71-3-1113, 71-3-1114, 71-3-1115, 71-3-1117, AND 71-3-1118, MCA; AND REPEALING SECTIONS 37-60-315 AND 37-60-406, MCA.

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

Section 1. Emeritus status. (1) A licensee who no longer practices architecture may apply to the department for emeritus status.

(2) Upon receiving an application for emeritus status accompanied by the fee established by the board, the department shall issue a license of emeritus status to the applicant and record the applicant's name in the appropriate database as an emeritus licensee, along with the date on which the licensee received emeritus status.

(3) An emeritus licensee may retain but may not use the licensee's seal and may not practice architecture.

(4) The department shall reissue an active license to an emeritus licensee who pays all application fees, meets all current requirements for licensure, and demonstrates to the board's satisfaction that for the 2 years preceding the application for active licensure, the applicant has met requirements set by the board for maintaining professional competence.

Section 2. License of retirement status. (1) A licensee who no longer practices plumbing may apply to the department for retirement status.

(2) Upon receiving an application for retirement status accompanied by the fee established by the board, the department shall issue a license of retirement status to the applicant and record the applicant's name in the appropriate database as a holder of a license of retirement status, along with the date on which the licensee received retirement status.

(3) A license of retirement status does not allow a holder to practice plumbing under this chapter.

(4) The department shall reissue an active license to a holder of a license of retirement status who pays the appropriate active license renewal fee and meets any competency requirements established by rule by the department.

Section 3. Section 2-15-1757, MCA, is amended to read:

"2-15-1757. Board of realty regulation. (1) There is a board of realty regulation.

(2) The board consists of ~~five~~ *seven* members appointed by the governor with the consent of the senate. ~~Three~~ *Five* members must be licensed real estate brokers ~~or~~*,* salespeople*, or property managers* who are actively engaged in the real estate business as a broker ~~or~~*, a* salesperson*, or a property manager* in this state. Two members must be representatives of the public who are not state government officers or employees and who are not engaged in business as a real estate broker*,* ~~or~~ *a* salesperson*, or a property manager*. The members must be residents of this state.

(3) Not more than ~~three~~ *five* members, including the presiding officer, may be from the same political party.

(4) The members shall serve staggered terms of 4 years. A member may not serve more than two terms or any portion of two terms.

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

Section 4. Section 2-15-1781, MCA, is amended to read:

"2-15-1781. Board of private security ~~patrol officers and investigators~~. (1) There is a board of private security ~~patrol officers and investigators~~.

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

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

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

(c) one city police department;

(d) one county sheriff's office;

(e) one member of the public;

(f) one member of the peace officers' standards and training advisory council; and

(g) a licensed private investigator.

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

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

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

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

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

Section 5. Section 25-1-1104, MCA, is amended to read:

"25-1-1104. Handbook for process servers. (1) The department of labor and industry shall publish a handbook for process servers and levying officers.

(2) Each person who applies to the clerk of the district court of any county for registration as a process server shall demonstrate that the person has passed an examination based on the handbook and administered by the board of private security ~~patrol officers and investigators~~ provided for in 2-15-1781.

(3) The department of labor and industry may charge a reasonable examination fee to cover the costs of publishing the handbook and administering the examination provided for in this section."

Section 6. Section 33-36-103, MCA, is amended to read:

"33-36-103. Definitions. As used in this chapter, the following definitions apply:

(1) "Closed plan" means a managed care plan that requires covered persons to use only participating providers under the terms of the managed care plan.

(2) "Combination plan" means an open plan with a closed component.

(3) "Covered benefits" means those health care services to which a covered person is entitled under the terms of a health benefit plan.

(4) "Covered person" means a policyholder, subscriber, or enrollee or other individual participating in a health benefit plan.

(5) "Department" means the department of public health and human services established in 2-15-2201.

(6) "Emergency medical condition" means a condition manifesting itself by symptoms of sufficient severity, including severe pain, that the absence of immediate medical attention could reasonably be expected to result in any of the following:

(a) the covered person's health would be in serious jeopardy;

(b) the covered person's bodily functions would be seriously impaired; or

(c) a bodily organ or part would be seriously damaged.

(7) "Emergency services" means health care items and services furnished or required to evaluate and treat an emergency medical condition.

(8) "Facility" means an institution providing health care services or a health care setting, including but not limited to a hospital, medical assistance facility, or critical access hospital, as defined in 50-5-101, or other licensed inpatient center, an ~~ambulatory surgical or treatment center~~ *outpatient center for surgical services, a treatment center*, a skilled nursing center, a residential treatment center, a diagnostic~~,~~ laboratory, ~~an~~ *a diagnostic* imaging center, or a rehabilitation or other therapeutic health setting.

(9) "Health benefit plan" means a policy, contract, certificate, or agreement entered into, offered, or issued by a health carrier to provide, deliver, arrange for, pay for, or reimburse any of the costs of health care services.

(10) "Health care professional" means a physician or other health care practitioner licensed, accredited, or certified pursuant to the laws of this state to perform specified health care services consistent with state law.

(11) "Health care provider" or "provider" means a health care professional or a facility.

(12) "Health care services" means services for the diagnosis, prevention, treatment, cure, or relief of a health condition, illness, injury, or disease.

(13) "Health carrier" means an entity subject to the insurance laws and rules of this state that contracts, offers to contract, or enters into an agreement to provide, deliver, arrange for, pay for, or reimburse any of the costs of health care services, including a disability insurer, health maintenance organization, or health service corporation or another entity providing a health benefit plan.

(14) "Intermediary" means a person authorized to negotiate, execute, and be a party to a contract between a health carrier and a provider or between a health carrier and a network.

(15) "Managed care plan" means a health benefit plan that either requires or creates incentives, including financial incentives, for a covered person to use health care providers managed, owned, under contract with, or employed by a health carrier, but not preferred provider organizations or other provider networks operated in a fee-for-service indemnity environment.

(16) "Medically necessary" means services, medicines, or supplies that are necessary and appropriate for the diagnosis or treatment of a covered person's illness, injury, or medical condition according to accepted standards of medical practice and that are not provided only as a convenience.

(17) "Network" means the group of participating providers that provides health care services to a managed care plan.

(18) "Open plan" means a managed care plan other than a closed plan that provides incentives, including financial incentives, for covered persons to use participating providers under the terms of the managed care plan.

(19) "Participating provider" means a provider who, under a contract with a health carrier or with the health carrier's contractor, subcontractor, or intermediary, has agreed to provide health care services to covered persons with an expectation of receiving payment, other than coinsurance, copayments, or deductibles, directly or indirectly from the health carrier.

(20) "Primary care professional" means a participating health care professional designated by the health carrier to supervise, coordinate, or provide initial care or continuing care to a covered person and who may be required by the health carrier to initiate a referral for specialty care and to maintain supervision of health care services rendered to the covered person.

(21) "Quality assessment" means the measurement and evaluation of the quality and outcomes of medical care provided to individuals, groups, or populations.

(22) "Quality assurance" means quality assessment and quality improvement.

(23) "Quality improvement" means an effort to improve the processes and outcomes related to the provision of health care services within a health plan."

Section 7. Section 37-1-130, MCA, is amended to read:

"37-1-130. Definitions. As used in this part, the following definitions apply:

(1) "Administrative fee" means a fee established by the department to cover the cost of administrative services as provided for in 37-1-134.

(2) "Board" means a licensing board created under Title 2, chapter 15, that regulates a profession or occupation and that is administratively attached to the department as provided in 2-15-121.

(3) "Board fee" means:

(a) a fee established by the board to cover program area costs as provided in 37-1-134; and

(b) any other legislatively prescribed fees specific to boards and department programs.

(4) "Department" means the department of labor and industry established in 2-15-1701.

(5) "Department program" means a program administered by the department pursuant to this title and not affiliated with a board.

(6) "Expired license" means a license that is not reactivated within the period of ~~45~~ *46* days to 2 years after the renewal date for the license.

(7) "Lapsed license" means a license that is not renewed by the renewal date and that may be reactivated within the first 45-day period after the renewal date for the license.

(8) "License" means permission granted under a chapter of this title to engage in or practice at a specific level in a profession or occupation*, regardless of the specific term used for the permission, including permit, certificate, recognition, or registration*.

(9) "Terminated license" means a license that is not renewed or reactivated within 2 years of the license lapsing."

Section 8. Section 37-1-131, MCA, is amended to read:

"37-1-131. Duties of boards — quorum required. *(1)* A quorum of each board within the department shall:

~~(1)~~*(a)* set and enforce standards and rules governing the licensing, certification, registration, and conduct of the members of the particular profession or occupation within the board's jurisdiction;

~~(2)~~*(b)* sit in judgment in hearings for the suspension, revocation, or denial of a license of an actual or potential member of the particular profession or occupation within the board's jurisdiction. The hearings must be conducted by a hearings examiner when required under 37-1-121.

~~(3)~~*(c)* suspend, revoke, or deny a license of a person who the board determines, after a hearing as provided in subsection ~~(2)~~ *(1)(b)*, is guilty of knowingly defrauding, abusing, or aiding in the defrauding or abusing of the workers' compensation system in violation of the provisions of Title 39, chapter 71;

~~(4)~~*(d)* pay to the department the board's pro rata share of the assessed costs of the department under 37-1-101(6);

~~(5)~~*(e)* consult with the department before the board initiates a program expansion, under existing legislation, to determine if the board has adequate money and appropriation authority to fully pay all costs associated with the proposed program expansion. The board may not expand a program if the board does not have adequate money and appropriation authority available.

~~(6)~~*(2)* A board, board panel, or subcommittee convened to conduct board business must have a majority of its members, which constitutes a quorum, present to conduct business.

(3) A board that requires continuing education or continued state, regional, or national certification for licensees shall require licensees reactivating an expired license to submit proof of meeting the requirements of this subsection for the renewal cycle.

~~(7)~~*(4)* The board or the department program may:

(a) establish the qualifications of applicants to take the licensure examination;

(b) determine the standards, content, type, and method of examination required for licensure or reinstatement of a license, the acceptable level of performance for each examination, and the standards and limitations for reexamination if an applicant fails an examination;

(c) examine applicants for licensure at reasonable places and times as determined by the board or enter into contracts with third-party testing agencies to administer examinations; and

(d) require continuing education for licensure*,* as provided in 37-1-306*, or require continued state, regional, or national certification for licensure.* ~~If~~ *Except as provided in subsection (3), if* the board or department requires continuing education *or continued state, regional, or national certification* for continued licensure, the board or department may not audit or ~~verify~~ *require proof of* continuing education *or continued state, regional, or national certification* requirements as a precondition for renewing the license, certification, or registration. The board or department may conduct random audits *after the lapsed date* of up to 50% of all licensees with renewed licenses for documentary verification of the continuing education requirement ~~after the renewal period closes~~.

~~(8)~~*(5)* A board may, at the board's discretion, request the applicant to make a personal appearance before the board for nonroutine license applications as defined by the board."

Section 9. Section 37-1-302, MCA, is amended to read:

"37-1-302. Definitions. As used in this part, the following definitions apply:

(1) "Board" means a licensing board created under Title 2, chapter 15, that regulates a profession or occupation and that is administratively attached to the department as provided in 2-15-121.

(2) "Complaint" means a written allegation filed with a board that, if true, warrants an injunction, disciplinary action against a licensee, or denial of an application submitted by a license applicant.

(3) "Department" means the department of labor and industry.

(4) "Inspection" means the periodic examination of premises, equipment, or procedures or of a practitioner by the department to determine whether the practitioner's profession or occupation is being conducted in a manner consistent with the public health, safety, and welfare.

(5) "Investigation" means the inquiry, analysis, audit, or other pursuit of information by the department, with respect to a written complaint or other information before a board, that is carried out for the purpose of determining:

(a) whether a person has violated a provision of law justifying discipline against the person;

(b) the status of compliance with a stipulation or order of the board;

(c) whether a license should be granted, denied, or conditionally issued; or

(d) whether a board should seek an injunction.

(6) "License" means permission granted under a chapter of this title to engage in or practice at a specific level in a profession or occupation*, regardless of the specific term used for the permission, including permit, certificate, recognition, or registration*.

(7) "Profession" or "occupation" means a profession or occupation regulated by a board."

Section 10. Section 37-1-401, MCA, is amended to read:

"37-1-401. Uniform regulation for licensing programs without boards — definitions. As used in this part, the following definitions apply:

(1) "Complaint" means a written allegation filed with the department that, if true, warrants an injunction, disciplinary action against a licensee, or denial of an application submitted by a license applicant.

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

(3) "Investigation" means the inquiry, analysis, audit, or other pursuit of information by the department, with respect to a complaint or other information before the department, that is carried out for the purpose of determining:

(a) whether a person has violated a provision of law justifying discipline against the person;

(b) the status of compliance with a stipulation or order of the department;

(c) whether a license should be granted, denied, or conditionally issued; or

(d) whether the department should seek an injunction.

(4) "License" means permission in the form of a license, permit, endorsement, certificate, recognition, or registration granted by the state of Montana to engage in a business activity or practice at a specific level in a profession or occupation governed by:

(a) Title 37, chapter 35, 72, *73,* or 76; or

(b) Title 50, chapter 39, 74, or 76.

(5) "Profession" or "occupation" means a profession or occupation regulated by the department under the provisions of:

(a) Title 37, chapter 35, 72, *73,* or 76; or

(b) Title 50, chapter 39, 74, or 76."

Section 11. Section 37-1-410, MCA, is amended to read:

"37-1-410. Unprofessional conduct. *(1)* The following is unprofessional conduct for a licensee or license applicant *in a profession or occupation* governed by this chapter:

~~(1)~~*(a)* being convicted, including a conviction following a plea of nolo contendere and regardless of a pending appeal, of a crime relating to or committed during the course of practicing the person's profession or occupation or involving violence, the use or sale of drugs, fraud, deceit, or theft;

~~(2)~~*(b)* permitting, aiding, abetting, or conspiring with a person to violate or circumvent a law relating to licensure or certification;

~~(3)~~*(c) committing* 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)~~*(d)* 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)~~*(e)* making a misleading, deceptive, false, or fraudulent advertisement or other representation in the conduct of the profession or occupation;

~~(6)~~*(f)* 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)~~*(g)* ~~the~~ *receiving a* 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 or under judicial review or has been satisfied.

~~(8)~~*(h)* ~~failure~~ *failing* to comply with a term, condition, or limitation of a license by final order of the department;

~~(9)~~*(i)* 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;

~~(10)~~*(j)* misappropriating property or funds from a client or workplace or failing to comply with the department's rule regarding the accounting and distribution of a client's property or funds;

~~(11)~~*(k)* ~~interference~~ *interfering* with an investigation or disciplinary proceeding by willful misrepresentation of facts, failure to respond to department inquiries regarding a complaint against the licensee or license applicant, or 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 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;

~~(12)~~*(l)* assisting in the unlicensed practice of a profession or occupation or allowing another person or organization to practice or offer to practice the profession or occupation by use of the licensee's license.

(2) For the purposes of Title 37, chapters 72 and 73, and Title 50, chapters 74 and 76, the following additional practices are considered unprofessional conduct:

(a) addiction to or dependency on alcohol, an illegal drug, or a dangerous drug, as defined in Title 50, chapter 32;

(b) use of alcohol, an illegal drug, or a dangerous drug, as defined in Title 50, chapter 32, to the extent that the use impairs the user physically or mentally;

(c) conduct that does not meet generally accepted standards of practice. A certified copy of a judgment against the licensee or license applicant or of a tort judgment in an action involving an act or omission occurring within the scope of

practice and the course of the practice is considered conclusive evidence of, but is not needed to prove, conduct that does not meet generally accepted standards."

Section 12. Section 37-8-102, MCA, is amended to read:

"37-8-102. Definitions. Unless the context requires otherwise, in this chapter, the following definitions apply:

(1) "Advanced practice registered nurse" means a registered professional nurse who has completed educational requirements related to the nurse's specific practice role, in addition to basic nursing education, as specified by the board pursuant to 37-8-202.

(2) "Board" means the board of nursing provided for in 2-15-1734.

(3) "Department" means the department of labor and industry provided for in Title 2, chapter 15, part 17.

(4) "Medication aide" means a person who in an assisted living facility uses standardized procedures in the administration of drugs, as defined in 37-7-101, that are prescribed by a physician, an advanced practice registered nurse with prescriptive authority, a dentist, an osteopath, or a podiatrist authorized by state law to prescribe drugs.

(5) "Nursing education program" means any board-approved school that prepares graduates for initial licensure under this chapter. Nursing education programs for:

(a) professional nursing may be a department, school, division, or other administrative unit in a junior college, college, or university;

(b) practical nursing may be a department, school, division, or other administrative unit in a vocational-technical institution or junior college.

(6) "Practice of nursing" embraces the practice of practical nursing and the practice of professional nursing.

(7) (a) "Practice of practical nursing" means the performance of services requiring basic knowledge of the biological, physical, behavioral, psychological, and sociological sciences and of nursing procedures. The practice of practical nursing uses standardized procedures in the observation and care of the ill, injured, and infirm, in the maintenance of health, in action to safeguard life and health, and in the administration of medications and treatments prescribed by a physician, *naturopathic physician, physician assistant, optometrist,* advanced practice registered nurse, dentist, osteopath, or podiatrist authorized by state law to prescribe medications and treatments. These services are performed under the supervision of a registered nurse or a physician, *naturopathic physician, physician assistant, optometrist,* dentist, osteopath, or podiatrist authorized by state law to prescribe medications and treatments.

(b) These services may include a charge-nurse capacity in a long-term care facility that provides skilled nursing care or intermediate nursing care, as defined in 50-5-101, under the general supervision of a registered nurse.

(8) "Practice of professional nursing" means the performance of services requiring substantial specialized knowledge of the biological, physical, behavioral, psychological, and sociological sciences and of nursing theory as a basis for the nursing process. The nursing process is the assessment, nursing analysis, planning, nursing intervention, and evaluation in the promotion and maintenance of health, the prevention, casefinding, and management of illness, injury, or infirmity, and the restoration of optimum function. The term also

includes administration, teaching, counseling, supervision, delegation, and evaluation of nursing practice and the administration of medications and treatments prescribed by physicians, *naturopathic physicians, physician assistants, optometrist,* advanced practice registered nurses, dentists, osteopaths, or podiatrists authorized by state law to prescribe medications and treatments. Each registered nurse is directly accountable and responsible to the consumer for the quality of nursing care rendered. As used in this subsection (8):

(a) "nursing analysis" is the identification of those client problems for which nursing care is indicated and may include referral to medical or community resources;

(b) "nursing intervention" is the implementation of a plan of nursing care necessary to accomplish defined goals."

Section 13. Section 37-8-405, MCA, is amended to read:

"37-8-405. Professional nursing — qualifications of applicants for license. An applicant for a license to practice as a registered professional nurse shall submit to the department written evidence~~, verified by oath,~~ that the applicant:

(1) has successfully completed at least an approved 4-year high school course of study or the equivalent as determined by the office of the superintendent of public instruction;

(2) has completed the basic professional curriculum in an approved school of nursing and holds a diploma ~~therefrom~~ *from that school*; and

(3) meets other qualification requirements the board prescribes."

Section 14. Section 37-8-415, MCA, is amended to read:

"37-8-415. Licensed practical nursing — qualifications of applicants. An applicant for a license to practice as a licensed practical nurse shall submit to the board written evidence~~, verified by oath,~~ that the applicant:

(1) has successfully completed at least an approved 4-year high school course of study or the equivalent as determined by the office of the superintendent of public instruction;

(2) is a graduate of an approved practical nursing education program that is authorized to prepare persons for licensure as practical nurses; and

(3) meets other qualification requirements the board prescribes in its rules."

Section 15. Section 37-10-302, MCA, is amended to read:

"37-10-302. Qualifications — application. (1) The board shall adopt rules relative to and governing the qualifications of applicants for licensure as optometrists.

(2) A person is not eligible to receive a license unless that person is ~~18 years of age or older and~~ of good moral character.

(3) A person is not eligible to receive a license unless that person has graduated from an accredited ~~high school and from a~~ school of optometry in which the practice and science of optometry is taught in a course of study that is accredited by the international association of boards of examiners in optometry.

(4) ~~A person desiring~~ *An applicant for* a license shall file a completed application on a form provided by the department and pay a fee prescribed by the board."

Section 16. Section 37-15-302, MCA, is amended to read:

"37-15-302. Application forms. ~~Application~~ *An application* for examination for licensing a speech-language pathologist or audiologist ~~shall~~ *must* be made upon forms prescribed by the ~~board~~ *department*."

Section 17. Section 37-16-405, MCA, is amended to read:

"37-16-405. Trainee license. (1) An applicant who fulfills the requirements of 37-16-402 and who has not previously applied to take a practical examination may apply to the board for a trainee license.

(2) On receiving an application under subsection (1), accompanied by a fee fixed by the board and verification that the applicant has passed the written portion of the examination with a passing score as determined by board rule, the board shall issue a trainee license that entitles the applicant to engage in a 180-day training period during which the applicant:

(a) is required to pass the practical examination administered by the board before being issued a hearing aid dispenser's license; and

(b) shall work under the direct supervision of the sponsoring licensed hearing aid dispenser. During this time the applicant may do the testing necessary for proper selection and fitting of hearing aids and related devices and make necessary impressions. However, the delivery and final fitting of the hearing aid and related devices must be made by the trainee and the supervisor.

(3) The training period must consist of a continuous 180-day term. Any break in training requires application for another trainee license under rules that the board may prescribe.

(4) A trainee license may not be issued unless the board has on file an unrevoked statement from a qualified licensed hearing aid dispenser accepting responsibility for the trainee. Every licensed hearing aid dispenser supervising a trainee license holder shall submit a report every 90 days of the trainee's activities and training assignments, on forms furnished by the board. The supervisor is responsible for all hearing aid fittings of the trainee. A supervisor may terminate any responsibilities to the trainee by mailing by certified mail written notice to the board and the trainee.

(5) If a person who holds a trainee license takes and fails to pass the practical examination ~~during the training period, the board may authorize the department to renew the trainee license for a period of 180 days, during which the provisions of subsection (2)(b) apply. More than one renewal is not permitted~~*, the trainee license expires, and the person may not practice as a trainee.*

(6) A person licensed as an audiologist under the provisions of Title 37, chapter 15, or a person practicing pursuant to 37-1-305 is exempt from the 180-day training period but is required to pass the examinations prescribed in this chapter.

(7) A licensed hearing aid dispenser who sponsors a trainee is directly responsible and accountable under the disciplinary authority of the board for the conduct of the trainee as if the conduct were the licensee's own.

(8) For the purposes of this section, "direct supervision" means the direct and regular observation and instruction of a trainee by a licensed hearing aid dispenser who is available at the same location for prompt consultation and treatment."

Section 18. Section 37-18-306, MCA, is amended to read:

"37-18-306. Display of license and certificate. A person may not practice veterinary medicine in this state without possessing and displaying prominently in ~~his~~ *the person's* principal office ~~a license and~~ a current and valid ~~certificate of registration~~ *license* issued under this part."

Section 19. Section 37-26-201, MCA, is amended to read:

"37-26-201. Powers and duties of board. The board shall:

(1) adopt rules necessary or proper to administer and enforce this chapter;

(2) adopt rules that specify the scope of practice of naturopathic medicine stated in 37-26-301, that are consistent with the definition of naturopathic medicine provided in 37-26-103, and that are consistent with the education provided by approved naturopathic medical colleges;

(3) adopt rules that endorse equivalent licensure examinations of another state or territory of the United States, the District of Columbia, or a foreign country and that may include licensure by reciprocity;

(4) adopt rules that set nonrefundable fees for application, and licensure;

(5) approve naturopathic medical colleges as defined in 37-26-103;

(6) issue certificates of specialty practice;

(7) adopt rules that, in the discretion of the board, appropriately restrict licenses to a limited scope of practice of naturopathic medicine, which may exclude the use of minor surgery allowed under 37-26-301; *and*

(8) adopt rules that contain the natural substance formulary list created by the alternative health care formulary committee provided for in 37-26-301~~; and~~

~~(9) adopt rules to implement the provisions in 37-1-138~~."

Section 20. Section 37-26-403, MCA, is amended to read:

"37-26-403. Application for licensure ~~— examination — temporary license~~. (1) A person who desires a license to practice naturopathic medicine in Montana shall apply to the department.

(2) The application must be accompanied by the license fees, the application fees, and the documents, affidavits, and certificates necessary to establish that the applicant possesses the qualifications prescribed by 37-26-402. The burden of proof is on the applicant, but the department may make an independent investigation to determine whether the applicant possesses the necessary qualifications and whether the applicant has committed unprofessional conduct that would be a basis for licensure denial.

(3) At the board's request, the applicant shall provide necessary authorizations for the release of records and information pertinent to the department's investigation.

~~(2) A person who applies for licensure but who has not passed a licensure examination prescribed or endorsed by the board shall apply to the board for authorization to take the prescribed licensure examination. If the board finds that all other qualifications for licensure except that of examination have been met, the board shall authorize the applicant to take the licensure examination.~~"

Section 21. Section 37-47-318, MCA, is amended to read:

"37-47-318. Fees in addition to annual license fee — allocation. (1) In addition to the fees required in 37-47-306 for an outfitter providing hunting services, the following fees apply:

(a) An outfitter shall pay an annual fee of $2 for each client served.

(b) An outfitter who is granted a net client hunter use expansion shall pay a fee of $500 for each new client added to that outfitter's operations plan.

(c) *(i)* An outfitter who operates hunting camps in more than one department of fish, wildlife, and parks administrative region shall pay an annual fee of $5,000 for each camp that is located beyond a 100-mile radius of the outfitter's base of operations and that is in an administrative region other than the region containing the outfitter's base of operations.

(ii) A fee is not required for the following:

~~(i)~~*(A)* an outfitter's base of operations camp;

~~(ii)~~*(B)* camps established before January 1, 1999;

~~(iii)~~*(C)* camps established on public land when use is directly regulated by public land use policies; or

~~(iv)~~*(D)* camps on corporate timberlands where public access is not restricted.

(d) An outfitter who desires a net client hunter use expansion shall pay a nonrefundable fee of $2,000 for each expansion request.

(2) Fees collected pursuant to this section must be expended by the board, pursuant to the authority in 37-47-306, and by the department of fish, wildlife, and parks, pursuant to the authority in 87-1-601, and used to fund administrative costs related to implementation of this chapter. The fees collected must be allocated as follows:

(a) Revenue generated by the $2 fee imposed in subsection (1)(a)*, the $500 fee imposed in subsection (1)(b), and the $2,000 fee imposed in subsection (1)(d)* must be split equally between the board and the department of fish, wildlife, and parks.

~~(b) Revenue generated by the $500 fee imposed in subsection (1)(b) must be allocated between the board and the department of fish, wildlife, and parks in the following order:~~

~~(i) the amount necessary to cover the department's administrative expenses that exceed the revenue generated by subsection (2)(a); and~~

~~(ii) the remaining amount to be deposited in the state special revenue fund to the credit of the board.~~

~~(c)~~*(b)* Revenue generated by the $5,000 fee imposed in subsection (1)(c) must be deposited in the state special revenue fund to the credit of the board.

~~(d) Revenue generated by the $2,000 fee imposed in subsection (1)(d) must be split equally between the board and the department of fish, wildlife, and parks.~~"

Section 22. 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. ~~A person may not apply for or hold an outfitter's, guide's, or professional guide's license during any period of time in which a sentence for a felony has been deferred or suspended.~~

(5) one conviction or bond forfeiture as to a violation of the fish and game or outfitting laws or regulations of any state or the United States;

(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 23. Publication of license information. (1) The department shall prepare and publish an information pamphlet that contains the names and addresses of all licensed outfitters.

(2) The pamphlet described in subsection (1) must be available for free distribution as early as possible each calendar year but not later than the second Friday in March of each year.

(3) The pamphlet must contain the names, license numbers, and addresses of only those outfitters who have a currently valid license.

Section 24. Penalty for failure to comply with trust account requirements. (1) An employee of the department may issue a citation to a broker or property manager responsible for maintenance of a trust account for failure to comply with trust account maintenance requirements as provided by rule under 37-1-319(4).

(2) The citation must include:

(a) the time and date on which the citation is issued;

(b) the name, title, mailing address, and signature of the person issuing the citation;

(c) reference to the statute or rule violated;

(d) the name, title, and mailing address of the person to whom the citation is being sent, along with information explaining the procedure for the person receiving the citation to follow to pay the fine or dispute the violation; and

(e) the amount of the applicable fine.

(3) The applicable civil fine for failure to comply with trust account maintenance requirements is $50 for each cited violation.

(4) The person who issues the citation is authorized to collect the fine and deposit the proceeds in the state special revenue account to the credit of the board.

(5) The person who is issued a citation may pay the fine or file a written dispute of the violation with the board within 5 business days of the date of issuance.

(6) A person who refuses to sign and accept a citation but who does not file a written dispute of the violation is demonstrating unprofessional conduct.

Section 25. Section 37-51-102, MCA, is amended to read:

"37-51-102. Definitions. Unless the context requires otherwise, in this chapter, the following definitions apply:

(1) "Account" means the real estate recovery account established in 37-51-501.

(2) (a) "Adverse material fact" means a fact that should be recognized by a broker or salesperson as being of enough significance as to affect a person's decision to enter into a contract to buy or sell real property and may be a fact that:

(i) materially affects the value, affects structural integrity, or presents a documented health risk to occupants of the property; or

(ii) materially affects the buyer's ability or intent to perform the buyer's obligations under a proposed or existing contract.

(b) The term does not include the fact that an occupant of the property has or has had a communicable disease or that the property was the site of a suicide or felony.

(3) "Board" means the board of realty regulation provided for in 2-15-1757.

(4) "Broker" includes an individual who:

(a) for another or for valuable consideration or who with the intent or expectation of receiving valuable consideration negotiates or attempts to negotiate the listing, sale, purchase, rental, exchange, or lease of real estate or of the improvements on real estate or collects rents or attempts to collect rents;

(b) is employed by or on behalf of the owner or lessor of real estate to conduct the sale, leasing, subleasing, or other disposition of real estate for consideration;

(c) engages in the business of charging an advance fee or contracting for collection of a fee in connection with a contract by which the individual undertakes primarily to promote the sale, lease, or other disposition of real estate in this state through its listing in a publication issued primarily for this purpose or for referral of information concerning real estate to brokers;

(d) makes the advertising, sale, lease, or other real estate information available by public display to potential buyers and who aids, attempts, or offers to aid, for a fee, any person in locating or obtaining any real estate for purchase or lease;

(e) aids or attempts or offers to aid, for a fee, any person in locating or obtaining any real estate for purchase or lease;

(f) receives a fee, commission, or other compensation for referring to a licensed broker or salesperson the name of a prospective buyer or seller of real property; or

(g) advertises or represents to the public that the individual is engaged in any of the activities referred to in subsections (4)(a) through (4)(f).

(5) "Buyer" means a person who is interested in acquiring an ownership interest in real property or who has entered into an agreement to acquire an

interest in real property. The term includes tenants or potential tenants with respect to leases or rental agreements of real property.

(6) "Buyer agent" means a broker or salesperson who, pursuant to a written buyer broker agreement, is acting as the agent of the buyer in a real estate transaction and includes a buyer subagent and an in-house buyer agent designate.

(7) "Buyer broker agreement" means a written agreement in which a prospective buyer employs a broker to locate real estate of the type and with terms and conditions as designated in the written agreement.

(8) "Buyer subagent" means a broker or salesperson who, pursuant to an offer of a subagency, acts as the agent of a buyer.

(9) "Department" means the department of labor and industry provided for in Title 2, chapter 15, part 17.

(10) "Dual agent" means a broker or salesperson who, pursuant to a written listing agreement or buyer broker agreement or as a buyer or seller subagent, acts as the agent of both the buyer and seller with written authorization, as provided in 37-51-314. An in-house buyer or seller agent designate may not be considered a dual agent.

(11) "Franchise agreement" means a contract or agreement by which:

(a) a franchisee is granted the right to engage in business under a marketing plan prescribed in substantial part by the franchisor;

(b) the operation of the franchisee's business is substantially associated with the franchisor's trademark, trade name, logotype, or other commercial symbol or advertising designating the franchisor; and

(c) the franchisee is required to pay, directly or indirectly, a fee for the right to operate under the agreement.

(12) "In-house buyer agent designate" means a broker or salesperson employed by or associated as an independent contractor with a broker and designated by the broker as the exclusive agent for a buyer for a designated transaction and who may not be considered to be acting for other than the buyer with respect to the designated transaction.

(13) "In-house seller agent designate" means a broker or salesperson employed by or associated as an independent contractor with a broker and designated by the broker as the exclusive agent for a seller for a designated transaction and who may not be considered to be acting for other than the seller with respect to the designated transaction.

(14) "Listing agreement" means a written agreement between a seller and broker for the sale of real estate, with the terms and conditions set out in the agreement.

(15) "Negotiations" means:

(a) efforts to act as an intermediary between parties to a real estate transaction;

(b) facilitating and participating in contract discussions;

(c) completing forms for offers, counteroffers, addendums, and other writings; and

(d) presenting offers and counteroffers.

(16) "Person" includes individuals, partnerships, associations, and corporations, foreign and domestic, except that when referring to a person licensed under this chapter, it means an individual.

(17) "Property manager" includes a person who for a salary, commission, or compensation of any kind engages in the business of leasing, renting, subleasing, or other transfer of possession of real estate belonging to others without transfer of the title to the property, pursuant to 37-51-601 and 37-51-602.

(18) "Real estate" includes leaseholds as well as any other interest or estate in land, whether corporeal, incorporeal, freehold, or nonfreehold and whether the real estate is situated in this state or elsewhere.

(19) "Real estate transaction" means the sale, exchange, or lease or grant of an option for the sale, exchange, or lease of an interest in real estate and includes all communication, interposition, advisement, negotiation, and contract development and closing.

(20) "Salesperson" includes an individual who for a salary, commission, or compensation of any kind is associated, either directly, indirectly, regularly, or occasionally, with a real estate broker to sell, purchase, or negotiate for the sale, purchase, exchange, or renting of real estate.

(21) "Seller" means a person who has entered into a listing agreement to sell real estate and includes landlords who have an interest in or are a party to a lease or rental agreement.

(22) "Seller agent" means a broker or salesperson who, pursuant to a written listing agreement, acts as the agent of a seller and includes a seller subagent and an in-house seller agent designate.

(23) "Seller subagent" means a broker or salesperson who, pursuant to an offer of a subagency, acts as the agent of a seller.

(24) (a) "Statutory broker" means a broker or salesperson who assists one or more parties to a real estate transaction without acting as an agent or representative of any party to the real estate transaction.

(b) A broker or salesperson is presumed to be acting as a statutory broker unless the broker or salesperson has entered into a listing agreement with a seller or a buyer broker agreement with a buyer or has disclosed, as required in this chapter, a relationship other than that of a statutory broker.

(25) "Supervising broker" means a licensed broker with whom a licensed salesperson is associated, either directly, indirectly, regularly, or occasionally, to sell, purchase, or negotiate for the sale, purchase, exchange, or renting of real estate.

(26) "Supervising broker endorsement" means an endorsement to a broker license that is required of any licensed broker who supervises licensed salespersons performing real estate activity."

Section 26. Section 37-51-301, MCA, is amended to read:

"37-51-301. License required — limited to persons. (1) It is unlawful for a person to engage in or conduct, directly or indirectly, or to advertise or ~~hold himself out~~ *represent to the public* as engaging in or conducting the business or acting in the capacity of a real estate broker or a real estate salesperson within this state without a license as a broker or salesperson or otherwise complying with this chapter.

(2) It is unlawful for a person to supervise licensed salespersons or to act in the capacity of a supervising broker unless the person has a valid and active Montana broker license and a supervising broker endorsement.

~~(2)~~*(3)* Corporations, partnerships, and associations may not be licensed under this chapter. A corporation or a partnership may act as a licensee if every corporate officer and every partner performing the functions of a licensee is licensed under this chapter. All officers of a corporation or all members of a partnership acting as a licensee are in violation of this chapter unless there is full compliance with this subsection."

Section 27. Section 37-51-302, MCA, is amended to read:

"37-51-302. Broker or salesperson license — qualifications of applicant — *supervising broker endorsement.* (1) Licenses may be granted only to individuals considered by the board to be of good repute and competent to transact the business of a broker or salesperson in a manner ~~as to safeguard~~ *that safeguards* the interests of the public.

(2) An applicant for a broker's license:

(a) must be at least 18 years of age;

(b) must have graduated from an accredited high school or completed an equivalent education as determined by the board;

(c) must have been actively engaged as a licensed real estate salesperson for a period of 2 years or have had experience or special education equivalent to that which a licensed real estate salesperson ordinarily would receive during this 2-year period as determined by the board, except that if the board finds that an applicant could not obtain employment as a licensed real estate salesperson because of conditions existing in the area where the applicant resides, the board may waive this experience requirement;

(d) shall file an application for a license with the department; and

(e) shall furnish written evidence that the applicant has completed 60 classroom or equivalent hours, in addition to those required to secure a salesperson's license, in a course of study approved by the board and taught by instructors approved by the board and has satisfactorily passed an examination dealing with the material taught in each course. The course of study must include the subjects of real estate principles, real estate law, real estate finance, and related topics.

(3) The board shall require information it considers necessary from an applicant to determine honesty, trustworthiness, and competency.

(4) (a) An applicant for a salesperson's license:

(i) must be at least 18 years of age;

(ii) must have received credit for completion of 2 years of full curriculum study at an accredited high school or completed an equivalent education as determined by the board;

(iii) shall file an application for a license with the department; and

(iv) shall furnish written evidence that the applicant has completed 60 classroom or equivalent hours in a course of study approved by the board and taught by instructors approved by the board and has satisfactorily passed an examination dealing with the material taught in each course. The course of study must include the subjects of real estate principles, real estate law and ethics, real estate finance, and related topics.

(b) The application must be accompanied by the recommendation of the licensed broker by whom the applicant will be employed or placed under contract, certifying that the applicant is of good repute and that the broker will actively supervise and train the applicant during the period the requested license remains in effect.

(5) The department shall issue to each licensed broker and to each licensed salesperson a license and a pocket card in a form and size that the board prescribes.

(6) (a) An applicant for a supervising broker endorsement shall meet the education and experience requirements established by the board by rule except that:

(i) any broker licensed prior to October 1, 2007, is entitled to a supervising broker endorsement provided that the broker indicates on the broker's license renewal form for the 2008 calendar year the broker's intention to obtain the endorsement;

(ii) a broker who obtains a supervising broker endorsement pursuant to subsection (6)(a)(i) is subject to the endorsement renewal requirements adopted by the board by rule in order to supervise one or more licensed salespersons;

(iii) continuing education requirements for a supervising broker endorsement may not be in addition to the continuing education requirements for a licensed broker with respect to the total number of hours or credits required.

(b) The board may not assess a licensing fee for obtaining or renewing a supervising broker endorsement."

Section 28. Section 37-60-101, MCA, is amended to read:

"37-60-101. Definitions. As used in this chapter, the following definitions apply:

(1) "Alarm response runner" means ~~any~~ *an* individual employed by *an electronic security company,* a contract security company, or a proprietary security organization to respond to security alarm system signals.

(2) "Armed" means an individual who at any time wears, carries, or possesses a firearm in the performance of professional duties.

~~(2)~~*(3)* "Armed carrier service" means any person *or security company* who transports or offers to transport under armed private security guard from one place to another any currency, documents, papers, maps, stocks, bonds, checks, or other items of value that require expeditious delivery.

~~(3)~~*(4)* "Armed private investigator" means a private investigator who at any time wears, carries, *or* possesses~~, or has access to~~ a firearm in the performance of the individual's duties.

~~(4)~~*(5)* "Armed private security guard" means an individual employed by a contract security company or a proprietary security organization whose duty or any portion of whose duty is that of a security guard, armored car service guard, *or* carrier service guard~~, or alarm response runner~~ and who at any time wears or carries a firearm in the performance of the individual's duties.

~~(5)~~*(6)* "Armored car service" means any person *or security company* who transports or offers to transport under armed private security guard from one place to another any currency, jewels, stocks, bonds, paintings, or other valuables of any kind in a specially equipped motor vehicle that offers a high degree of security.

~~(6)~~*(7)* "Board" means the board of private security ~~patrol officers and investigators~~ provided for in 2-15-1781.

~~(7)~~*(8)* "Branch office" means any office of a licensee within the state, other than its principal place of business within the state.

~~(8)~~*(9)* "Contract security company" means any person who ~~installs or maintains a security alarm system,~~ undertakes to provide a private security guard, alarm response runner, armored car service, street patrol service, or armed carrier service on a contractual basis to another person who exercises no direction and control over the performance of the details of the services rendered.

~~(9)~~*(10)* "Department" means the department of labor and industry provided for in 2-15-1701.

(11) (a) "Electronic security company" means a person who installs, services, or maintains a security alarm system and who undertakes to hire, employ, and provide alarm response runners and security alarm installers on a contractual basis to another person who does not exercise direction and control over the performance of the services rendered.

(b) The term does not include a person whose primary business is that of a locksmith and who may also install closed circuit television cameras and battery-operated door devices.

(12) (a) "Fire investigator" means a person other than an individual identified in subsection (12)(b) who for any consideration:

(i) makes or agrees to make an investigation with reference to:

(A) a fire to identify evidence and determine cause of the fire; or

(B) accidents involving suspected negligence or arson for criminal or civil action;

(ii) testifies as an expert witness for investigations identified under this subsection (12); or

(iii) cooperates with law enforcement agencies in conducting fire investigations and collecting evidence relating to fires.

(b) The term does not mean an insurance adjuster, an individual designated as the state fire marshal under 2-15-2005, or a member of:

(i) a fire department as described in 7-3-1345;

(ii) law enforcement; or

(iii) an entity organized under Title 7, chapter 33.

(13) "Firearms course" means the course approved by the board and conducted by a firearms instructor.

(14) "Firearms instructor" means an individual who has been approved by the board to instruct firearms courses in the use of weapons.

~~(10)~~*(15)* "Insurance adjuster" means a person employed by an insurance company, other than a private investigator, who for any consideration ~~whatsoever~~ conducts investigations in the course of adjusting or otherwise participating in the disposal of any claims in connection with a policy of insurance but who does not perform surveillance activities or investigate crimes ~~or wrongs committed or threatened~~ against the United States or any state or territory of the United States.

~~(11)~~*(16)* "Licensee" means a person licensed under this chapter.

~~(12)~~*(17)* "Paralegal" or "legal assistant" means a person qualified through education, training, or work experience to perform substantive legal work that requires knowledge of legal concepts and that is customarily but not exclusively performed by a lawyer and who may be retained or employed by one or more lawyers, law offices, governmental agencies, or other entities or who may be authorized by administrative, statutory, or court authority to perform this work.

~~(13)~~*(18)* "Person" ~~includes any~~ *means an* individual, firm, company, association, organization, partnership, ~~and~~ *or* corporation.

~~(14)~~*(19)* "Private investigator" means a person other than an insurance adjuster who for any consideration ~~whatsoever~~ makes or agrees to make any investigation with reference to:

(a) crimes ~~or wrongs done or threatened~~ against the United States or any state or territory of the United States;

(b) the identity, habits, conduct, business, occupation, honesty, integrity, trustworthiness, efficiency, loyalty, activity, movement, ~~whereabouts~~ *location*, affiliations, associations, transactions, reputation, or character of any person;

(c) the location, disposition, or recovery of lost or stolen property;

(d) the cause or responsibility for ~~fires,~~ libels, losses, accidents, or injury to persons or property; or

(e) ~~securing~~ *gathering* evidence to be used before any court, board, officer, or investigating committee.

~~(15)~~*(20)* "Private security guard" means an individual employed or assigned duties to protect a person or property or both a person and property from criminal acts and whose duties or any portion of whose duties include but are not limited to the prevention of unlawful entry, theft, criminal mischief, arson, or trespass on private property or the direction of the movements of the public in public areas.

~~(16)~~*(21)* "Proprietary security organization" means any person who employs a private security guard, alarm response runner, armored car service, street patrol service, or armed carrier service on a routine basis solely for the purposes of that person and exerts direction and control over the performance of the details of the service rendered.

~~(17) "Qualifying agent" means, in the case of a corporation, a corporate employee employed in a management capacity or, in the case of a partnership, a general or unlimited partner meeting the qualifications set forth in this chapter for the operation of a contract security company, proprietary security organization, or private investigator, whichever is applicable.~~

~~(18)~~*(22)* "Resident manager" means the person appointed to exercise direct supervision, control, charge, management, or operation of each branch office located in this state where the business of the licensee is conducted.

(23) (a) "Security alarm installer" means an individual who installs, services, or maintains security alarm systems to detect and signal unauthorized intrusion, movement, break-in, or criminal acts and is employed by an electronic security company.

(b) The term does not include a person whose primary business is that of a locksmith and who may also install closed circuit television cameras and battery-operated door devices.

~~(19)~~*(24)* (a) "Security alarm system" means an assembly of equipment and devices or a single device~~, such as a solid state unit that plugs directly into a 110-volt AC line, designed~~ *or a portion of a system intended* to detect or signal or to both detect and signal unauthorized intrusion, movement, or criminal acts at a ~~protected premises and to which signals police, private security guards, or alarm response runners are expected to respond~~ *location*.

(b) The term does not include ~~alarm systems and alarm~~ systems that monitor temperature, humidity, or any other atmospheric condition not directly related to the detection of an unauthorized intrusion or criminal act at a ~~premises~~ *location*.

(25) "Security company" means an electronic security company, a proprietary security organization, or a contract security company.

~~(20)~~*(26)* "Street patrol service" means ~~any contract security company or proprietary security organization that uses foot patrols, motor vehicles, or any other means of transportation to maintain public order or detect criminal activities in public areas or thoroughfares~~ *a person providing patrols by means of foot, vehicle, or other method of transportation using public street, thoroughfares, or property in the performance of the person's duties and responsibilities*.

~~(21)~~*(27)* "Unarmed private investigator" means a private investigator who does not wear, carry, *or* possess~~, or have access to~~ a firearm in the performance of the individual's duties.

~~(22)~~*(28)* "Unarmed private security guard" means an individual who is employed by a contract security company or a proprietary security organization, whose duty or any portion of whose duty is that of a private security guard, armored car service guard, or alarm response runner, and who does not wear ~~or~~*,* carry*, or possess* a firearm in the performance of those duties."

Section 29. Section 37-60-103, MCA, is amended to read:

"37-60-103. Purpose. The purpose of this chapter is to increase the levels of integrity, competency, and performance of ~~private~~ security ~~personnel~~ *companies and their employees who are required to be licensed, firearms instructors, fire investigators,* and private investigators ~~in order~~ to safeguard the public health, safety, and welfare against illegal, improper, or incompetent actions committed by ~~private~~ security ~~personnel~~ *companies and their licensed employees, firearms instructors, fire investigators,* or private investigators."

Section 30. Section 37-60-202, MCA, is amended to read:

"37-60-202. Rulemaking power. The board shall adopt and enforce rules:

(1) fixing the qualifications of resident managers, ~~qualifying agents,~~ licensees, and holders of identification cards, in addition to those prescribed in this chapter, necessary to promote and protect the public welfare;

(2) establishing, in accordance with 37-1-134, application fees for original ~~or renewal~~ licenses and identification cards, and providing for refunding of any fees;

(3) (a) ~~prohibiting~~ *requiring approval of the board prior to* the establishment of branch offices of any licensee~~, except a proprietary security organization, without approval by the board~~; and

(b) establishing qualification requirements and license fees for branch offices identified in subsection (3)(a);

(4) for the certification of private investigator ~~and~~*,* private security guard*, security alarm installer, and alarm response runner* training programs, including the certification of firearms training programs;

(5) for the licensure of firearms instructors;

(6) for the approval of weapons;

(7) requiring the maintenance of records;

(8) requiring licensees to file an insurance policy with the board; and

(9) providing for the issuance of probationary identification cards for private investigators *and security alarm installers* who do not meet the requirements for age, employment experience, ~~and~~ *or* written examination."

Section 31. Section 37-60-301, MCA, is amended to read:

"37-60-301. License required. (1) Except as provided in 37-60-105 ~~and 37-60-315~~, it is unlawful for any person to act as or perform the duties, as defined in 37-60-101, of a contract security company ~~or~~*, a* proprietary security organization, *an electronic security company, a branch office,* a private investigator*, a fire investigator, a security alarm installer, an alarm response runner, a resident manager, a certified firearms instructor,* or a private security guard without having first obtained a license from the board. ~~Those persons licensed on April 18, 1983, shall retain their current licensure status and shall renew their licenses on the renewal date as prescribed by the department.~~

(2) It is unlawful for any unlicensed person to act as, pretend to be, or represent to the public that the person is licensed as ~~a private investigator,~~ a contract security company, a proprietary security organization, *an electronic security company, a branch office, a private investigator, a fire investigator, a security alarm installer, an alarm response runner, a resident manager, a certified firearms instructor,* or a private security guard.

(3) A person appointed by the court as a confidential intermediary under 42-6-104 is not required to be licensed under this chapter. A person who is licensed under this chapter is not authorized to act as a confidential intermediary, as defined in 42-1-103, without meeting the requirements of 42-6-104.

(4) A person who knowingly engages an unlicensed ~~private investigator, private security guard, or~~ contract security company*, proprietary security organization, electronic security company, branch office, private investigator, fire investigator, security alarm installer, alarm response runner, resident manager, certified firearms instructor, or private security guard* is guilty of a misdemeanor punishable under 37-60-411."

Section 32. Section 37-60-302, MCA, is amended to read:

"37-60-302. ~~Qualifying agent and resident~~ *Resident* manager required ~~— substitution~~. (1) Any ~~out-of-state~~ contract security company*, electronic security company,* or proprietary security organization that applies for a license under this chapter shall~~, before application to the board,~~ appoint for the duration of the license ~~a qualifying agent and~~ a resident manager. ~~Every~~

~~qualifying agent and~~ *Each* resident manager shall satisfy the appropriate licensing requirements of this chapter.

(2) A *separate* resident manager must be appointed for each branch office located in this state, and the business of the applicant or licensee must be conducted under the resident manager's direct supervision and control.

(3) If a ~~qualifying agent or~~ resident manager for any reason ceases to perform the duties of a ~~qualifying agent or~~ resident manager on a regular basis, the licensee shall promptly notify the board of that fact ~~and of the name of a substitute individual, who shall apply to the board for continuation of the license. Pending application by and board action upon the application of the substitute, the board may suspend the license or extend it for a reasonable time~~."

Section 33. Section 37-60-303, MCA, is amended to read:

"37-60-303. License qualifications. (1) Except as provided in subsection (7)*(a)*, an applicant for licensure under this chapter is subject to the provisions of this section and shall submit evidence under oath that the applicant:

(a) is at least 18 years of age;

(b) is a citizen of the United States *or a legal, permanent resident of the United States*;

(c) has not been convicted in any jurisdiction of any felony or any crime involving moral turpitude or illegal use or possession of a dangerous weapon, for which a full pardon or similar relief has not been granted;

(d) has not been judicially declared incompetent by reason of any mental defect or disease or, if so declared, has been fully restored;

(e) is not suffering from habitual drunkenness or from narcotics addiction or dependence;

(f) is of good moral character; and

(g) has complied with other experience qualifications as may be set by the rules of the board.

(2) In addition to meeting the qualifications in subsection (1), an applicant for licensure as a private security guard*, security alarm installer, or alarm response runner* shall:

(a) complete the ~~training~~ requirements of a ~~private security guard~~ training program certified by the board and provide, on a form prescribed by the board, written notice of satisfactory completion of the training; and

(b) fulfill other requirements as the board may by rule prescribe.

(3) In addition to meeting the qualifications in subsection (1), each applicant for a license to act as a private investigator shall submit evidence under oath that the applicant:

(a) is at least 21 years of age;

(b) has at least a high school education or the equivalent;

(c) has not been dishonorably discharged from any branch of the United States military service; and

(d) has fulfilled any other requirements as the board may by rule prescribe.

(4) The board may require an applicant to demonstrate by written examination additional qualifications as the board may by rule require.

(5) An applicant who will wear, ~~or~~ carry, *or possess* a firearm in performance of the applicant's duties shall submit written notice of satisfactory completion of a firearms training program certified by or satisfactory to the board, as the board may by rule prescribe.

(6) Except for an applicant subject to the provisions of subsection (7)*(a)*, the board shall require a background investigation of each applicant for licensure under this chapter that includes a fingerprint check by the Montana department of justice and the federal bureau of investigation.

(7) (a) A firm, company, association, partnership, limited liability company, corporation, or other entity that intends to engage in business governed by the provisions of this chapter must be incorporated under the laws of this state or qualified to do business within this state and must be licensed by the board.

(b) Individual employees, officers, directors, agents, or other representatives of an entity described in subsection (7)(a) who engage in duties that are subject to the provisions of this part must be licensed pursuant to the requirements of this part."

Section 34. Section 37-60-304, MCA, is amended to read:

"37-60-304. Licenses — application form and content. (1) ~~Except as provided in 37-60-303(7), an~~ *An* application for a license must be submitted to the department and accompanied by the application fee set by the board.

(2) An application must be made under oath and must include:

(a) the full name and address of the applicant;

(b) the name under which the applicant intends to do business;

(c) a statement as to the general nature of the business in which the applicant intends to engage;

(d) a statement as to whether the applicant desires to be licensed as a contract security company, a proprietary security organization, *an electronic security company, a branch office, a certified firearms instructor,* a private investigator, *a fire investigator, a security alarm installer, an alarm response runner, a resident manager,* or a private security guard;

(e) *except for an applicant pursuant to 37-60-303(7)(a),* one recent photograph of the applicant, of a type prescribed by the department, and one classifiable set of the applicant's fingerprints;

(f) a statement of the applicant's age and experience qualifications*, except for an applicant pursuant to 37-60-303(7)(a)*; and

(g) other information, evidence, statements, or documents as may be prescribed by the rules of the board.

(3) The board shall verify the statements in the application ~~and the applicant's moral character~~.

(4) The submittal of fingerprints is a prerequisite to the issuance of a license*, except under 37-60-303(7)(a),* by means of fingerprint checks by the Montana department of justice and the federal bureau of investigation."

Section 35. Section 37-60-309, MCA, is amended to read:

"37-60-309. Form of license and identification cards. The license~~,~~ *and* identification card~~, and temporary identification card for temporary security guards~~ must be in a form determined by the board."

Section 36. Section 37-60-310, MCA, is amended to read:

"37-60-310. Display of license and identification card. (1) A license must at all times be posted in a conspicuous place in the principal place of business of the licensee.

(2) A holder of an identification card ~~or a temporary identification card~~ shall carry the card while performing the cardholder's duties. A peace officer of this state or any of its political subdivisions may request to see the card at any reasonable time, and the card must be shown."

Section 37. Section 37-60-314, MCA, is amended to read:

"37-60-314. Nontransferability of license — record changes. (1) ~~No~~ *A* license issued under this chapter is *not* transferable.

(2) A licensee shall notify the board within 5 days of any change in its officers or directors*, name, address, employment,* or other material change in the information previously furnished or required to be furnished to the board or any other material change or occurrence that could reasonably be expected to affect the licensee's right to a license. Upon ~~such~~ *the* change or occurrence, the board may suspend or revoke the license or may allow the business to be carried on for a temporary period under terms and conditions as the board may require.

(3) This section may not be applied to restrict the sale of a business if the buyer qualifies for a license under the provisions of this chapter."

Section 38. Section 37-60-402, MCA, is amended to read:

"37-60-402. Confidentiality of information — false reports — badges and uniforms — illegal entry. (1) A licensee or officer, director, partner, or manager of a licensee may divulge to any law enforcement officer or county attorney or ~~his~~ representative *of the county attorney* any information ~~he~~ *that the licensee or officer, director, partner, or manager of a licensee* may acquire as to any criminal offense~~,~~ but ~~he~~ may not divulge to any other person, except as required by law, any information acquired ~~by him~~ except at the direction of the employer or client for whom the information was obtained.

(2) ~~No~~ *A* licensee or officer, director, partner, manager, or employee of a licensee may *not* knowingly make any false report to ~~his~~ *an* employer or client for whom information was being obtained.

(3) ~~No~~ *A* written report may *not* be submitted to a client except by the licensee~~, qualifying manager,~~ or a person authorized by ~~either of them~~ *the licensee,* and the person submitting the report shall exercise diligence in ascertaining whether or not the facts and information in the report are true and correct.

(4) ~~No~~ *A* licensee or officer, director, partner, manager, or employee of a licensee may *not* use a title, wear a uniform, use an identification card, or make any statement with the intent to give an impression that ~~he~~ *the licensee or officer, director, partner, manager, or employee of a licensee* is connected in any way with the federal government, a state government, *a law enforcement agency,* or any political subdivision of a state government *unless the licensee has a contract with the agency*.

(5) ~~No~~ *A* licensee or officer, director, partner, manager, or employee of a licensee may *not* enter any private building or portion ~~thereof~~ *of a private building* without the consent of the owner or of the person in legal possession ~~thereof~~ *of the private building*."

Section 39. Section 37-60-403, MCA, is amended to read:

"37-60-403. Licensee advertising. Every advertisement by a licensee soliciting or advertising business ~~shall~~ *must* contain ~~his~~ *the licensee's* name ~~and~~, address*, and license number* as they appear in the records of the board."

Section 40. Section 37-60-409, MCA, is amended to read:

"37-60-409. Installation of new security alarm systems by electrician. An electrician who has received a license from the department pursuant to 37-68-301 may install new security alarm systems under the direction of a ~~journeyman~~ *licensed* security alarm installer~~, but such work~~. *Work* performed by an electrician *under this section* is subject to inspection and approval by a security alarm installer licensed under 37-60-303."

Section 41. Section 37-73-208, MCA, is amended to read:

"37-73-208. Elevator inspector's license — *temporary license.* (1) A person intending to engage in work as an elevator inspector shall apply for a license as an elevator inspector on forms provided by the department.

(2) The department may not grant an applicant an elevator inspector's license unless the applicant demonstrates that the applicant meets the current national standards for the qualifications of elevator inspectors. The department shall designate by rule the national standards that must be met by an applicant.

(3) A newly hired elevator inspector who is not properly certified may conduct inspections for up to 6 months under a temporary license if the elevator inspector is supervised during the 6-month period of temporary licensure by appropriately certified personnel."

Section 42. Section 50-32-314, MCA, is amended to read:

"50-32-314. Board to adopt rules for registration of ~~ambulatory~~ *outpatient center for* surgical ~~facilities~~ *services.* (1) The board shall~~, by October 1, 1999,~~ adopt rules to provide for the registration of ~~ambulatory~~ *any outpatient center for* surgical ~~facilities~~ *services* pursuant to this part. The rules must categorize ~~ambulatory~~ *the outpatient center for* surgical ~~facilities~~ *services* as a "distributor" pursuant to 50-32-101(12) or other category of registrant as determined by the board.

(2) If the board determines that ~~ambulatory~~ *an outpatient center for* surgical ~~facilities require~~ *services requires* the services of a pharmacist in order to be registered, the board shall allow ~~those facilities~~ *that center* to use the services of a consulting pharmacist to satisfy the obligation imposed by the board.

(3) This section does not affect any existing *registration* requirement ~~that~~ *pursuant to this part for* persons providing dangerous drugs to an ~~ambulatory~~ *outpatient center for* surgical ~~facility~~ *services* or persons administering dangerous drugs within or as the result of procedures performed at an ~~ambulatory~~ *outpatient center for* surgical ~~facility be registered pursuant to this part~~ *services*."

Section 43. Section 71-3-1111, MCA, is amended to read:

"71-3-1111. Short title. This part may be cited as the "Physician, Nurse, Physical Therapist, Occupational Therapist, *Acupuncturist,* Chiropractor, Dentist, Psychologist, Licensed Social Worker, Licensed Professional Counselor, Hospital, and ~~Ambulatory~~ *Outpatient Center for* Surgical ~~Facility~~ *Services* Lien Act"."

Section 44. Section 71-3-1112, MCA, is amended to read:

"71-3-1112. Purpose. The purpose of this part is to establish lien rights for physicians, nurses, physical therapists, occupational therapists, *acupuncturists,* chiropractors, dentists, hospitals, and ~~ambulatory~~ *outpatient centers for* surgical ~~facilities~~ *services* for the value of services rendered and products provided for the diagnosis and treatment of medical conditions and to establish lien rights for psychologists, licensed social workers, and licensed professional counselors for services rendered and products provided when a person receiving treatment:

(1) is injured through the fault or neglect of another; or

(2) is either insured or a beneficiary under insurance."

Section 45. Section 71-3-1113, MCA, is amended to read:

"71-3-1113. Definitions. As used in this part, the following definitions apply:

~~(1) "Ambulatory surgical facility" means a facility registered as provided in 50-32-314.~~

~~(2)~~*(1)* "Beneficiary" means a person entitled to insurance benefits.

~~(3)~~*(2)* "Dentist" means a person practicing dentistry as provided in 37-4-101.

~~(4)~~*(3)* "Insurance" means a contract ~~whereby~~ *through which* a person, the insurer, undertakes to indemnify another, the insured, or pay or provide a determinable amount or benefit upon determinable contingencies.

~~(5)~~*(4)* "Insurer" includes a health service corporation.

(5) "Outpatient center for surgical services" means a facility registered as provided in 50-32-314.

(6) "Person" means an individual, a corporation, an organization, or other legal entity."

Section 46. Section 71-3-1114, MCA, is amended to read:

"71-3-1114. Liens of physicians, nurses, physical therapists, occupational therapists, *acupuncturists,* chiropractors, dentists, hospitals, and ~~ambulatory~~ *outpatient center for* surgical ~~facilities~~ *services* and liens of psychologists, licensed social workers, and licensed professional counselors. (1) (a) Upon the required notice of a lien being given, there is a lien as provided in subsection (1)(b) whenever:

(i) a physician, nurse, physical therapist, occupational therapist, *acupuncturist,* chiropractor, dentist, hospital, or ~~ambulatory~~ *outpatient center for* surgical ~~facility~~ *services* renders services or provides products for the diagnosis and treatment of a medical condition; or

(ii) a psychologist, licensed social worker, or licensed professional counselor renders services or provides products; and

(iii) the services rendered or products provided under subsection (1)(a)(i) or (1)(a)(ii) are rendered or provided to a person injured through the fault or neglect of another.

(b) The physician, nurse, physical therapist, occupational therapist, *acupuncturist,* chiropractor, dentist, hospital, ~~ambulatory~~ *outpatient center for* surgical ~~facility~~ *services*, psychologist, licensed social worker, or licensed professional counselor has a lien for the value of services rendered or products provided on:

(i) any claim or cause of action that the injured person or the injured person's estate or successors may have for injury, disease, or death;

(ii) any judgment that the injured person or the estate or successors may obtain for injury, disease, or death; and

(iii) all money paid in satisfaction of the judgment or in settlement of the claim or cause of action.

(2) (a) If a person is an insured or a beneficiary under insurance that provides coverage in the event of injury or disease, there is a lien as provided in subsection (2)(b) upon required notice of a lien being given by:

(i) a physician, nurse, physical therapist, occupational therapist, *acupuncturist,* chiropractor, dentist, hospital, or ~~ambulatory~~ *outpatient center for* surgical ~~facility~~ *services* for the value of services rendered or products provided for the diagnosis and treatment of a medical condition; or

(ii) a psychologist, licensed social worker, or licensed professional counselor for services rendered or products provided.

(b) The lien is on all proceeds or payments, except payments for property damage, payable by the insurer.

(3) A physician, nurse, physical therapist, occupational therapist, *acupuncturist,* chiropractor, dentist, hospital, ~~ambulatory~~ *outpatient center for* surgical ~~facility~~ *services*, psychologist, licensed social worker, or licensed professional counselor claiming a lien under this part is not liable for attorney fees and costs incurred by the injured person, the injured person's estate or successors, or a beneficiary in connection with obtaining payments or benefits subject to a lien under this part. The lien of an attorney provided for in 37-61-420 has priority over a lien created by this part."

Section 47. Section 71-3-1115, MCA, is amended to read:

"71-3-1115. Notice of lien. (1) A physician, nurse, physical therapist, occupational therapist, *acupuncturist,* chiropractor, dentist, psychologist, licensed social worker, licensed professional counselor, hospital, or ~~ambulatory~~ *outpatient center for* surgical ~~facility~~ *services* claiming a lien shall serve written notice upon the person and upon the insurer, if any, against whom liability for injury, disease, counseling service, or death is asserted, stating the nature of the services, for whom and when rendered, the value of the services, and that a lien is claimed.

(2) A physician, nurse, physical therapist, occupational therapist, *acupuncturist,* chiropractor, dentist, psychologist, licensed social worker, licensed professional counselor, hospital, or ~~ambulatory~~ *outpatient center for* surgical ~~facility~~ *services* claiming a lien upon proceeds or payments payable by an insurer shall serve written notice upon the insurer against whom the lien is asserted, stating the nature of the services, for whom and when rendered, the value of the services, and that a lien is claimed."

Section 48. Section 71-3-1117, MCA, is amended to read:

"71-3-1117. Liability for failure to recognize lien. If any insurer or person, after receiving notice of *a* lien, makes payment on account of injury, disease, counseling service, or death and the amount of the lien claimed by any physician, nurse, physical therapist, occupational therapist, *acupuncturist,* chiropractor, dentist, psychologist, licensed social worker, licensed professional counselor, hospital, or ~~ambulatory~~ *outpatient center for* surgical ~~facility~~ *services* has not been paid, the insurer or person is liable to the physician, nurse,

physical therapist, occupational therapist, *acupuncturist,* chiropractor, dentist, psychologist, licensed social worker, licensed professional counselor, hospital, or ~~ambulatory~~ *outpatient center for* surgical ~~facility~~ *services* for the reasonable value of the services."

Section 49. Section 71-3-1118, MCA, is amended to read:

"71-3-1118. Applicability. (1) Except as provided in subsection (2), this part does not apply to compensation awarded to workers for injury, disease, or death pursuant to the Workers' Compensation Act.

(2) This part applies to all payments awarded for medical, therapy, *acupuncture,* chiropractic, dentistry, counseling, and hospital services pursuant to the acts referred to in subsection (1).

(3) This part does not apply to any benefits payable under:

(a) a policy of life insurance or group life insurance;

(b) a contract of disability insurance, except benefits payable in reimbursement for services rendered by a physician, nurse, physical therapist, occupational therapist, *acupuncturist,* chiropractor, dentist, psychologist, licensed social worker, licensed professional counselor, hospital, or ~~ambulatory~~ *outpatient center for* surgical ~~facility~~ *services*; or

(c) an annuity contract or to pension benefits payable under a qualified pension plan."

Section 50. Repealer. Sections 37-60-315 and 37-60-406, MCA, are repealed.

Section 51. Codification instruction. (1) [Section 1] is intended to be codified as an integral part of Title 37, chapter 65, and the provisions of Title 37, chapter 65, apply to [section 1].

(2) [Section 2] is intended to be codified as an integral part of Title 37, chapter 69, and the provisions of Title 37, chapter 69, apply to [section 2].

(3) [Section 23] is intended to be codified as an integral part of Title 37, chapter 47, and the provisions of Title 37, chapter 47, apply to [section 23].

(4) [Section 24] is intended to be codified as an integral part of Title 37, chapter 51, part 3, and the provisions of Title 37, chapter 51, part 3, apply to [section 24].

Section 52. 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 May 16, 2007

CHAPTER NO. 503

[SB 168]

AN ACT REVISING THE MANDATORY CASH PAYMENT FOR VACATION LEAVE UPON TERMINATION; CLARIFYING THE USE OF VACATION LEAVE PAYMENTS UPON TERMINATION AS PERMISSIBLE CONTRIBUTIONS FOR A VOLUNTARY EMPLOYEES' BENEFICIARY ASSOCIATION; AMENDING SECTIONS 2-18-601, 2-18-617, AND 2-18-1311, MCA; AND PROVIDING AN EFFECTIVE DATE.

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

Section 1. Section 2-18-601, MCA, is amended to read:

"2-18-601. Definitions. For the purpose of this part, except 2-18-620, the following definitions apply:

(1) (a) "Agency" means any legally constituted department, board, or commission of state, county, or city government or any political subdivision of the state.

(b) The term does not mean the state compensation insurance fund.

(2) "Break in service" means a period of time in excess of 5 working days when the person is not employed and that severs continuous employment.

(3) "Common association" means an association of employees established pursuant to 2-18-1310 for the purposes of employer and employee participation in the plan.

~~(3)~~*(4)* "Continuous employment" means working within the same jurisdiction without a break in service of more than 5 working days or without a continuous absence without pay of more than 15 working days.

(5) "Contracting employer" means an employer who, pursuant to 2-18-1310, has contracted with the department of administration to participate in the plan.

~~(4)~~*(6)* "Employee" means any person employed by an agency except elected state, county, and city officials, schoolteachers, persons contracted as independent contractors or hired under personal services contracts, and student interns.

~~(5)~~*(7)* "Full-time employee" means an employee who normally works 40 hours a week.

~~(6)~~*(8)* "Holiday" means a scheduled day off with pay to observe a legal holiday, as specified in 1-1-216 or 20-1-305, except Sundays.

(9) "Member" means an employee who belongs to a voluntary employees' beneficiary association established under 2-18-1310.

~~(7)~~*(10)* "Part-time employee" means an employee who normally works less than 40 hours a week.

~~(8)~~*(11)* "Permanent employee" means a permanent employee as defined in 2-18-101.

(12) "Plan" means the employee welfare benefit plan established under Internal Revenue Code section 501(c)(9) pursuant to 2-18-1304.

~~(9)~~*(13)* "Seasonal employee" means a seasonal employee as defined in 2-18-101.

~~(10)~~*(14)* "Short-term worker" means:

(a) for the executive and judicial branches, a short-term worker as defined in 2-18-101; or

(b) for the legislative branch, an individual who:

(i) is hired by a legislative agency for an hourly wage established by the agency;

(ii) may not work for the agency for more than 6 months in a continuous 12-month period;

(iii) is not eligible for permanent status;

(iv) may not be hired into another position by the agency without a competitive selection process; and

(v) is not eligible to earn the leave and holiday benefits provided in this part or the group insurance benefits provided in part 7.

~~(11)~~*(15)* "Sick leave" means a leave of absence with pay for:

(a) a sickness suffered by an employee or a member of the employee's immediate family; or

(b) the time that an employee is unable to perform job duties because of:

(i) a physical or mental illness, injury, or disability;

(ii) maternity or pregnancy-related disability or treatment, including prenatal care, birth, or medical care for the employee or the employee's child;

(iii) parental leave for a permanent employee as provided in 2-18-606;

(iv) quarantine resulting from exposure to a contagious disease;

(v) examination or treatment by a licensed health care provider;

(vi) short-term attendance, in an agency's discretion, to care for a relative or household member not covered by subsection ~~(11)(a)~~ *(15)(a)* until other care can reasonably be obtained;

(vii) necessary care for a spouse, child, or parent with a serious health condition, as defined in the Family and Medical Leave Act of 1993; or

(viii) death or funeral attendance of an immediate family member or, at an agency's discretion, another person.

~~(12)~~*(16)* "Student intern" means a student intern as defined in 2-18-101.

~~(13)~~*(17)* "Temporary employee" means a temporary employee as defined in 2-18-101.

~~(14)~~*(18)* "Transfer" means a change of employment from one agency to another agency in the same jurisdiction without a break in service.

~~(15)~~*(19)* "Vacation leave" means a leave of absence with pay for the purpose of rest, relaxation, or personal business at the request of the employee and with the concurrence of the employer."

Section 2. Section 2-18-617, MCA, is amended to read:

"2-18-617. Accumulation of leave — cash for unused — transfer. (1) (a) Except as provided in subsection (1)(b), annual vacation leave may be accumulated to a total not to exceed two times the maximum number of days earned annually as of the end of the first pay period of the next calendar year. Excess vacation time is not forfeited if taken within 90 calendar days from the last day of the calendar year in which the excess was accrued.

(b) It is the responsibility of the head of an employing agency to provide reasonable opportunity for an employee to use rather than forfeit accumulated vacation leave. If an employee makes a reasonable written request to use excess vacation leave before the excess vacation leave must be forfeited under subsection (1)(a) and the employing agency denies the request, the excess vacation leave is not forfeited and the employing agency shall ensure that the employee may use the excess vacation leave before the end of the calendar year in which the leave would have been forfeited under subsection (1)(a).

(2) An employee who terminates employment for a reason not reflecting discredit on the employee *and who has worked the qualifying period set forth in 2-18-611* is entitled upon the date of termination to *either:*

(a) cash compensation for unused vacation leave~~, assuming that the employee has worked the qualifying period set forth in 2-18-611~~ *if the employee is not subject to subsection (2)(b); or*

(b) conversion of the employee's unused vacation leave balance to an employer contribution to an employee welfare benefit plan health care expense trust account established pursuant to 2-18-1304 if:

(i) the employee is a member who belongs to a voluntary employees' beneficiary association established under 2-18-1310; and

(ii) the contracting employer has entered into an agreement with members of the common association for an employer contribution based on unused vacation leave provided for in 2-18-611.

(3) However, if an employee transfers between agencies of the same jurisdiction, cash compensation may not be paid for unused vacation leave. In a transfer, the receiving agency assumes the liability for the accrued vacation credits transferred with the employee.

(4) This section does not prohibit a school district from providing cash compensation for unused vacation leave in lieu of the accumulation of the leave, either through a collective bargaining agreement or, in the absence of a collective bargaining agreement, through a policy."

Section 3. Section 2-18-1311, MCA, is amended to read:

"2-18-1311. Contributions of unused sick leave — other contributions not prohibited. (1) In a manner prescribed by the department, a contracting employer shall provide for a plan member to annually designate how many hours, if any, of the member's sick leave will be automatically converted to an employer contribution to the member's account each pay period as provided for in this section.

(2) (a) Except as provided in subsection (2)(b), a member may annually convert only the sick leave hours in excess of 240 hours and no more than the maximum prescribed by the contracting employer.

(b) When the member's employment is terminated, the member's ~~entire~~ unused sick leave balance ~~must~~ *may* be ~~automatically~~ converted*, in whole or in part,* to an employer contribution to the member's account pursuant to this section. ~~and may not be paid as a lump sum~~ *For those amounts of sick leave not converted to employer contributions, the balance is allocated as required* under 2-18-618(6).

(3) The amount of the employer contribution to a member's account for hours converted under this section must be equal to one-fourth of the pay attributed to the accumulated sick leave. The attributable pay must be computed on the basis of the employee's salary or wage at the time that the sick leave is converted. A member may not later receive as sick leave credit or as a lump-sum payment amounts contributed to the member's account pursuant to this section.

(4) This section does not prohibit an employer from entering into an agreement with a member for employer contributions to a member account in addition to the contributions provided for under this section."

Section 4. Effective date. [This act] is effective July 1, 2007.

Approved May 16, 2007

CHAPTER NO. 504

[SB 206]

AN ACT REQUIRING THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES TO CONDUCT A STUDY TO DETERMINE THE FEASIBILITY, IMPACT, AND COST OF PROVIDING EMPLOYER-SPONSORED HEALTH INSURANCE TO PERSONAL-CARE ATTENDANTS AND DIRECT-CARE EMPLOYEES OF ORGANIZATIONS THAT RECEIVE THE MAJORITY OF THEIR REVENUE AS A RESULT OF PROVIDING MEDICAID-FUNDED LONG-TERM CARE SERVICES BY INCREASING CERTAIN MEDICAID PAYMENTS TO THEIR EMPLOYERS AND REQUIRING THE INCREASED PAYMENTS BE USED TO FUND THE HEALTH INSURANCE; AUTHORIZING THE DEPARTMENT TO ESTABLISH A PILOT PROGRAM; REQUIRING A REPORT TO THE LEGISLATURE; PROVIDING RULEMAKING AUTHORITY; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A TERMINATION DATE.

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

Section 1. Department to conduct study of increasing reimbursement to medicaid direct-care service providers in order to provide employee health insurance — policy — pilot program — report to legislature — rulemaking. (1) The department of public health and human services, in conjunction with the commissioner of insurance, health insurers, persons providing medicaid personal assistance and other direct-care services and their employers, and other interested parties, shall conduct and coordinate a study that, at a minimum:

(a) (i) examines the feasibility of increasing medicaid payments to employers of personal-care attendants and other organizations that employ direct-care employees and that receive the majority of their revenue as a result of providing medicaid-funded long-term care services, with the increase in payments earmarked to pay the cost of providing employer-sponsored health insurance to those employees;

(ii) identifies organizations that employ personal-care attendants and direct-care employees and that receive the majority of their revenue for providing medicaid-funded long-term care services, including organizations such as personal-assistance providers, private-duty nursing providers, licensed nursing facilities, developmental disability community services providers, and providers of certain child and adult mental health services;

(iii) determines the number of employees that would be eligible for coverage;

(iv) calculates the cost to the state of the increased payments after recognizing that nearly 70% of the increase will be covered by the federal government's portion of the payments; and

(v) calculates, to the extent possible, the cost incurred by other government programs, such as temporary assistance to needy families and medicaid, due to the lack of health insurance on the part of personal-care attendants and other direct-care employees and calculates the projected impact, if any, that providing

these employees with adequate health insurance would have on future utilization of and costs incurred by other government programs;

(b) determines, in conjunction with the commissioner of insurance, the health insurance coverage that employers would be required to provide to personal-care attendants and direct-care employees in order to be eligible to receive the earmarked increase in medicaid payments;

(c) determines the cost, if any, to individual employees for the proposed health insurance;

(d) calculates the increased need for and projected availability of personal-care attendants and direct-care employees in Montana over the next 20 to 30 years as a result of the aging population and examines whether the provision of health insurance for those workers has the potential to increase the number and quality of workers available in the future;

(e) explores the possibility of combining any health insurance program developed for personal-care attendants and direct-care employees with other state programs designed to provide Montanans with increased access to affordable health insurance, such as the small business health insurance pool; and

(f) calculates, to the extent possible, the health care costs that are shifted to the insurance premiums and other health care expenses paid by privately insured Montanans and their employers or that are incurred by hospitals as uncompensated care due to the lack of health insurance for personal-care attendants and direct-care employees.

(2) (a) The department of public health and human services may, to the extent that funds are available, establish a pilot program to provide employer-sponsored health insurance to a portion of the personal-care attendants and direct-care employees who are determined by the department to be eligible for the pilot program by increasing medicaid payments to their employers with the requirement that the increased payments be used to provide those employees with health insurance that meets the requirements established by the department.

(b) The purpose of the pilot program is to test the feasibility, impact, and cost of providing health insurance payments to the employers of personal-care attendants and direct-care employees. The pilot program may require partial payment of health insurance costs by an employee if necessary.

(c) In establishing and conducting the pilot program, the department of public health and human services shall consult with the commissioner of insurance, persons providing medicaid personal assistance and direct-care services and their employers, and other interested parties.

(3) If a pilot program is established, the department of public health and human services shall monitor the pilot program, shall report its study findings and pilot program results, if any, to the legislature, and shall report on the feasibility, impact, and cost of providing health insurance to personal-care attendants and direct-care employees who provide medicaid-funded long-term care services, as designated in subsection (1)(a). The report must be made to the legislature as provided in 5-11-210.

(4) The department of public health and human services may adopt rules to implement this section.

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

Section 3. Termination. [This act] terminates January 1, 2009.

Approved May 16, 2007

CHAPTER NO. 505

[SB 233]

AN ACT PROVIDING FOR THE CREATION OF COUNTY MUSEUM DISTRICTS AND ALLOWING FOR A MUSEUM DISTRICT TO BE LOCATED IN MORE THAN ONE COUNTY; PROVIDING FOR PROTEST OF CREATION OF THE DISTRICT; ALLOWING FOR A LEVY OF TAXES ON PROPERTY LOCATED WITHIN A DISTRICT; REQUIRING CERTAIN PROCEDURES IF THE DISTRICT INCLUDES TERRITORY FROM MORE THAN ONE COUNTY; AND AMENDING SECTIONS 7-6-2527 AND 7-16-2205, MCA.

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

Section 1. Authorization to create district. (1) A board of county commissioners may create a museum district, composed of a building, collection of buildings, or an area of which a principal purpose is the exhibition, display, or performance of matters of historical, artistic, cultural, or scientific interest.

(2) (a) A district may include territory from more than one county if:

(i) the majority of the members of the board of county commissioners of each county in which the proposed district is located approve the resolution of intention to create the district and the resolution to create the district; and

(ii) the required notice is provided, protest is allowed, and hearings are properly held in all of the counties in which the district will be located.

(b) If there is sufficient protest to bar further proceedings in one county, as provided in [section 5], then territory from that county may not be included in the district.

Section 2. Resolution of intention to create district. (1) Before creating a museum district, the board of county commissioners shall pass a resolution of intention to create the district.

(2) The resolution must designate:

(a) the name of the proposed district;

(b) the reasons for creating the district;

(c) a description of the area to be included in the proposed district, including a map of the proposed boundaries;

(d) the type of museum facility or facilities to be included in the proposed district; and

(e) the estimated cost of the proposed district.

Section 3. Notice of resolution of intention to create district — hearing. (1) The board of county commissioners shall give notice of the passage of its intention to create the museum district.

(2) The notice must be published as provided in 7-1-2121, and a copy of the notice must be mailed, as provided in 7-1-2122, to every person, firm, or corporation or the agent of the person, firm, or corporation owning property

within the proposed district, at the last-known place of residence, on the same day on which the notice is first published or posted.

(3) The notice must describe the reasons for the district, state the estimated cost, and indicate the time when and place where the board will hear all protests that may be made against creating the district. The notice must refer to the resolution on file in the office of the county clerk and recorder for the description of the boundaries.

Section 4. Right to protest. (1) At any time within 30 days after the date of the first publication of the passage of the resolution of intention to create a museum district, an owner of property liable to be taxed under 7-16-2205 may make written protest against the proposed district.

(2) The protest must be delivered to the county clerk and recorder, who shall endorse on the protest the date of receipt.

Section 5. Consideration of protest — sufficient protest to bar proceedings. (1) At the next regular meeting of the board of county commissioners after final publication of the notice required in [section 3], the board shall hold a hearing to consider the written protests and hear the objections of the protestors.

(2) If the board of county commissioners finds that the owners of 50% or more of the property liable to be taxed under 7-16-2205 have protested creation of a museum district, the board may not hold any further proceedings on creation of the district for a period of at least 6 months from the date of the hearing.

Section 6. Resolution creating district. The board of county commissioners may pass a resolution to create the museum district in accordance with the resolution of intention passed under [section 2] if:

(1) no protests are received by the county clerk and recorder within the time period provided in [section 4]; or

(2) the board finds that the area represented by the protests is insufficient to bar proceedings.

Section 7. Administration of district funds. (1) Once a museum district is created, the board of county commissioners may either administer the district funds or appoint a board of trustees, subject to the provisions of 7-1-201 through 7-1-203, to administer the district funds.

(2) If a district contains territory from more than one county and if:

(a) the boards of county commissioners administer the district funds, all decisions regarding funds must be made upon an affirmative vote of the majority of the members of each board;

(b) a board of trustees is appointed, the board of county commissioners of each county in which the district is located shall appoint members of the board of trustees. The number of members appointed by each board of county commissioners must be proportional to the county's share of taxable value in the entire district.

Section 8. Authorization to acquire facilities — authorization for mill levy. The board of county commissioners may execute the provisions of 7-16-2202 and 7-16-2205 for a museum district created as provided in [sections 1 through 9]. If a district contains territory in more than one county, the affirmative vote of the majority of the members of each board of county

commissioners is required to take any action authorized by 7-16-2202 and 7-16-2205.

Section 9. Alteration of boundaries or dissolution of district. The board of county commissioners may alter the boundaries or dissolve a museum district using the same procedures required for creation of a district. Any existing indebtedness of a district that is dissolved remains the responsibility of the owners of property within the district, and any assets remaining after all indebtedness has been satisfied must be returned to the owners of property within the district.

Section 10. Section 7-6-2527, MCA, is amended to read:

"7-6-2527. Taxation — public and governmental purposes. A county may impose a property tax levy for any public or governmental purpose not specifically prohibited by law. Public and governmental purposes include but are not limited to:

(1) district court purposes as provided in 7-6-2511;

(2) county-owned or county-operated health care facility purposes as provided in 7-6-2512;

(3) county law enforcement services and maintenance of county detention center purposes as provided in 7-6-2513 and search and rescue units as provided in 7-32-235;

(4) multijurisdictional service purposes as provided in 7-11-1106;

(5) transportation services for senior citizens and persons with disabilities as provided in 7-14-111;

(6) support for a port authority as provided in 7-14-1132;

(7) county road, bridge, and ferry purposes as provided in 7-14-2101, 7-14-2501, 7-14-2502, 7-14-2503, 7-14-2801, and 7-14-2807;

(8) recreational, educational, and other activities of the elderly as provided in 7-16-101;

(9) purposes of county fair activities, parks, cultural facilities, and any county-owned civic center, youth center, recreation center, or recreational complex as provided in 7-16-2102, 7-16-2109, and 7-21-3410;

(10) programs for the operation of licensed day-care centers and homes as provided in 7-16-2108 and 7-16-4114;

(11) support for a museum, facility for the arts and the humanities, ~~or~~ collection of exhibits*, or a museum district* as provided in 7-16-2205;

(12) extension work in agriculture and home economics as provided in 7-21-3203;

(13) weed control and management purposes as provided in 7-22-2142;

(14) insect control programs as provided in 7-22-2306;

(15) fire control as provided in 7-33-2209;

(16) ambulance service as provided in 7-34-102;

(17) public health purposes as provided in 50-2-111 and 50-2-114;

(18) public assistance purposes as provided in 53-3-115;

(19) indigent assistance purposes as provided in 53-3-116;

(20) developmental disabilities facilities as provided in 53-20-208;

(21) mental health services as provided in 53-21-1010;

(22) airport purposes as provided in 67-10-402 and 67-11-302;

(23) purebred livestock shows and sales as provided in 81-8-504;

(24) economic development purposes as provided in 90-5-112; and

(25) prevention programs, including programs that reduce substance abuse."

Section 11. Section 7-16-2205, MCA, is amended to read:

"7-16-2205. Authorization for mill levy. (1) The board of county commissioners of any county owning, acquiring, contributing, or making a grant to any museum, facility for the arts and the humanities, or collection of exhibits as set forth in 7-16-2202*, whether countywide or as part of a museum district created under [sections 1 through 9]*:

(a) (i) may make an appropriation in its annual budget for the upkeep, care, maintenance, operation, and support of the museum, facility, or collection;

(ii) may make an appropriation in its annual budget for a grant program for private, nonprofit museums and private, nonprofit facilities for the arts and the humanities; and

(b) in order to fund the appropriation or grant program, may, subject to 15-10-420, annually levy a tax on the taxable valuation of the property subject to taxation in the county *or the district*.

(2) The levy must be made at the same time as other levies are made for county and school purposes.

(3) The proceeds from the collection of the levy must be kept in a special fund by the county treasurer and used, at the discretion of the board of county commissioners, solely for the purpose for which the levy was made.

(4) A board of trustees of a museum district appointed as provided in [section 7] may request the board of county commissioners to submit to the voters of the district at the next general or special election a levy on taxable property in the district for operation of the district or for maintenance or construction within the district."

Section 12. Codification instruction. [Sections 1 through 9] are intended to be codified as an integral part of Title 7, chapter 16, part 22, and the provisions of Title 7, chapter 16, part 22, apply to [sections 1 through 9].

Section 13. Coordination instruction. If Senate Bill No. 299 and [this act] are both passed and approved and they contain a section amending 7-16-2205, then the sections amending 7-16-2205 are void and 7-16-2205 must be amended as follows:

"7-16-2205. Authorization for mill levy. (1) The board of county commissioners of any county ~~owning, acquiring, contributing, or making a grant to any museum, facility for the arts and the humanities, or collection of exhibits as set forth in 7-16-2202~~:

(a) ~~(i)~~ may make an appropriation in its annual budget for*:*

(i) the upkeep, care, maintenance, operation, and support of ~~the~~ *a* museum, *including a museum district created under [sections 1 through 9 of Senate Bill No. 233]*, *a* facility *for the arts and the humanities*, or *a* collection *of exhibits as set forth in 7-16-2202*;

(ii) the support of a heritage preservation and cultural tourism commission and for heritage and cultural tourism resources;

~~(ii)~~*(iii)* ~~may make an appropriation in its annual budget for~~ a grant program for private, nonprofit museums, ~~and~~ *for* private, nonprofit facilities for the arts and the humanities*, or for a heritage preservation and cultural tourism commission*; and

(b) ~~in order to fund the appropriation or grant program,~~ may, subject to 15-10-420, annually levy a tax on the taxable valuation of the property subject to taxation in the county *for the purposes described in subsection (1)(a) of this section. However, a levy for a museum district applies only to the property subject to taxation in the district*.

(2) The levy must be made at the same time as other levies are made for county and school purposes.

(3) The proceeds from the collection of the levy must be kept in a special fund by the county treasurer and used, at the discretion of the board of county commissioners, solely for the purpose for which the levy was made.

(4) A board of trustees of a museum district appointed as provided in [section 7 of Senate Bill No. 233] may request the board of county commissioners to submit to the voters of the district at the next general or special election a levy on taxable property in the district for operation of the district or for maintenance or construction within the district."

Approved May 16, 2007

CHAPTER NO. 506

[SB 273]

AN ACT GENERALLY REVISING ADMINISTRATION OF STANDARDS AND TRAINING CRITERIA FOR PUBLIC SAFETY PROFESSIONALS; ESTABLISHING A MONTANA PUBLIC SAFETY OFFICER STANDARDS AND TRAINING COUNCIL AS A QUASI-JUDICIAL BOARD IN PLACE OF THE PEACE OFFICERS' STANDARDS AND TRAINING ADVISORY COUNCIL UNDER THE BOARD OF CRIME CONTROL; PROVIDING THAT THE NEW COUNCIL BE ALLOCATED TO THE DEPARTMENT OF JUSTICE FOR ADMINISTRATIVE PURPOSES; AUTHORIZING RULEMAKING; SPECIFYING MEMBERSHIP; PROVIDING DEFINITIONS AND DUTIES; SPECIFYING RESPONSIBILITY FOR APPLYING THE STANDARDS AND TRAINING REQUIREMENTS; PROVIDING INSTRUCTIONS FOR THE TRANSITION; TRANSFERRING RESPONSIBILITY FOR CONDUCTING TRAINING FOR JUVENILE PROBATION OFFICERS TO THE OFFICE OF COURT ADMINISTRATOR; AMENDING SECTIONS 7-4-2905, 7-31-201, 7-31-202, 7-31-203, 7-32-201, 7-32-214, 7-32-303, 7-32-4112, 19-7-101, 41-5-1706, 44-4-301, 44-4-305, 44-4-902, AND 46-23-1003, MCA; REPEALING SECTION 44-4-302, MCA; AND PROVIDING AN EFFECTIVE DATE.

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

Section 1. Montana public safety officer standards and training council — administrative attachment — rulemaking. (1) (a) There is a Montana public safety officer standards and training council. The council is a quasi-judicial board, as provided for in 2-15-124, and is allocated to the

department of justice, established in 2-15-2001, for administrative purposes only as provided in 2-15-121, except as provided in subsection (1)(b) of this section.

(b) The council may hire its own personnel and independently administer the conduct of its business, and 2-15-121(2)(a), (2)(d), and (3)(a) do not apply.

(2) The council may adopt rules to implement the provisions of [sections 2 through 5]. Rules must be adopted pursuant to the Montana Administrative Procedure Act.

Section 2. Definitions. For the purposes of [sections 2 through 5], the following definitions apply:

(1) "Council" means the Montana public safety officer standards and training council established in [section 1].

(2) "Public safety officer" means:

(a) a corrections officer who is employed by the department of corrections, established in 2-15-2301, and who has full-time or part-time authority or responsibility for maintaining custody of inmates in a state correctional facility for adults or juveniles;

(b) a detention officer who is employed by a county and who has full-time or part-time authority or responsibility for maintaining custody of inmates in a detention center, as defined in 7-32-2241, or a juvenile detention center, as defined in 44-4-302;

(c) a peace officer, as defined in 46-1-202;

(d) a department of transportation employee appointed as a peace officer pursuant to 61-12-201;

(e) a law enforcement officer or reserve officer, as the terms are defined in 7-32-201;

(f) a public safety communications officer, as defined in 7-31-201;

(g) a probation or parole officer who is employed by the department of corrections pursuant to 46-23-1002;

(h) a person subject to training requirements pursuant to 44-2-113 or 44-4-902; and

(i) any other person required by law to meet the qualification or training standards established by the council.

Section 3. Membership — compensation. (1) The council consists of no more than 13 voting members appointed by the governor in accordance with 2-15-124 and as provided in this section.

(2) Membership must include but is not limited to:

(a) one state government law enforcement representative;

(b) one chief of police, who may be appointed based on recommendations from the Montana association of chiefs of police;

(c) one sheriff, who may be appointed based on recommendations from the Montana sheriffs and peace officers association;

(d) one representative from the department of corrections established in 2-15-2301;

(e) one local law enforcement officer in a nonadministrative position, who may be appointed based on recommendations from the Montana police protective association;

(f) one detention center administrator or detention officer;

(g) one Montana-certified tribal law enforcement representative;

(h) one county attorney, who may be appointed based on recommendations from the Montana county attorneys association;

(i) two members of the board of crime control established in 2-15-2006; and

(j) three Montana citizens at large who are informed and experienced in the subject of law enforcement.

Section 4. Council duties — determinations — appeals. (1) The council shall:

(a) establish basic and advanced qualification and training standards for employment;

(b) conduct and approve training; and

(c) provide for the certification or recertification of public safety officers and for the suspension or revocation of certification of public safety officers.

(2) The council may waive or modify a qualification or training standard for good cause.

(3) A person who has been denied certification or recertification or whose certification or recertification has been suspended or revoked is entitled to a contested case hearing before the council pursuant to Title 2, chapter 4, part 6, except that a decision by the council may be appealed to the board of crime control, as provided for in 44-4-301. A decision of the board of crime control is a final agency decision subject to judicial review.

Section 5. Appointing authority responsible for applying standards. It is the responsibility of a public safety officer's appointing authority to apply the employment standards and training criteria established by the council pursuant to [sections 2 through 5], including but not limited to requiring the successful completion of minimum training standards within 1 year of the public safety officer's hire date and terminating the employment of a public safety officer for failure to meet the minimum standards established by the council pursuant to [sections 2 through 5].

Section 6. Section 7-4-2905, MCA, is amended to read:

"7-4-2905. Coroner education and continuing education. (1) Coroner education must be conducted by the ~~board of crime control~~ *Montana public safety officer standards and training council established in [section 1].* The ~~board~~ *council* may adopt rules establishing standards and procedures for basic and advanced education. The cost of conducting the education must be borne by the department of justice from money appropriated for the education. The county shall pay the salary, mileage, and per diem of each coroner-elect, coroner, and deputy coroner attending from that county.

(2) (a) The ~~board~~ *council* shall conduct a 40-hour basic coroner course of study after each general election. The course, or an equivalent course approved by the ~~board~~ *council*, must be completed before the first Monday in January following the election. The ~~board~~ *council* may conduct other basic coroner courses at times it considers appropriate.

(b) The ~~board~~ *council* shall annually conduct a 16-hour advanced coroner course. Unless there are exigent circumstances, failure of any coroner or deputy coroner to satisfactorily complete the advanced coroner course, or an equivalent course approved by the ~~board~~ *council*, at least once every 2 years results in forfeiture of office. The ~~board~~ *council* may adopt rules providing a procedure to extend the 2-year period ~~due to~~ *because of* exigent circumstances."

Section 7. Section 7-31-201, MCA, is amended to read:

"7-31-201. Definitions. As used in this part, the following definitions apply:

(1) "~~Board~~ *Council*" means the Montana ~~board of crime control~~ *public safety officer standards and training council* provided for in ~~2-15-2006~~ *[section 1]*.

(2) "Public safety communications officer" means a person who receives requests for emergency services, as defined in 10-4-101, dispatches the appropriate emergency service units, and is certified under 7-31-203."

Section 8. Section 7-31-202, MCA, is amended to read:

"7-31-202. Qualifications for public safety communications officers. To be appointed a public safety communications officer, a person:

(1) must be a citizen of the United States;

(2) must be at least 18 years of age;

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

(4) may not have been convicted of a crime for which ~~he~~ *the person* could have been imprisoned in a federal or state penitentiary;

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

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

(7) ~~shall~~ *must* meet any additional qualifications established by the ~~board~~ *council*."

Section 9. Section 7-31-203, MCA, is amended to read:

"7-31-203. Certification of public safety communications officers — suspension or revocation — penalty — notification requirements. (1) A local government shall require that a person, unless exempt under subsection (3), appointed to receive requests for emergency services, as defined in 10-4-101, and to dispatch the appropriate emergency service units be certified by the ~~board~~ *council* as a public safety communications officer.

(2) (a) The ~~board~~ *council* shall determine the certification standards for public safety communications officers as provided in 7-31-202.

(b) The certification standards must contain a requirement that an applicant for certification attend and successfully complete a basic course for public safety communications officers conducted by the Montana law enforcement academy within 1 year of date of hire.

(3) (a) A person certified by the ~~board~~ *council* prior to July 1, 2001, and employed as a public safety communications officer as of July 1, 2001, is not subject to the requirement of subsection (2)(b).

(b) A person under permanent appointment as a public safety communications officer as of July 1, 2001, is not subject to the requirements of subsection (2).

(4) A public safety communications officer who has successfully met the certification standards set by the ~~board~~ *council*, or who is exempt from certain certification standards pursuant to subsection (3), who has met the qualification requirements in 7-31-202, and who has completed a 6-month probationary term and 1 year of employment must, upon application to the ~~board~~ *council*, be issued a basic public safety communications officer certificate.

(5) Failure by any person appointed as a public safety communications officer after July 1, 2001, unless exempt under the provisions of subsection (3), to meet the minimum requirements in 7-31-202 or to satisfy the certification requirements provided for in subsection (2) of this section is cause to terminate that person's employment as a public safety communications officer.

(6) It is unlawful for a person whose certification as a public safety communications officer has been suspended or revoked by the ~~board~~ *council* to act as a public safety communications officer. A person convicted of violating this subsection is guilty of a misdemeanor, punishable by a term of imprisonment not to exceed 6 months in the county jail or by a fine in an amount not to exceed $500, or both.

(7) Within 10 days of the appointment, termination, resignation, or death of any public safety communications officer, written notice must be given to the ~~board~~ *council* by the employing authority."

Section 10. Section 7-32-201, MCA, is amended to read:

"7-32-201. Definitions. As used in this part, the following definitions apply:

(1) "Auxiliary officer" means an unsworn, part-time, volunteer member of a law enforcement agency who may perform but is not limited to the performance of such functions as civil defense, search and rescue, office duties, crowd and traffic control, and crime prevention activities.

(2) "Council" means the Montana public safety officer standards and training council established in [section 1].

~~(2)~~*(3)* "General law enforcement duties" means patrol operations performed for detection, prevention, and suppression of crime and the enforcement of criminal and traffic codes of this state and its local governments.

~~(3)~~*(4)* "Law enforcement agency" means a law enforcement service provided directly by a local government.

~~(4)~~*(5)* "Law enforcement officer" means a sworn, full-time, employed member of a law enforcement agency who is a peace officer, as defined in 46-1-202, and has arrest authority, as described in 46-6-210.

~~(5)~~*(6)* "Reserve officer" means a sworn, part-time, volunteer member of a law enforcement agency who is a peace officer, as defined in 46-1-202, and has arrest authority, as described in 46-6-210, only when authorized to perform these functions as a representative of the law enforcement agency.

~~(6)~~*(7)* "Special services officer" means an unsworn, part-time, volunteer member of a law enforcement agency who may perform functions, other than general law enforcement duties, that require specialized skills, training, and

qualifications, who may be required to train with a firearm, and who may carry a firearm while on assigned duty as provided in 7-32-239."

Section 11. Section 7-32-214, MCA, is amended to read:

"7-32-214. Basic training program required. (1) ~~No~~ *A* reserve officer may *not* be authorized to function as a representative of a law enforcement agency performing general law enforcement duties after 2 years from the original appointment unless the reserve officer has satisfactorily completed a minimum 88-hour basic training program ~~which~~ *that* must include but need not be limited to the following course content:

(a) introduction and orientation—1 hour;

(b) police ethics and professionalism—1 hour;

(c) criminal law—4 hours;

(d) laws of arrest—4 hours;

(e) criminal evidence—4 hours;

(f) administration of criminal law—2 hours;

(g) communications, reports, and records—2 hours;

(h) crime investigations—3 hours;

(i) interviews and interrogations—2 hours;

(j) patrol procedures—6 hours;

(k) crisis intervention—4 hours;

(l) police human and community relations—3 hours;

(m) juvenile procedures—2 hours;

(n) defensive tactics—4 hours;

(o) crowd control tactics—4 hours;

(p) firearms training—30 hours;

(q) first aid—10 hours; and

(r) examination—2 hours.

(2) The law enforcement agency is responsible for training its reserve officers in accordance with minimum training standards established by the ~~Montana board of crime control~~ *council*."

Section 12. Section 7-32-303, MCA, is amended to read:

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

(2) ~~No~~ *A* sheriff of a county, mayor of a city, board, *or* commission~~,~~ or other person authorized by law to appoint peace officers in this state ~~shall~~ *may not* appoint any person as a peace officer who does not meet the following qualifications plus any additional qualifying standards for employment promulgated by the ~~board of crime control~~ *Montana public safety officer standards and training council established in [section 1]*:

(a) be a citizen of the United States;

(b) be at least 18 years of age;

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

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

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

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

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

(h) successfully complete an oral examination conducted by the appointing authority or its designated representative to demonstrate the possession of communication skills, temperament, motivation, and other characteristics necessary to the accomplishment of the duties and functions of a peace officer; and

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

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

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

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

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

(c) A peace officer under the provisions of subsection (5)(b) or a peace officer who has completed a basic peace officer's course in another state and whose last date of employment as a peace officer was less than 60 months prior to the date of present appointment as a peace officer may, within 1 year of the peace officer's present employment or initial appointment as a peace officer within this state,

satisfy the basic educational requirements by successfully passing a basic equivalency test administered by the Montana law enforcement academy and successfully completing a legal training course conducted by the academy. If the peace officer fails the basic equivalency test, the peace officer shall complete the basic course within 120 days of the date of the test.

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

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

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

Section 13. Section 7-32-4112, MCA, is amended to read:

"7-32-4112. Qualifications of police officers. A member of a police department on the active list of any city at the time of appointment under this part may not be less than 18 years of age, must be a citizen of the United States, and ~~shall~~ *must* meet the minimum qualifying standards for employment promulgated by the ~~board of crime control~~ *Montana public safety officer standards and training council established in [section 1].*"

Section 14. 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 maintenance, allowances, and expenses.

(2) "Detention officer" means any detention officer, as defined in 44-4-302, 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 ~~by the board of crime control pursuant to 44-4-301~~ for detention officers *by the Montana public safety officer standards and training council established in [section 1].*

(3) "Highest average compensation" means a member's highest average monthly compensation during any 36 consecutive months of membership service or, ~~in the event~~ *if* a member has not served at least 36 months, the total compensation earned divided by the number of months of service. 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.

(4) "Investigator" means a person who is employed as a criminal investigator or as a gambling investigator for the department of justice.

(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 15. Section 41-5-1706, MCA, is amended to read:

"41-5-1706. Juvenile probation officer training. (1) The ~~department of justice~~ *office of court administrator* may conduct a 40-hour juvenile probation officer basic training program and other training programs and courses for juvenile probation officers. ~~A 40-hour juvenile probation officer basic training program and other training programs and courses for juvenile probation officers may be offered by another public agency or by a private entity if the program or course is approved by the board of crime control. If funding is available, the department shall conduct a 40-hour basic training program once a year.~~

(2) A juvenile probation officer who successfully completes the 40-hour basic training program or another program or course must be issued a certificate by the ~~board~~ *office of court administrator*.

(3) Each chief probation officer and deputy probation officer shall obtain 16 hours a year of training in subjects relating to the powers and duties of probation officers ~~in a program or course conducted by the department of justice or approved by the board of crime control.~~

~~(4) The board may adopt rules to implement this section~~."

Section 16. Section 44-4-301, MCA, is amended to read:

"44-4-301. Functions. ~~(1)~~*(1)* As designated by the governor as the state planning agency under the Omnibus Crime Control and Safe Streets Act of 1968, as amended, the board of crime control shall perform the functions assigned to it under that act. The board shall also provide to criminal justice agencies technical assistance and supportive services that are approved by the board or assigned by the governor or legislature.

(2) The board shall consider all appeals brought from decisions of the Montana public safety officer standards and training council pursuant to [section 4]. A board member designated as a member of the Montana public safety officer standards and training council, as provided in [section 3], may not participate in appeals brought to the board from decisions of the council. The board shall promulgate rules governing the manner and method of the appeals.

~~(2) The board may:~~

~~(a) establish minimum qualifying standards for employment of peace officers, as defined in 7-32-303, detention officers, detention center~~

~~administrators, juvenile detention center administrators, juvenile detention or juvenile corrections officers, public safety communications officers, probation and parole officers, corrections officers, and employees of the department of transportation designated or appointed as peace officers under 61-10-154 or 61-12-201; and~~

~~(b) develop procedures for revoking or suspending the certification of peace officers, as defined in 7-32-303, detention officers, detention center administrators, juvenile detention center administrators, juvenile detention or juvenile corrections officers, public safety communications officers, probation and parole officers, corrections officers, and employees of the department of transportation designated or appointed as peace officers under 61-10-154 or 61-12-201.~~

~~(3) The board may require basic training for officers, establish minimum standards for equipment and procedures and for advanced inservice training for officers, establish minimum standards for the certification of public safety communications officers, establish minimum standards for the certification of employees of the department of transportation designated or appointed as peace officers under 61-10-154 or 61-12-201, and establish minimum standards for law enforcement, detention officer, and juvenile detention or juvenile corrections officer training schools administered by the state or any of its political subdivisions or agencies, to ensure the public health, welfare, and safety.~~

~~(4) The board may waive the minimum qualification standard provided in subsection (2) for good cause shown.~~

~~(5) The board shall establish minimum standards for training of probation and parole officers, pursuant to 46-23-1003.~~

~~(6) The board shall establish minimum standards for training corrections officers and employees of the department of transportation designated or appointed as peace officers under 61-10-154 or 61-12-201.~~

~~(7) It is the duty of the appointing authority to cause each probation and parole officer, corrections officer, juvenile detention or juvenile corrections officer, and employee of the department of transportation designated or appointed as a peace officer under 61-10-154 or 61-12-201 to attend and successfully complete within 1 year of employment, an appropriate basic course certified by the board. The appointing authority may terminate a probation and parole officer's, corrections officer's, or juvenile detention or juvenile corrections officer's employment or the employment of an employee of the department of transportation designated or appointed as a peace officer under 61-10-154 or 61-12-201 for failure to:~~

~~(a) meet the minimum standards established by the board; or~~

~~(b) satisfactorily complete the appropriate basic course.~~"

Section 17. Section 44-4-305, MCA, is amended to read:

"44-4-305. Juvenile detention or juvenile corrections officer training. A juvenile detention or juvenile corrections officer shall, in the first year of employment, complete a basic training course as required in ~~44-4-301~~ *[section 4]*. The training must be done under the auspices of the Montana law enforcement academy but does not have to occur at the academy."

Section 18. Section 44-4-902, MCA, is amended to read:

"44-4-902. Application for appointment. A class I railroad corporation, as defined by the interstate commerce commission in part 1201 of 49 CFR, desiring the appointment of an officer or employee as a special peace officer shall apply to the attorney general. The application must state the name, age, and place of residence of the person applying for appointment. The applicant must have at least 3 years of experience as a class I railroad peace officer or have completed a training course at an approved law enforcement academy, or meet the qualifications described in 7-32-303 and adopted ~~under 44-4-301~~ *pursuant to [sections 2 through 5]*. The application must be signed by the applicant and a managing officer of the railroad corporation. The managing officer signing the application shall at the same time submit an affidavit to the effect that ~~he~~ *the officer* is acquainted with the person seeking appointment, that ~~he~~ *the officer* believes ~~him~~ *the applicant* to be of good moral character, and that ~~he~~ *the applicant* is of ~~such~~ *good moral* character and *has* experience *such* that ~~he~~ *the applicant* can be safely entrusted with the powers and duties of a special peace officer."

Section 19. Section 46-23-1003, MCA, is amended to read:

"46-23-1003. Qualifications of probation and parole officers. (1) Probation and parole officers ~~shall~~ *must* have at least a college degree and some formal training in behavioral sciences. Exceptions to this rule must be approved by the department. Related work experience in the areas listed in 2-15-2302(2) may be substituted for educational requirements at the rate of 1 year of experience for 9 months formal education if approved by the department. All present employees ~~will be~~ *are* exempt from this requirement but are encouraged to further their education at the earliest opportunity.

(2) Each probation and parole officer ~~must~~ *shall*, through a source approved by ~~his~~ *the officer's* employer, obtain 16 hours a year of training in subjects relating to the powers and duties of probation officers. In addition, each probation and parole officer must receive training in accordance with standards adopted by the ~~board of crime control, as provided in 44-4-301~~ *Montana public safety officer standards and training council established in [section 1]*. The training must be at the Montana law enforcement academy unless the ~~board~~ *council* finds that training at some other place is more appropriate."

Section 20. Repealer. Section 44-4-302, MCA, is repealed.

Section 21. Transition. (1) The peace officers' standards and training advisory council under the board of crime control, established in 2-15-2006, must become the Montana public safety officer standards and training council, established in [section 1], on [the effective date of this act].

(2) Appointment pursuant to [section 3] to replace a member of the peace officers' standards and training advisory council who was a member on the day before [the effective date of this act] may be made immediately upon the expiration of the member's term.

(3) All members of the Montana public safety officer standards and training council are entitled to compensation pursuant to 2-15-124 beginning [the effective date of this act].

Section 22. 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 23. Codification instruction — directions to code commissioner. (1) [Section 1] is intended to be codified as an integral part of

Title 2, chapter 15, part 20, and the provisions of Title 2, chapter 15, part 20, apply to [section 1].

(2) [Sections 2 through 5] are intended to be codified as an integral part of Title 44, chapter 4, and the provisions of Title 44, chapter 4, apply to [sections 2 through 5].

(3) The code commissioner is instructed to renumber and codify 44-4-305 as an integral part of Title 41, chapter 5, part 18.

Section 24. 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 25. Effective date. [This act] is effective July 1, 2007.

Approved May 16, 2007

CHAPTER NO. 507

[SB 276]

AN ACT ALLOWING FUNERAL DIRECTORS, UNDERTAKERS, AND MORTICIANS TO SELL CERTAIN TYPES OF FUNERAL INSURANCE SUBJECT TO CERTAIN CONDITIONS IF LICENSED; DEFINING "FUNERAL INSURANCE"; AMENDING SECTIONS 33-17-211, 33-17-214, AND 33-18-301, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE.

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

Section 1. Funeral insurance. (1) (a) "Funeral insurance" means an insurance policy or certificate that requires a one-time payment or the payment of premiums to provide for the costs of a funeral and burial for the policyholder or a named individual.

(b) Funeral insurance is a type of life insurance provided for in 33-1-208 and regulated under Title 33, chapter 20. The terms "burial insurance" and "preneed funeral insurance" have the same meaning as funeral insurance.

(c) Funeral insurance may be:

(i) included in a life insurance policy. This form of funeral insurance may not be sold by or through a person licensed under Title 37, chapter 19, regardless of whether a person licensed under Title 37, chapter 19, also has an insurance producer's license in this state.

(ii) a limited policy or certificate with a guaranteed death benefit that may be sold by:

(A) a licensed insurance producer; or

(B) a person licensed under Title 37, chapter 19, parts 3 and 4, if that person also is licensed as a life insurance producer in this state.

(d) Unless otherwise provided by Title 33, chapter 20, the policy or certificate limit under subsection (1)(c)(ii) is up to $15,000.

(2) Funeral insurance for the purposes of Title 33 is not a fixed amount prepaid into a trust or escrow fund, called a prearranged funeral plan, as described in 37-19-827, or a preneed arrangement, as defined in 37-19-101, and regulated under Title 37, part 19.

(3) A funeral insurance policy and any solicitation material for the policy must clearly indicate that:

(a) the policy is a life insurance product;

(b) the applicant may designate the beneficiary, including but not limited to a funeral director, mortician, mortuary, or undertaker, if the applicant has an insurable interest in the life of the insured; and

(c) subject to the provisions of [section 2] and this section, the beneficiary may use the proceeds for any purpose.

(4) The funeral insurance policy must state that the insurance company shall, as a condition of paying the benefits of the insurance policy, require from the funeral director, mortician, mortuary, or undertaker:

(a) a certified copy of the certificate of death of the insured or other evidence of death satisfactory to the insurance company; and

(b) a certificate of completion signed by the funeral director, mortician, or undertaker stating that the funeral director, mortician, undertaker, or mortuary has delivered all the goods and performed all the services contracted for, by, or on behalf of the insured.

(5) (a) Notwithstanding the provisions of 33-15-414, the funeral insurance policy must contain an assignability clause that allows the policy or certificate to be assigned or otherwise transferred to another funeral director, mortician, mortuary, or undertaker licensed to do business in this state in conjunction with the assumption of the contractual obligation to provide the funeral goods or services to the extent permitted by state or federal law for the purpose of the insured's eligibility for supplemental security income benefits, medicaid, or other public assistance benefits.

(b) The assignability clause may not be used by a funeral director, mortician, mortuary, or undertaker to pledge, assign, transfer, borrow from, or otherwise encumber an insurance policy assigned to it for purposes of purchasing funeral goods or services prior to delivering all of the goods and performing all of the services contracted for, by, or on behalf of the insured.

(6) After the death of a person who at any time received medicaid benefits, a funeral director, mortician, mortuary, undertaker, or other person, including but not limited to the decedent's spouse, heir, devisee, or personal representative, who is the beneficiary of funeral insurance in excess of $5,000 in value designated to pay for the disposition of the medicaid recipient's remains and for related expenses shall, after paying for the disposition and related expenses, pay all remaining funds to the department of public health and human services within 30 days following the receipt of the funeral insurance death benefit. The funds must be paid to the department regardless of any provision in a written contract, insurance policy, or other agreement entered into on or after [the effective date of this act] directing a different disposition of the funds. Funds paid to the department under this section are not considered to be property of the deceased medicaid recipient's estate, and the provisions of 53-6-167 do not apply to recovery of the funds by the department.

Section 2. Excess funeral insurance proceeds. Funeral insurance proceeds that exceed the cost of the funeral goods and services provided must be paid in accordance with the beneficiary designation in the insurance policy or certificate.

Section 3. Rules. The commissioner may adopt rules to regulate funeral insurance, including but not limited to rules regarding licensure of producers, form review, and consumer protection.

Section 4. Section 33-17-211, MCA, is amended to read:

"33-17-211. General qualifications — application for license. (1) An individual applying for a license shall apply in a form approved by the commissioner and declare under penalty of refusal, suspension, or revocation of the license that statements made in the application are true, correct, and complete to the best of the individual's knowledge and belief. Before approving the application, the commissioner shall verify that the individual:

(a) is 18 years of age or older;

(b) has not committed an act that is a ground for refusal, suspension, or revocation as set forth in 33-17-1001;

(c) has paid the license fees stated in 33-2-708;

(d) has successfully passed the examinations for each kind of insurance for which the individual has applied within 12 months of application;

(e) is a resident of this state or of another state that grants similar privileges to residents of this state. Licenses issued based upon Montana state residency terminate if the licensee relocates to another state.

(f) is competent, trustworthy, and of good reputation;

(g) has experience or training or otherwise is qualified in the kind or kinds of insurance for which the applicant applies to be licensed and is reasonably familiar with the provisions of this code that govern the applicant's operations as an insurance producer;

(h) if applying for a license as to ~~life or disability~~ *life or disability insurance,* ~~insurance~~ *except as permitted by [section 1(1)(c)(ii)]*:

(i) is not a funeral director, undertaker, or mortician operating in this or any other state;

(ii) is not an officer, employee, or representative of a funeral director, undertaker, or mortician operating in this or any other state; or

(iii) does not hold an interest in or benefit from a business of a funeral director, undertaker, or mortician operating in this or any other state; and

(i) has completed a background examination pursuant to 33-17-220.

(2) A resident or nonresident business entity acting as an insurance producer is required to obtain an insurance producer's license. Application must be made in a form approved by the commissioner. To approve the application, the commissioner shall verify that:

(a) the business entity has paid the appropriate fee; and

(b) the business entity has designated an individual licensed insurance producer who is responsible for the business entity's compliance with the insurance laws of this state.

(3) A person acting as an insurance producer shall obtain a license. A person shall apply for a license in a form approved by the commissioner. Before approving the application, the commissioner shall verify that:

(a) the person meets the requirements listed in subsection (1);

(b) the person has paid the licensing fees stated in 33-2-708 for each individual licensed in conjunction with the person's license. A licensed person shall promptly notify the commissioner of each change relating to an individual listed in the license.

(c) the person has designated a licensed officer to be responsible for the person's compliance with the insurance laws and rules of this state;

(d) each member and employee of a partnership and each officer, director, stockholder, or employee of a corporation who is acting as an insurance producer in this state has obtained a license;

(e) (i) if the person is a partnership or corporation, the transaction of insurance business is within the purposes stated in the partnership agreement or the articles of incorporation; and

(ii) if the person is a corporation, the secretary of state has issued a certificate of existence or authority under 35-1-1312 or filed articles of incorporation under 35-1-220.

(4) *(a)* The commissioner may license as a resident insurance producer an association of licensed Montana insurance producers, whether or not incorporated, formed and existing substantially for purposes other than insurance.

(b) The license must be used solely for the purpose of enabling the association to place, as a resident insurance producer, insurance of the properties, interests, and risks of the state of Montana and of other public agencies, bodies, and institutions and to receive the customary commission for the placement.

(c) The president and secretary of the association shall apply for the license in the name of the association, and the commissioner shall issue the license to the association in the association's name alone.

(d) The fee for the license is the same as that required by 33-2-708(1)(a).

(e) The commissioner may, after a hearing with notice to the association, revoke the license if the commissioner finds that continuation of the license is not in the public interest or that a ground listed in 33-17-1001 exists.

(5) An insurance producer using an assumed business name shall register the name with the commissioner before using the name."

Section 5. Section 33-17-214, MCA, is amended to read:

"33-17-214. Issuance of license — insurance producer lines of authority — license data — lapse of license — change of address. (1) A person who has met the requirements of 33-17-211 and 33-17-212 must be issued a license, unless that person has been denied a license pursuant to 33-17-1001.

(2) An insurance producer may receive a license qualifying the insurance producer in one or more of the following lines of authority:

(a) life insurance coverage on human lives, including benefits of endowment and annuities, and the coverage may include*:*

(i) funeral insurance as defined in [section 1];

(ii) benefits in the event of death or dismemberment by accident*;* and

(iii) benefits for disability income;

(b) accident and health or sickness insurance coverage providing for sickness, bodily injury, or accidental death, and the coverage may provide benefits for disability income;

(c) property insurance coverage for the direct or consequential loss or damage to property of every kind;

(d) casualty insurance coverage against legal liability, including liability for death, injury, or disability or damage to real or personal property;

(e) variable life and variable annuity products insurance coverage provided under variable life insurance contracts and variable annuities;

(f) personal lines of property and casualty insurance coverage sold to individuals and families for primarily noncommercial purposes;

(g) limited line credit insurance; or

(h) any other line of insurance permitted under Title 33.

(3) The license must state the name and address of the licensee, personal identification number, date of issuance, general conditions relative to expiration or termination, kind of insurance covered, and other information that the commissioner considers necessary.

(4) The license of a partnership, corporation, or association must also state the name of each individual authorized to exercise the license powers.

(5) Each license remains in effect, unless it is suspended, revoked, or terminated or the license lapses.

(6) A person shall inform the commissioner in writing of a change of address within 30 days of the change."

Section 6. Section 33-18-301, MCA, is amended to read:

"33-18-301. Prohibited relations with mortuaries. (1) A life insurer and its board of directors, officers, employees, or representatives *that sell any life insurance, other than funeral insurance, as defined in [section 1(1)(c)(ii)],* may not own, manage, supervise, operate, or maintain any mortuary, funeral, or undertaking establishment in Montana.

(2) *(a)* A life insurer may not contract or agree with any funeral director, *mortician,* ~~mortuary,~~ or undertaker that the funeral director, *mortician,* ~~undertaker, or mortuary~~ *or undertaker* shall conduct the funeral or be named beneficiary of any person insured by the insurer.

(b) This subsection *(2)* does not prohibit a life insurer from ~~making insurance, designated as funeral insurance, available~~ *selling, soliciting, or negotiating funeral insurance, as defined in [section 1(1)(c)(ii)], through a funeral director, mortician, undertaker, or any employee of a mortuary or undertaker if the funeral director, mortician, undertaker or employee of a mortuary or undertaker, through whom the sale, solicitation, or negotiation occurs, is an insurance producer licensed and qualified under 33-17-214. A life insurer that sells, solicits, or negotiates funeral insurance, as defined in [section 1(1)(c)(ii)], through a funeral director, mortician, undertaker, or any employee of a mortuary or undertaker shall comply with the provisions of [sections 1 and 2].*

~~(3) A funeral insurance policy and any solicitation material for the policy must clearly indicate that:~~

~~(a) the policy is a life insurance product;~~

~~(b) the applicant may designate the beneficiary if there is an appropriate and insurable interest;~~

~~(c) the beneficiary may use the proceeds for any purpose; and~~

(3) A funeral insurance policy or certificate and any solicitation material for the policy must comply with [section 1].

~~(d)~~*(4)* ~~any~~ *An* attempt by the insurer or its representative to ~~have~~ *require* the insured *to* designate a specific beneficiary, including but not limited to a funeral director, *mortician,* mortuary, or undertaker, constitutes a violation of this section punishable as a misdemeanor pursuant to subsection ~~(4)~~ *(5)*.

~~(4)~~*(5)* Each violation of this section constitutes a misdemeanor punishable by a fine of not more than $1,000 or by imprisonment for not more than 6 months, or both."

Section 7. Codification instruction. [Sections 1 through 3] are intended to be codified as an integral part of Title 33, chapter 20, and the provisions of Title 33, chapter 20, apply to [sections 1 through 3].

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 January 1, 2008.

Approved May 16, 2007

CHAPTER NO. 508

[SB 279]

AN ACT ESTABLISHING THE CLEAN CAMPAIGN ACT; REQUIRING CANDIDATES AND COMMITTEES SUPPORTING CANDIDATES TO PROVIDE CANDIDATES IN PRIMARY AND GENERAL ELECTIONS WITH COPIES OF CERTAIN CAMPAIGN ADVERTISING INTENDED TO BE DISTRIBUTED IN THE 10 DAYS PRIOR TO AN ELECTION; PROVIDING CIVIL PENALTIES FOR VIOLATIONS; AND AMENDING SECTION 13-37-128, MCA.

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

Section 1. Short title. [Sections 1 through 3] may be referred to as the "Clean Campaign Act".

Section 2. Fair notice period before election — definition. (1) A candidate, a political committee that has filed a certification under 13-37-201, and an independent political committee shall at the time specified in subsection (3) provide to candidates listed in subsection (2) any final copy of campaign advertising in print media, in printed material, or by broadcast media that is intended for public distribution in the 10 days prior to an election unless:

(a) identical material was already published or broadcast; or

(b) the material does not identify or mention the opposing candidate.

(2) The material must be provided to all other candidates who have filed for the same office and who are individually identified or mentioned in the advertising, except candidates mentioned in the context of endorsements.

(3) Final copies of material described in subsection (1) must be provided to the candidates listed in subsection (2) at the following times:

(a) at the time the material is published or broadcast or disseminated to the public;

(b) if the material is disseminated by direct mail, on the date of the postmark; or

(c) if the material is prepared and disseminated by hand, on the day the material is first being made available to the general public.

(4) The copy of the material that must be provided to the candidates listed in subsection (2) must be provided by electronic mail, facsimile transmission, or hand delivery, with a copy provided by direct mail if the recipient does not have available either electronic mail or facsimile transmission. If the material is for broadcast media, the copy provided must be a written transcript of the broadcast.

(5) For the purposes of this section, an "independent political committee" is 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 a candidate's committee in conjunction with the making of expenditures or accepting contributions.

Section 3. Penalties. A person who violates [section 2] is liable in a civil action pursuant to 13-37-128.

Section 4. Section 13-37-128, MCA, is amended to read:

"13-37-128. Cause of action created. (1) A person who intentionally or negligently violates any of the reporting provisions of this chapter, *a provision of [sections 1 through 3], or 13-35-225* is liable in a civil action brought by the commissioner or a county attorney pursuant to the provisions outlined in 13-37-124 and 13-37-125 for an amount up to $500 or three times the amount of the unlawful contributions or expenditures, whichever is greater.

(2) A person who makes or receives a contribution or expenditure in violation of ~~13-35-225,~~ 13-35-227, 13-35-228, or this chapter or who violates 13-35-226 is liable in a civil action brought by the commissioner or a county attorney pursuant to the provisions outlined in 13-37-124 and 13-37-125 for an amount up to $500 or three times the amount of the unlawful contribution or expenditure, whichever is greater."

Section 5. Codification instruction. [Sections 1 through 3] are intended to be codified as an integral part of Title 13, chapter 35, and the provisions of Title 13, chapter 35, apply to [sections 1 through 3].

Approved May 16, 2007

CHAPTER NO. 509

[SB 281]

AN ACT ALLOWING MARRIED TAXPAYERS WHO FILE SEPARATE MONTANA INCOME TAX RETURNS TO USE FEDERAL DETERMINATIONS OF ADJUSTED GROSS INCOME REPORTED ON FEDERAL JOINT RETURNS IN DETERMINING MONTANA ADJUSTED GROSS INCOME FOR CERTAIN INCOME ITEMS; AMENDING SECTIONS 15-30-111, 15-62-207, AND 15-62-208, MCA; AND PROVIDING AN

IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE.

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

Section 1. Section 15-30-111, MCA, is amended to read:

"15-30-111. Adjusted gross income. (1) Adjusted gross income is the taxpayer's federal adjusted gross income as defined in section 62 of the Internal Revenue Code, 26 U.S.C. 62, and in addition includes the following:

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

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

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

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

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

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

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

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

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

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

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

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

(c) (i) except as provided in subsection (2)(c)(ii), the first $3,600 of all pension and annuity income received as defined in 15-30-101;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(o) deposits, not exceeding the amount set forth in 15-30-603, deposited in a Montana farm and ranch risk management account, as provided in 15-30-601 through 15-30-605, in any tax year for which a deduction is not provided for federal income tax purposes;

(p) income of a dependent child that is included in the taxpayer's federal adjusted gross income pursuant to the Internal Revenue Code. The child is required to file a Montana personal income tax return if the child and taxpayer meet the filing requirements in 15-30-142.

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

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

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

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

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

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

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

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

(9) (a) Married taxpayers filing a joint federal return who are allowed a deduction for interest paid for a qualified education loan under section 221 of the

Internal Revenue Code, 26 U.S.C. 221, and who file separate Montana income tax returns may claim the same amount of the deduction that is allowed on the federal return. The deduction may be split equally on each return or in proportion to each taxpayer's share of federal adjusted gross income.

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

~~(6)~~*(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.

~~(7) Married taxpayers who file a joint federal return and who make an election on the federal return to defer income ratably for 4 tax years because of a conversion from an IRA other than a Roth IRA to a Roth IRA, pursuant to section 408A(d)(3) of the Internal Revenue Code, 26 U.S.C. 408A(d)(3), may file separate Montana income tax returns to defer the full taxable conversion amount from Montana adjusted gross income for the same time period. The deferred amount must be attributed to the taxpayer making the conversion.~~

~~(8)~~*(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.

~~(9)~~*(12)* (a) A taxpayer may exclude the amount of the loan payment received pursuant to subsection ~~(9)(a)(iv)~~ *(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 ~~(9)(b)~~ *(12)(b)* as an incentive to practice in Montana.

(b) For the purposes of subsection ~~(9)(a)~~ *(12)(a)*, a loan repayment program includes a federal, state, or qualified private program. A qualified private loan repayment program includes a licensed health care facility, as defined in 50-5-101, that makes student loan payments on behalf of the person who is employed by the facility as a licensed health care professional.(Subsection (2)(f) terminates on occurrence of contingency—sec. 3, Ch. 634, L. 1983; subsection (2)(o) terminates on occurrence of contingency—sec. 9, Ch. 262, L. 2001.)"

Section 2. Section 15-62-207, MCA, is amended to read:

"15-62-207. Deductions for contributions. An individual who contributes to one or more accounts in a tax year is entitled to reduce the individual's adjusted gross income, in accordance with 15-30-111~~(8)~~*(11)*, by the total amount of the contributions, but not more than $3,000. The contribution must be made to an account owned by the contributor, the contributor's spouse, or the contributor's child or stepchild if the contributor's child or stepchild is a Montana resident."

Section 3. Section 15-62-208, MCA, is amended to read:

"15-62-208. Tax on certain withdrawals of deductible contributions. (1) There is a recapture tax at a rate equal to the highest rate of tax provided in 15-30-103 on the recapturable withdrawal of amounts that reduced adjusted gross income under 15-30-111~~(8)~~*(11)*.

(2) For purposes of determining the portion of a recapturable withdrawal that reduced adjusted gross income, all withdrawals must be allocated between income and contributions in accordance with the principles applicable under section 529(c)(3)(A) of the Internal Revenue Code of 1986, 26 U.S.C. 529(c)(3)(A). The portion of a recapturable withdrawal that is allocated to contributions must be treated as derived first from contributions, if any, that did not reduce adjusted gross income, to the extent of those contributions, and then to contributions that reduced adjusted gross income. The portion of any other withdrawal that is allocated to contributions must be treated as first derived from contributions that reduced adjusted gross income, to the extent of the contributions, and then to contributions that did not reduce adjusted gross income.

(3) (a) The recapture tax imposed by this section is payable by the owner of the account from which the withdrawal or contribution was made. The tax liability must be reported on the income tax return of the account owner and is payable with the income tax payment for the year of the withdrawal or at the time that an income tax payment would be due for the year of the withdrawal. The account owner is liable for the tax even if the account owner is not a Montana resident at the time of the withdrawal.

(b) The department may require withholding on recapturable withdrawals from an account that was at one time owned by a Montana resident if the account owner is not a Montana resident at the time of the withdrawal. For the purposes of this subsection (3)(b), amounts rolled over from an account that was

at one time owned by a Montana resident must be treated as if the account is owned by a resident of Montana.

(4) For the purposes of this section, all contributions made to accounts by residents of Montana are presumed to have reduced the contributor's adjusted gross income unless the contributor can demonstrate that all or a portion of the contributions did not reduce adjusted gross income. Contributors who claim deductions for contributions shall report on their Montana income tax returns the amount of deductible contributions made to accounts for each designated beneficiary and the social security number of each designated beneficiary.

(5) As used in this section, "recapturable withdrawal" means a withdrawal or distribution that is a nonqualified withdrawal or a withdrawal or distribution from an account that was opened after the later of:

(a) April 30, 2001; or

(b) the date that is 3 years prior to the date of the withdrawal or distribution.

(6) The department shall use all means available for the administration and enforcement of income tax laws in the administration and enforcement of this section."

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

Section 5. Retroactive applicability. [This act] applies retroactively, within the meaning of 1-2-109, to tax years beginning after December 31, 2006.

Approved May 16, 2007

CHAPTER NO. 510

[SB 316]

AN ACT ALLOWING A PARCEL OF LAND LESS THAN 20 ACRES TO QUALIFY AS AGRICULTURAL LAND IF THE PARCEL HAD PREVIOUSLY TOTALED 20 ACRES OR MORE AND WAS QUALIFIED AS AGRICULTURAL LAND BUT THE SIZE OF THE PARCEL WAS REDUCED TO LESS THAN 20 ACRES FOR A PUBLIC USE BY THE FEDERAL GOVERNMENT, THE STATE, OR A LOCAL GOVERNMENT AND THE PARCEL HAS NOT BEEN FURTHER SPLIT; AMENDING SECTION 15-7-202, 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 15-7-202, MCA, is amended to read:

"15-7-202. Eligibility of land for valuation as agricultural. (1) (a) Contiguous parcels of land totaling 160 acres or more under one ownership are eligible for valuation, assessment, and taxation as agricultural land each year that none of the parcels is devoted to a residential, commercial, or industrial use.

(b) (i) Contiguous parcels of land of 20 acres or more but less than 160 acres under one ownership are eligible for valuation, assessment, and taxation as agricultural land if the land is used primarily for raising and marketing, as defined in subsection (1)(c), products that meet the definition of agricultural in 15-1-101. A parcel of land is presumed to be used primarily for raising agricultural products if the owner or the owner's immediate family members, agent, employee, or lessee markets not less than $1,500 in annual gross income

from the raising of agricultural products produced by the land. The owner of land that is not presumed to be agricultural land shall verify to the department that the land is used primarily for raising and marketing agricultural products.

(ii) Noncontiguous parcels of land that meet the income requirement of subsection (1)(b)(i) are eligible for valuation, assessment, and taxation as agricultural land under subsection (1)(b)(i) if:

(A) the land is an integral part of a bona fide agricultural operation undertaken by the persons set forth in subsection (1)(b)(i) as defined in this section; and

(B) the land is not devoted to a residential, commercial, or industrial use.

(iii) Parcels of land of 20 acres or more but less than 160 acres that do not meet the income requirement of subsection (1)(b)(i) may also be valued, assessed, and taxed as agricultural land if the owner:

(A) applies to the department requesting classification of the parcel as agricultural;

(B) verifies that the parcel of land is greater than 20 acres but less than 160 acres and that the parcel is located within 15 air miles of the family-operated farming entity referred to in subsection (1)(b)(iii)(C); and

(C) verifies that:

(I) the owner of the parcel is involved in agricultural production by submitting proof that 51% or more of the owner's Montana annual gross income is derived from agricultural production; and

(II) property taxes on the property are paid by a family corporation, family partnership, sole proprietorship, or family trust that is involved in Montana agricultural production and 51% of the entity's Montana annual gross income is derived from agricultural production; or

(III) the owner is a shareholder, partner, owner, or member of the family corporation, family partnership, sole proprietorship, or family trust that is involved in Montana agricultural production and 51% of the person's or entity's Montana annual gross income is derived from agricultural production.

(c) For the purposes of this subsection (1):

(i) "marketing" means the selling of agricultural products produced by the land and includes but is not limited to:

(A) rental or lease of the land as long as the land is actively used for grazing livestock or for other agricultural purposes; and

(B) rental payments made under the federal conservation reserve program or a successor to that program;

(ii) land that is devoted to residential use or that is used for agricultural buildings and is included in or is contiguous to land under the same ownership that is classified as agricultural land, other than nonqualified agricultural land described in 15-6-133(1)(c), must be classified as agricultural land, and the land must be valued as provided in 15-7-206.

(2) Contiguous or noncontiguous parcels of land totaling less than 20 acres under one ownership that are actively devoted to agricultural use are eligible for valuation, assessment, and taxation as agricultural each year that the parcels meet any of the following qualifications:

(a) the parcels produce and the owner or the owner's agent, employee, or lessee markets not less than $1,500 in annual gross income from the raising of agricultural products as defined in 15-1-101; ~~or~~

(b) the parcels would have met the qualification set out in subsection (2)(a) were it not for independent, intervening causes of production failure beyond the control of the producer or marketing delay for economic advantage, in which case proof of qualification in a prior year will suffice*; or*

(c) in a prior year, the parcels totaled 20 acres or more and qualified as agricultural land under this section, but the number of acres was reduced to less than 20 acres for a public use described in 70-30-102 by the federal government, the state, a county, or a municipality, and since that reduction in acres, the parcels have not been further divided.

(3) Parcels that do not meet the qualifications set out in subsections (1) and (2) may not be classified or valued as agricultural if they are part of a platted subdivision that is filed with the county clerk and recorder in compliance with the Montana Subdivision and Platting Act.

(4) Land may not be classified or valued as agricultural land or nonqualified agricultural land if it has stated covenants or other restrictions that effectively prohibit its use for agricultural purposes.

(5) The grazing on land by a horse or other animals kept as a hobby and not as a part of a bona fide agricultural enterprise is not considered a bona fide agricultural operation.

(6) The department may not classify land less than 160 acres as agricultural unless the owner has applied to have land classified as agricultural land. Land of 20 acres or more but less than 160 acres for which no application for agricultural classification has been made is valued as provided in 15-6-133(1)(c) and is taxed as provided in 15-6-133(3). If land has been valued, assessed, and taxed as agricultural land in any year, it must continue to be valued, assessed, and taxed as agricultural until the department reclassifies the property. A reclassification does not mean revaluation pursuant to 15-7-111.

(7) For the purposes of this part, growing timber is not an agricultural use."

Section 2. Coordination instruction. If House Bill No. 488 and [this act] are both passed and approved, then [section 2] of House Bill No. 488 relating to the appropriation for the study of the revaluation of certain property, including agricultural land, must read as follows:

"NEW SECTION. **Section 2. Appropriation.** There is appropriated $50,000 from the general fund to the legislative services division for the 2009 biennium for the operating expenses and personnel expenses related to the study required by [section 1] of House Bill No. 488."

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

Section 4. Applicability — retroactive applicability. (1) [This act] applies to parcels reduced to less than 20 acres because of a public use proceeding by the federal government, the state, a county, or a municipality regardless of when the proceeding occurred if those parcels have not been further divided since the proceeding.

(2) [This act] applies retroactively, within the meaning of 1-2-109, to property tax years beginning after December 31, 2006. Taxpayers are not

allowed refunds of taxes resulting from a reclassification of parcels under [this act].

Approved May 16, 2007

CHAPTER NO. 511

[SB 348]

AN ACT ELIMINATING THE REQUIREMENT FOR THE APPOINTMENT OF AN ATTORNEY FOR A GUARDIAN AD LITEM IN A CHILD ABUSE AND NEGLECT CASE; ALLOWING AN APPOINTMENT FOR A GUARDIAN AD LITEM OR COURT-APPOINTED SPECIAL ADVOCATE WHEN APPROPRIATE; AMENDING SECTION 41-3-425, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

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

Section 1. Section 41-3-425, MCA, is amended to read:

"41-3-425. Right to counsel. (1) Any party involved in a petition filed pursuant to 41-3-422 has the right to counsel in all proceedings held pursuant to the petition.

(2) Except as provided in subsection (3), the court shall immediately appoint or have counsel assigned for:

(a) any indigent parent, guardian, or other person having legal custody of a child or youth in a removal, placement, or termination proceeding pursuant to 41-3-422;

(b) any child~~,~~ *or* youth~~, or guardian ad litem~~ involved in a proceeding under a petition filed pursuant to 41-3-422; and

(c) any party entitled to counsel at public expense under the federal Indian Child Welfare Act.

(3) When appropriate, the court may appoint or have counsel assigned for a guardian ad litem or a court-appointed special advocate involved in a proceeding under a petition filed pursuant to 41-3-422.

~~(3)~~*(4)* ~~Beginning July 1, 2006, the~~ *The* court's action pursuant to subsection (2) *or (3)* must be to order the office of state public defender, provided for in 47-1-201, to immediately assign counsel pursuant to the Montana Public Defender Act, Title 47, chapter 1, pending a determination of eligibility pursuant to 47-1-111."

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

Approved May 16, 2007

CHAPTER NO. 512

[SB 363]

AN ACT PROVIDING THAT PRIVATE PROPERTY MAY BE CONDEMNED THROUGH THE USE OF EMINENT DOMAIN FOR URBAN RENEWAL PROJECTS ONLY IF THE PROPERTY IS DETERMINED TO BE BLIGHTED AND MAY NOT BE ACQUIRED BY EMINENT DOMAIN IF THE PURPOSE OF THE PROJECT IS TO INCREASE TAX REVENUE; PROVIDING THAT

THE CONDEMNED PROPERTY MUST BE APPLIED TO A DEMONSTRATED PUBLIC USE; PROVIDING PROCEDURES IF THE PROPERTY IS SOLD; AND AMENDING SECTIONS 7-15-4259, 70-30-102, 70-30-111, AND 70-30-322, MCA.

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

Section 1. Section 7-15-4259, MCA, is amended to read:

"7-15-4259. Exercise of power of eminent domain. (1) After the adoption by the local governing body of a resolution declaring that the acquisition of the real property described in the resolution is necessary for an urban renewal project under this part, a municipality may acquire by condemnation, as provided in Title 70, chapter 30, any interest in real property that it considers necessary for urban renewal.

(2) Condemnation for urban renewal of blighted areas*, as defined in 7-15-4206(2)(a), (2)(h), (2)(k), or (2)(n),* is a public use, and property already devoted to any other public use or acquired by the owner or the owner's predecessor in interest by eminent domain may be condemned for the purposes of this part.

(3) The award of compensation for real property taken for an urban renewal project may not be increased by reason of any increase in the value of the real property caused by the assembly, clearance, or reconstruction or proposed assembly, clearance, or reconstruction in the project area. An allowance may not be made for the improvements begun on real property after notice to the owner of the property of the institution of proceedings to condemn the property. Evidence is admissible bearing upon the unsanitary, unsafe, or substandard condition of the premises or the unlawful use of the premises."

Section 2. Section 70-30-102, MCA, is amended to read:

"70-30-102. Public uses enumerated. Subject to the provisions of this chapter, the right of eminent domain may be exercised for the following public uses:

(1) all public uses authorized by the government of the United States;

(2) public buildings and grounds for the use of the state and all other public uses authorized by the legislature of the state;

(3) public buildings and grounds for the use of any county, city, town, or school district;

(4) canals, aqueducts, flumes, ditches, or pipes conducting water, heat, or gas for the use of the inhabitants of any county, city, or town;

(5) projects to raise the banks of streams, remove obstructions from streambanks, and widen, deepen, or straighten stream channels;

(6) water and water supply systems as provided in Title 7, chapter 13, part 44;

(7) roads, streets, alleys, controlled-access facilities, and ~~all~~ other ~~public uses~~ *publicly owned buildings and facilities* for the benefit of a county, city, or town or the inhabitants of a county, city, or town;

(8) acquisition of road-building material as provided in 7-14-2123;

(9) stock lanes as provided in 7-14-2621;

(10) parking areas as provided in 7-14-4501 and 7-14-4622;

(11) airport purposes as provided in 7-14-4801, 67-2-301, 67-7-210, and Title 67, chapters 10 and 11;

(12) urban renewal projects as provided in Title 7, chapter 15, parts 42 and 43*, except that private property may be acquired for urban renewal through eminent domain only if the property is determined to be a blighted area, as defined in 7-15-4206(2)(a), (2)(h), (2)(k), or (2)(n), and may not be acquired for urban renewal through eminent domain if the purpose of the project is to increase government tax revenue*;

(13) housing authority purposes as provided in Title 7, chapter 15, part 44;

(14) county recreational and cultural purposes as provided in 7-16-2105;

(15) city or town athletic fields and civic stadiums as provided in 7-16-4106;

(16) county cemetery purposes as provided in 7-35-2201, cemetery association purposes as provided in 35-20-104, and state veterans' cemetery purposes as provided in 10-2-604;

(17) preservation of historical or archaeological sites as provided in 23-1-102 and 87-1-209(2);

(18) public assistance purposes as provided in 53-2-201;

(19) highway purposes as provided in 60-4-103 and 60-4-104;

(20) common carrier pipelines as provided in 69-13-104;

(21) water supply, water transportation, and water treatment systems as provided in 75-6-313;

(22) mitigation of the release or threatened release of a hazardous or deleterious substance as provided in 75-10-720;

(23) the acquisition of nonconforming outdoor advertising as provided in 75-15-123;

(24) screening for or the relocation or removal of junkyards, motor vehicle graveyards, motor vehicle wrecking facilities, garbage dumps, and sanitary landfills as provided in 75-15-223;

(25) water conservation and flood control projects as provided in 76-5-1108;

(26) acquisition of natural areas as provided in 76-12-108;

(27) acquisition of water rights for the natural flow of water as provided in 85-1-204;

(28) property and water rights necessary for waterworks as provided in 85-1-209 and 85-7-1904;

(29) conservancy district purposes as provided in 85-9-410;

(30) wharves, docks, piers, chutes, booms, ferries, bridges, private roads, plank and turnpike roads, and railroads;

(31) canals, ditches, flumes, aqueducts, and pipes for:

(a) supplying mines, mills, and smelters for the reduction of ores;

(b) supplying farming neighborhoods with water and drainage;

(c) reclaiming lands; and

(d) floating logs and lumber on streams that are not navigable;

(32) sites for reservoirs necessary for collecting and storing water. However, reservoir sites must possess a public use demonstrable to the district court as the highest and best use of the land.

(33) roads, tunnels, and dumping places for working mines, mills, or smelters for the reduction of ores;

(34) outlets, natural or otherwise, for the flow, deposit, or conduct of tailings or refuse matter from mines, mills, and smelters for the reduction of ores;

(35) an occupancy in common by the owners or the possessors of different mines of any place for the flow, deposit, or conduct of tailings or refuse matter from their several mines, mills, or smelters for reduction of ores and sites for reservoirs necessary for collecting and storing water for the mines, mills, or smelters. However, the reservoir sites must possess a public use demonstrable to the district court as the highest and best use of the land.

(36) private roads leading from highways to residences or farms;

(37) telephone or electrical energy lines;

(38) telegraph lines;

(39) sewerage of any:

(a) county, city, or town or any subdivision of a county, city, or town, whether incorporated or unincorporated;

(b) settlement consisting of not less than 10 families; or

(c) public buildings belonging to the state or to any college or university;

(40) tramway lines;

(41) logging railways;

(42) temporary logging roads and banking grounds for the transportation of logs and timber products to public streams, lakes, mills, railroads, or highways for a time that the court or judge may determine. However, the grounds of state institutions may not be used for this purpose.

(43) underground reservoirs suitable for storage of natural gas;

(44) projects to mine and extract ores, metals, or minerals owned by the condemnor located beneath or upon the surface of property where the title to the surface vests in others. However, the use of the surface of property for strip mining or open-pit mining of coal (i.e., any mining method or process in which the strata or overburden is removed or displaced in order to extract the coal) is not a public use, and eminent domain may not be exercised for this purpose.

(45) projects to restore and reclaim lands that were strip mined or underground mined for coal and not reclaimed in accordance with Title 82, chapter 4, part 2, and to abate or control adverse affects of strip or underground mining on those lands."

Section 3. Section 70-30-111, MCA, is amended to read:

"70-30-111. Facts necessary to be found before condemnation. 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) the use to which the property is to be applied is a *public* use ~~authorized by law~~ *pursuant to 70-30-102*;

(2) the taking is necessary to the *public* use;

(3) 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) an effort to obtain the property interest sought to be taken was made by submission of a written offer and the offer was rejected."

Section 4. Section 70-30-322, MCA, is amended to read:

"70-30-322. Option of original owner or successor in interest to purchase at sale price. (1) Except as provided in subsection (3), the owner from whom the real property interest was originally acquired by eminent domain or otherwise or the owner's successor in interest, if there is a successor in interest, must be notified by the seller by certified mail and has a 30-day option from the date of a sale provided for in 70-30-321 to purchase the interest by offering an amount of money equal to the highest bid received for the interest at the sale. ~~If more than one person claims an equal entitlement, the option may not be exercised.~~

(2) If bids are not received by the seller and the optionholder indicates in writing to the seller that the optionholder wishes to exercise the option, the seller ~~shall~~ *must* have the real property interest appraised and *shall* sell the interest at that price to the optionholder.

(3) When an interest, other than a fee simple interest, in property that has been acquired for a public purpose by right of eminent domain, or otherwise, is abandoned or when the purpose for which it was acquired is terminated, the property reverts to the original owner or the original owner's successor in interest."

Approved May 16, 2007

CHAPTER NO. 513

[SB 365]

AN ACT REVISING LAWS RELATED TO WATER COMMISSIONERS; PROVIDING THAT AT THE DISTRICT COURT'S DISCRETION A BILL MAY BE ISSUED PRIOR TO THE BEGINNING OF A DISTRIBUTION SEASON FOR THE PURPOSE OF OFFSETTING COSTS ASSOCIATED WITH DISTRIBUTING WATER; PROVIDING THAT A BILLING BEFORE A DISTRIBUTION SEASON MAY NOT EXCEED 80 PERCENT OF THE AMOUNT THAT WAS PAID BY A WATER USER DURING THE PRIOR DISTRIBUTION SEASON; AMENDING SECTIONS 85-5-107, 85-5-201, 85-5-204, AND 85-5-206, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

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

Section 1. Section 85-5-107, MCA, is amended to read:

"85-5-107. Record of ~~daily~~ distribution of water. *(1)* Each water commissioner ~~must~~ *shall* keep a ~~daily~~ *daily* record*, unless a different recording schedule is ordered by the district judge,* of the amount of water distributed to each water user and ~~must~~ *shall* file a summary of ~~such~~ *the* record with the clerk of the court monthly or seasonally, at the discretion of the district judge during ~~his~~ *the judge's* term of service.~~, showing~~ *The report must show* in detail the total amount of water distributed ~~each day~~ to each water user during ~~such~~ *the* month or *the* season and the ~~amount of~~ cost ~~therefor~~ *of distributing the water*, based

upon the water commissioner's or commissioners' *daily* salary, ~~per day and~~ other costs of the water commissioner *or commissioners* approved by the district judge, and the proportionate amount of water distributed. When two or more water commissioners serve under the same decree or decrees by order of the judge, they may file a joint summary of their ~~record~~ *records* with the clerk of the court, or the chief commissioner, if one has been appointed by the judge, may file a summary ~~in~~ *on* behalf of all of them.

(2) If the district court judge determines that it is necessary to establish a billing cycle prior to a distribution season, as provided in 85-5-204, the report or reports must serve as the basis for the amounts billed."

Section 2. Section 85-5-201, MCA, is amended to read:

"85-5-201. Distribution of water and related expenses. *(1)* ~~Every~~ *Each* water commissioner appointed by the judge of the district court for ~~that~~ *the* purpose *of distributing water has* ~~shall have~~ the authority to ~~admeasure~~ *determine the appropriate quantity* and distribute to the parties interested, under ~~such~~ *a* decree, permit, or certificate, the water to which those who are parties to the decree or holders of a permit or certificate~~, or privy thereto,~~ are entitled~~,~~ according to their priority as established by the decree, permit, or certificate.

(2) The water commissioner~~, in case the parties fail or refuse to do so,~~ may incur necessary expenses in the making of headgates or dams for the distribution of the waters *if the parties fail or refuse to do so.* ~~Such expense shall~~ *Expenses associated with making headgates or dams for the distribution of water must* be assessed against and paid by the party or parties for whom ~~such~~ *the* services in the repair of the ditch or ditches and the making of any dams or headgates were necessary. In the discretion of the court, ~~such~~ *the* costs or expenses may be assessed against the land upon which or for the benefit of which ~~such~~ *the* expense had been incurred.

(3) (a) At the district court's discretion, a water commissioner may bill water users prior to the beginning of a distribution season for the purpose of offsetting costs associated with distributing water and water commissioner duties by submitting the information necessary for the billing to the clerk of district court. A billing issued prior to the beginning of a distribution season:

(i) must be assessed on a per-user basis;

(ii) must be based on the report provided for in 85-5-107 for the prior year; and

(iii) may not exceed 80% of the amount that was provided to the district court pursuant to 85-5-107 for the prior distribution season on a per-user basis.

(b) Upon receipt of the information from the water commissioner, the clerk of district court shall proceed as provided in 85-5-204."

Section 3. Section 85-5-204, MCA, is amended to read:

"85-5-204. Apportionment of fees and expenses. (1) Upon the filing of the report by the water commissioner or water commissioners, the clerk of court shall ~~forthwith~~ notify by letter each person mentioned in ~~such~~ *the* report:

(a) of the amount ~~he~~ *the water user* is made liable for by ~~such~~ *the* report;

(b) that objections to ~~such~~ *the* report and the amount ~~so~~ taxed against ~~him~~ *the water user* may be made by any person interested ~~therein~~ *in the report or the amount assessed against the water user* within 20 days after the date of the mailing of ~~said~~ *the* notice; and

(c) *that,* unless objections ~~thereto~~ are filed, an order will be made by the judge of ~~said~~ *the district* court finally fixing and determining the amount due from each of ~~said~~ *the* water users.

(2) The affidavit of the clerk that ~~he~~ *the clerk* has mailed a notice to each person mentioned in the report at ~~such~~ *the* person's ~~last known~~ *last-known* post-office address, in the usual manner, ~~shall~~ *must* be ~~deemed~~ *considered* prima facie evidence that the person received ~~that~~ *the* notice provided for in this section.

(3) At the discretion of the district judge, the water commissioner may issue a bill prior to the beginning of a distribution season for the purpose of offsetting costs associated with distributing water and water commissioner duties by submitting the information necessary for the billing to the clerk of district court. The bill for each water user may not exceed 80% of the amount that was provided to the district court pursuant to 85-5-107 for the prior distribution season.

(4) If the cost of distributing water during a distribution season is less than the amount that was collected through a bill issued prior to a distribution season, the water commissioner shall refund the money to the water user based on the amount of water that the water user received during the distribution season. The water commissioner shall submit a refund report, along with proof that any refunds were issued, to the clerk of district court for filing."

Section 4. Section 85-5-206, MCA, is amended to read:

"85-5-206. Effect of order fixing fees. After the order of the court fixing the fees and compensation and expenses of the water commissioner is final, ~~it shall have all~~ *the order has* the force and effect of a judgment ~~as~~ against the person to whom the water was *or will be* ~~admeasured~~ *distributed* and for whose benefit it was used *or will be used*. When ~~such expense~~ *the expenses* of *a* commissioner or commissioners has been assessed against the land for which ~~such~~ *the* service of the commissioner or commissioners has been rendered, ~~it shall constitute~~ *the assessment is* a lien against ~~said~~ *the* land. ~~Execution may issue upon the order, as upon a judgment, by direction of the court or judge upon the application of any person interested therein.~~ *The lien has the same effect as a judgment. The lien may be executed in the same manner as a judgment upon order of the court.* The water commissioner, at ~~his~~ *the water commissioner's* discretion, may withhold further ~~admeasurement~~ *determinations of quantity* or distribution of water to any person ~~otherwise~~ entitled ~~thereto~~ *to the water* until ~~such~~ *the* person ~~shall have~~ *has* paid all fees, compensation, and expenses of ~~such~~ *the* water commissioner or commissioners ~~so~~ fixed by the court and apportioned and charged to ~~such~~ *the* person*, including bills sent prior to the beginning of a distribution season.* ~~and likewise~~ *The commissioner* may withhold the ~~admeasurement~~ *determination of quantity* and distribution of water from any land against which there exists any ~~such~~ lien ~~as aforesaid,~~ *that is the result of lack of payment pursuant to this section* until ~~such~~ *the* lien ~~shall have~~ *has* been fully discharged."

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

Approved May 16, 2007

CHAPTER NO. 514

[SB 382]

AN ACT AUTHORIZING THE CREATION OF MENTAL HEALTH TREATMENT COURTS FOR OFFENDERS WITH A MENTAL DISORDER; PROVIDING FOR IMPLEMENTATION OF ACCOUNTABILITY AND TREATMENT PROGRAMS; CREATING PROCEDURAL GUIDELINES FOR DISTRICT COURT JUDGES; AMENDING SECTION 3-10-303, MCA; AND PROVIDING AN EFFECTIVE DATE.

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

Section 1. Short title. [Sections 1 through 8] may be cited as the "Mental Health Treatment Court Act".

Section 2. Purpose. The purpose of [sections 1 through 8] is to recognize that state courts have a jurisdictional basis to implement mental health treatment courts to reduce recidivism and restore persons with a mental disorder who are charged with a criminal offense to being productive, law-abiding, and taxpaying citizens.

Section 3. Definitions. As used in [sections 1 through 8], the following definitions apply:

(1) "Assessment" means a diagnostic evaluation to determine whether and to what extent a person is an offender with a mental disorder under [sections 1 through 8] and would benefit from the provisions of [sections 1 through 8].

(2) "Continuum of care" means a seamless and coordinated course of mental health counseling and treatment designed to meet the needs of participants as they move through the criminal justice system and beyond, maximizing self-sufficiency.

(3) "Drug" has the meaning provided in 46-1-1103.

(4) "Memorandum of understanding" means a written document setting forth an agreed-upon procedure.

(5) "Mental health treatment court" means a court established by a court pursuant to [sections 1 through 8] implementing a program of incentives and sanctions intended to assist a participant, whose conduct has resulted in a criminal violation, in receiving the needed treatment and life skills to prevent further criminal behavior associated with a mental disorder.

(6) "Mental health treatment court coordinator" means an individual who, under the direction of the mental health treatment court judge, is responsible for coordinating the establishment, staffing, operation, evaluation, and integrity of the mental health treatment court.

(7) "Mental health treatment court team" means a group of individuals appointed by the mental health treatment court that:

(a) must include the following members:

(i) the judge, which may include a magistrate or other hearing officer;

(ii) the prosecutor;

(iii) the public defender or defense attorney;

(iv) the participant; and

(v) the mental health treatment court coordinator; and

(b) may include the following additional members:

(i) a law enforcement officer;

(ii) a probation and parole officer;

(iii) a mental health professional;

(iv) a substance abuse treatment provider;

(v) a representative from the department of public health and human services;

(vi) a mental health advocate; and

(vii) any other person selected by the mental health treatment court.

(8) "Mental health treatment program" means a program designed by the mental health treatment court team to provide prevention, education, and therapy directed toward ending criminal behavior and preventing a return to a condition leading to criminal behavior. Mental health treatment programs may consist of but are not limited to housing assistance, job training, mental health counseling, and psychiatric treatment.

(9) "Participant" means a person charged with a criminal offense or an offense in which a mental disorder, as defined in 53-21-102, is determined to have been a significant factor in the commission of the offense.

(10) "Staff meeting" means the meeting before a participant's appearance in mental health treatment court in which the mental health treatment court team discusses a coordinated response to the participant's behavior.

(11) "Substance abuse" means the illegal or improper consumption of a drug, but does not include inadvertent error in the use of medication.

(12) "Substance abuse treatment" means a program designed to provide prevention, education, and therapy directed toward ending substance abuse and preventing a return to substance use.

Section 4. Mental health treatment court structure. (1) Each judicial district or court of limited jurisdiction may establish a mental health treatment court under which persons with a mental disorder who are charged with a criminal offense may be processed to address an identified mental health problem as a condition of pretrial release, pretrial diversion under 46-16-130, probation, incarceration, parole, or other release from a detention or correctional facility.

(2) Participation in mental health treatment court is voluntary and is subject to the consent of the prosecutor, the defense attorney, and the court pursuant to a written agreement.

(3) A mental health treatment court may grant reasonable incentives under a written agreement. Reasonable incentives may include but are not limited to:

(a) graduation certificates;

(b) early graduation;

(c) fee reduction or waiver of fees;

(d) record expungement of the underlying case; or

(e) reduced contact with a probation officer.

(4) The court may impose reasonable sanctions under the agreement for failure to comply with the agreement. Prior to imposition of a sanction, the mental health treatment court team shall review the participant's individual

treatment program and the participant's conduct. If the mental health treatment court team determines that the participant's failure to comply:

(a) was not willful, was a symptom of a mental disorder, or was a result of an inappropriate treatment plan, the court may impose sanctions, including:

(i) fines;

(ii) extension of time in the program;

(iii) peer review; or

(iv) geographical restrictions; or

(b) was willful, not a symptom of a mental disorder, and not the result of an inappropriate treatment plan, the court may impose sanctions, including:

(i) a short-term jail sentence;

(ii) termination of participation in the program; or

(iii) contempt of court.

(5) Upon successful completion of mental health treatment court, a participant's case must be disposed of by the judge in the manner prescribed by the agreement and by the applicable policies and procedures adopted by the mental health treatment court. This may include but is not limited to pretrial diversion under 46-16-130, dismissal of criminal charges, probation, deferred sentencing, suspended sentencing, or a reduced period of incarceration. A participant who successfully completes the program must be given credit for the time the participant served in the mental health treatment program by the judge upon disposition.

(6) Each local jurisdiction that intends to establish a mental health treatment court or to continue the operation of an existing mental health treatment court shall establish a local mental health treatment court team.

(7) The mental health treatment court team shall, when practicable, conduct a staff meeting prior to each mental health treatment court session to discuss and provide updated information regarding participants. After determining the participant's progress or lack of progress, the mental health treatment court team shall agree on the appropriate incentive or sanction to be applied. If the mental health treatment court team cannot agree on the appropriate action, the court shall make the decision based on information presented in the staff meeting. The provisions of [sections 1 through 8] apply only to persons with a mental disorder who are charged with a criminal offense who qualify for participation based on qualifications established by each mental health treatment court. The provisions of [sections 1 through 8] do not apply to participants who have been convicted of a sexual or violent offense, as defined in 46-23-502. [Sections 1 through 8] do not confer a right or expectation of a right to participate in a mental health treatment court and does not obligate a mental health treatment court to accept any offender. The establishment of a mental health treatment court may not be construed as limiting the discretion of a prosecutor to act on any criminal case that the prosecutor considers advisable to prosecute. Each mental health treatment court judge may establish rules and may make special orders and necessary rules that do not conflict with rules adopted by the Montana supreme court.

(8) Each participant shall contribute to the cost of treatment and the program in accordance with [section 6(2)]. A mental health treatment court coordinator is responsible for the general administration of a mental health

treatment court under the direction of the mental health treatment court judge. The supervising agency shall timely forward information to the mental health treatment court concerning the participant's progress and compliance with any court-imposed terms and conditions.

(9) A department of corrections probation and parole officer may participate in a mental health treatment court team if authorized by the department. The department may authorize participation if it determines, in its discretion, that the caseloads of local probation and parole officers permit participation. If necessitated by a change in caseloads, the department may withdraw authorization for participation by its probation and parole officers in a mental health treatment court. The department of corrections may not authorize its probation and parole officers to supervise a participant of a mental health treatment program who has not been convicted of a felony offense and committed to the supervision of the department.

Section 5. Treatment and support services. (1) As part of a diagnostic assessment, each jurisdiction shall establish a system to ensure that participants are placed into a clinically approved mental health treatment program. To accomplish this, the program conducting the individual assessment shall make specific recommendations to the mental health treatment court team regarding the type of treatment program and duration necessary so that a participant's individualized needs are addressed. The assessments and recommendations must be based upon evidence-based treatment principles. Treatment recommendations accepted by the mental health treatment court pursuant to [sections 1 through 8] must be considered to be reasonable and necessary.

(2) An adequate continuum of care for participants must be established in response to [sections 1 through 8].

(3) The mental health treatment court shall, when practicable, ensure that one agency may not provide both assessment and treatment services for the mental health treatment court to avoid potential conflicts of interest or the appearance that a diagnostic assessment agency might benefit by determining that a participant is in need of the particular form of treatment that the agency provides.

(4) A mental health treatment court making a referral for mental health services or substance abuse treatment shall refer the participant to a program that is licensed, certified, or approved by the court.

(5) The court shall determine which treatment programs are authorized to provide the recommended treatment to participants. The relationship between the treatment program and the court must be governed by a memorandum of understanding, which must include the timely reporting of the participant's progress or lack of progress to the mental health treatment court.

Section 6. Funding. (1) There is a mental health treatment court federal resources account in the federal special revenue fund that is administered by the office of court administrator. Any federal money received for funding mental health treatment courts must be deposited in the mental health treatment court federal resources account and may be used only for purposes of [sections 1 through 8]. The money in the fund may not be transferred at the end of each year but must remain deposited to the credit of the mental health treatment court federal resources account.

(2) A participant shall pay the total cost or a reasonable portion of the cost to participate. The cost paid by a participant may not exceed $300 a month. The costs assessed must be compensatory and not punitive in nature and must take into account the participant's ability to pay. Upon a showing of indigency, the mental health treatment court may reduce or waive costs under this subsection. Any fees received by the court from a participant are not court costs, charges, or fines.

(3) All federal funds received from grants for purposes of funding mental health treatment courts must be exhausted before money is spent from other appropriations for that purpose.

(4) [Sections 1 through 8] do not prohibit mental health treatment court teams from obtaining supplemental funds.

Section 7. Statutory construction — combination with drug treatment court. (1) The provisions of [sections 1 through 8] must be construed to effectuate its remedial purposes.

(2) A mental health treatment court may be combined with a drug treatment court authorized in Title 46, chapter 1, part 11, and a mental health treatment court may serve an individual with co-occurring disorders.

Section 8. Enforcement by removal to criminal court. Failure of the participant to comply with the terms of the mental health treatment program will be referred upon the order of the mental health treatment court judge to the appropriate criminal court.

Section 9. Section 3-10-303, MCA, is amended to read:

"3-10-303. Criminal jurisdiction. (1) The justices' courts have jurisdiction of public offenses committed within the respective counties in which the courts are established as follows:

(a) except as provided in subsection (2), jurisdiction of all misdemeanors punishable by a fine not exceeding $500 or imprisonment not exceeding 6 months, or both;

(b) jurisdiction of all misdemeanor violations of fish and game statutes punishable by a fine of not more than $1,000 or imprisonment for not more than 6 months, or both;

(c) concurrent jurisdiction with district courts of all misdemeanors punishable by a fine exceeding $500 or imprisonment exceeding 6 months, or both;

(d) concurrent jurisdiction with district courts of all misdemeanor violations of fish and game statutes punishable by a fine exceeding $1,000 or imprisonment exceeding 6 months, or both;

(e) jurisdiction to act as examining and committing courts and for that purpose to conduct preliminary hearings;

(f) jurisdiction of all violations of Title 61, chapter 10; and

(g) all misdemeanor violations of Title 81, chapter 8, part 2.

(2) In any county that has established a drug *treatment* court *or a mental health treatment court*, the district court, with the consent of all judges of the courts of limited jurisdiction in the county, has concurrent jurisdiction of all misdemeanors punishable by a fine not exceeding $500 or imprisonment not exceeding 6 months, or both."

Section 10. Codification instruction. [Sections 1 through 8] are intended to be codified as an integral part of Title 46, chapter 1, and the provisions of Title 46, chapter 1, apply to [sections 1 through 8].

Section 11. Effective date. [This act] is effective July 1, 2007.

Approved May 16, 2007

CHAPTER NO. 515

[SB 433]

AN ACT ALLOWING A JUDGE TO TERMINATE A DEFERRED OR SUSPENDED SENTENCE UNDER CERTAIN CONDITIONS; AMENDING SECTION 46-18-204, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

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

Section 1. Termination of remaining portion of deferred or suspended sentence — petition. (1) When imposition of a sentence has been deferred or execution of a sentence has been suspended, the prosecutor or defendant may file a petition to terminate the time remaining on the sentence if:

(a) in the case of a deferred imposition of sentence, the defendant has served one-half of the sentence and has demonstrated compliance with supervision requirements; or

(b) in the case of a suspended sentence:

(i) the defendant has served two-thirds of the time suspended; and

(ii) the defendant has been granted a conditional discharge from supervision under 46-23-1011 and has demonstrated compliance with the conditional discharge for a minimum of 12 months.

(2) The court may hold a hearing on the petition on its own motion or upon request of the prosecutor or the defendant.

(3) The court may grant the petition if it finds that:

(a) termination of the remainder of the sentence is in the best interests of the defendant and society;

(b) termination of the remainder of the sentence will not present an unreasonable risk of danger to the victim of the offense; and

(c) the defendant has paid all restitution and court-ordered financial obligations in full.

Section 2. Section 46-18-204, MCA, is amended to read:

"46-18-204. Dismissal after deferred imposition. Whenever the court has deferred the imposition of sentence and after termination of the time period during which imposition of sentence has been deferred *or upon termination of the time remaining on a deferred sentence under [section 1]*, upon motion of the court, the defendant, or the defendant's attorney, the court may allow the defendant to withdraw a plea of guilty or nolo contendere or may strike the verdict of guilty from the record and order that the charge or charges against the defendant be dismissed. A copy of the order of dismissal must be sent to the prosecutor and the department of justice, accompanied by a form prepared by the department of justice and containing identifying information about the

defendant. After the charge is dismissed, all records and data relating to the charge are confidential criminal justice information, as defined in 44-5-103, and public access to the information may ~~only~~ be obtained only by district court order upon good cause shown."

Section 3. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 46, chapter 18, part 2, and the provisions of Title 46, chapter 18, part 2, apply to [section 1].

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

Approved May 16, 2007

CHAPTER NO. 516

[SB 524]

AN ACT REVISING LAWS RELATING TO THE SALE AND DISTRIBUTION OF BEER BY BREWERIES AND WINE BY WINERIES; ALLOWING ALL LICENSED BREWERIES TO MAKE LIMITED SALES TO LICENSED BEER RETAILERS; AND AMENDING SECTIONS 16-3-211, 16-3-214, 16-3-301, 16-4-906, 16-6-104, AND 16-6-314, MCA.

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

Section 1. Section 16-3-211, MCA, is amended to read:

"16-3-211. Monthly report of brewer, ~~or~~ beer importer, *or retailer* — inspection of books and premises. *(1)* Every brewer and every beer importer licensed to do business in this state shall, on or before the 15th day of each month, ~~in the manner and form~~ as ~~shall be~~ prescribed by the department, make an exact return to the department of the amount of beer manufactured or imported by ~~him~~ *the brewer or importer,* ~~and~~ the amount sold by ~~him~~ *the brewer or importer* in the previous month, and ~~of his~~ *the* inventory *of the brewer or importer*. The department ~~shall have the right at any time to~~ *may* make an examination of any brewer's or beer importer's books and of ~~his~~ *the brewer's or importer's* premises and otherwise check the accuracy of any ~~such~~ return or ~~to~~ check the alcoholic content of beer manufactured or imported by ~~him~~ *the brewer or importer*.

(2) Every retailer licensed to do business in this state shall, on or before the 15th day of each month, as prescribed by the department, make an exact return to the department of the amount of beer purchased in the previous month directly from any brewery not located in the state of Montana."

Section 2. Section 16-3-214, MCA, is amended to read:

"16-3-214. Beer sales by brewers — sample room exception. (1) Subject to the limitations and restrictions contained in this code, a brewer who manufactures less than 60,000 barrels of beer a year, upon payment of the annual license fee imposed by 16-4-501 and upon presenting satisfactory evidence to the department as required by 16-4-101, must be licensed by the department, in accordance with the provisions of this code and rules prescribed by the department, to:

(a) sell and deliver beer from its storage depot or brewery ~~located in Montana~~ to:

(i) a wholesaler; ~~or~~

(ii) ~~any retail licensees who are entitled to purchase beer from a brewer under this code~~ *licensed retailers if the brewer uses the brewer's own equipment, trucks, and employees to deliver the beer and if:*

(A) individual deliveries, other than draught beer, are limited to the case equivalent of 8 barrels a day to each licensed retailer; and

(B) the total amount of beer sold or delivered directly to all retailers does not exceed 10,000 barrels a year; or

(iii) the public; ~~or~~

(b) provide its own products for consumption on its licensed premises without charge or, if it is a small brewery, provide its own products at a sample room as provided in 16-3-213; or

(c) do any one or more of the acts of sale and delivery of beer as provided in this code.

(2) A brewery may not use a common carrier for delivery of the brewery's product to the public *or to licensed retailers*.

(3) An additional license fee may not be imposed on a brewery providing its own products on its licensed premises for consumption on the premises.

(4) This section does not prohibit a *licensed* brewer ~~located outside of Montana~~ from shipping and selling beer directly to a wholesaler in this state under the provisions of 16-3-230."

Section 3. Section 16-3-301, MCA, is amended to read:

"16-3-301. Unlawful purchases, transfers, sales, or deliveries — presumption of legal age. (1) It is unlawful for a licensed retailer to purchase or acquire beer *or wine* from anyone except a brewer*, winery,* or wholesaler licensed under the provisions of this code.

(2) It is unlawful for a licensed retailer to transport beer *or wine* from one licensed premises or other facility to any other licensed premises owned by the licensee.

(3) It is unlawful for a licensed wholesaler to purchase beer or wine from anyone except a brewery, winery, or wholesaler licensed or registered under this code.

~~(3)~~*(4)* It is unlawful for any licensee, a licensee's employee, or any other person to sell, deliver, or give away or cause or permit to be sold, delivered, or given away any alcoholic beverage to:

(a) any person under 21 years of age; or

(b) any person actually, apparently, or obviously intoxicated.

~~(4)~~*(5)* Any person under 21 years of age or any other person who knowingly misrepresents the person's qualifications for the purpose of obtaining an alcoholic beverage from the licensee is equally guilty with the licensee and, upon conviction, is subject to the penalty provided in 45-5-624. However, nothing in this section may be construed as authorizing or permitting the sale of an alcoholic beverage to any person in violation of any federal law.

~~(5)~~*(6)* ~~It is mandatory under the provisions of this code that all~~ *All* licensees *must* display in a prominent place in their premises a placard, issued by the department, stating fully the consequences for violations of the provisions of this code by persons under 21 years of age.

~~(6)~~*(7)* For purposes of 45-5-623 and this title, the establishment of the following facts by a person making a sale of alcoholic beverages to a person under the legal age constitutes prima facie evidence of innocence and a defense to a prosecution for sale of alcoholic beverages to a person under the legal age:

(a) the purchaser falsely represented and supported with documentary evidence that an ordinary and prudent person would accept that the purchaser was of legal age to purchase alcoholic beverages;

(b) the appearance of the purchaser was such that an ordinary and prudent person would believe the purchaser to be of legal age to purchase alcoholic beverages; and

(c) the sale was made in good faith and in reasonable reliance upon the representation and appearance of the purchaser that the purchaser was of legal age to purchase alcoholic beverages. (See compiler's comments for contingent termination of certain text.)"

Section 4. Section 16-4-906, MCA, is amended to read:

"16-4-906. Out-of-state brewery or winery registration — limitation on shipping — penalty. (1) Each out-of-state brewery or winery desiring to ship beer or wine to a person holding a connoisseur's license shall register with the department on forms provided by the department.

(2) The annual limit on out-of-state shipments to all connoisseur's license holders is:

(a) 1,440 bottles or 60 cases of beer for breweries; and

(b) 720 bottles or 60 cases of wine for wineries.

(3) For any shipment into the state that exceeds the limits provided for in subsection (2), the out-of-state brewery or winery ~~shall~~ *may:*

(a) distribute the brewery's or winery's product through a licensed wholesale distributor*;*

(b) distribute through direct shipment to licensed retailers in accordance with the provisions of 16-3-411 if the winery is licensed pursuant to 16-4-107; or

(c) distribute as a brewery in accordance with the provisions of 16-3-214.

(4) An out-of-state brewery or winery that violates the provisions of this section is subject to the penalties provided for in 16-6-302."

Section 5. Section 16-6-104, MCA, is amended to read:

"16-6-104. Unlawful alcoholic beverage — seizure — forfeiture. (1) ~~Any~~ *An* investigator or peace officer who finds an alcoholic beverage ~~which he~~ *and who* has reasonable cause to believe ~~is had~~ *that the alcoholic beverage was obtained* or kept by any person in violation of the provisions of this code may ~~forthwith~~ seize and remove the ~~same~~ *alcoholic beverage* and the packages in which the alcoholic beverage is kept, and upon conviction of the person, the alcoholic beverage and all packages containing the ~~same shall~~ *alcoholic beverages are*, in addition to any other penalty prescribed by this code, ~~ipso facto be~~ forfeited to the state of Montana.

(2) Any beer *or wine* ~~which~~ *that* has been shipped into Montana ~~and has not been shipped to and distributed from a warehouse of a licensed wholesaler shall~~ *in violation of this code must* be seized by any peace officer or representative of the department and may be confiscated in the manner as provided for the confiscation of alcoholic beverages."

Section 6. Section 16-6-314, MCA, is amended to read:

"16-6-314. Penalty for violating code — revocation of license — penalty for violation by underage person. (1) A person who violates a provision of this code is guilty of a misdemeanor punishable as provided in 46-18-212, except as otherwise provided in this section.

(2) If a retail licensee is convicted of an offense under this code, the licensee's license must be immediately revoked or, in the discretion of the department, ~~such other~~ *another* sanction *must be* imposed as ~~may be authorized~~ *provided* under 16-4-406.

(3) A person under 21 years of age who violates ~~16-3-301(4)~~ *16-3-301(5)* or 16-6-305(3) is subject to the penalty provided in 45-5-624(2) or (3). (See compiler's comments for contingent termination of certain text.)"

Approved May 16, 2007

CHAPTER NO. 517

[SB 118]

AN ACT ELIMINATING THE JUNE 30, 2007, TERMINATION DATE FOR THE HOSPITAL FACILITY UTILIZATION FEE; SETTING NEW FEE PROVISIONS; UPDATING A DEFINITIONAL CITE; AMENDING SECTIONS 15-66-101, 15-66-102, AND 15-66-201, MCA, AND SECTION 20, CHAPTER 390, LAWS OF 2003, AND SECTIONS 4 AND 7, CHAPTER 606, LAWS OF 2005; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A TERMINATION DATE.

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

Section 1. Section 15-66-101, MCA, is amended to read:

"15-66-101. (Temporary) Definitions. For purposes of this chapter, the following definitions apply:

(1) (a) "Hospital" means a facility licensed as a hospital pursuant to Title 50, chapter 5, and includes a critical access hospital.

(b) The term does not include Montana state hospital.

(2) (a) "Inpatient bed day" means a day of inpatient care provided to a patient in a hospital. A day begins at midnight and ends 24 hours later. A part of a day, including the day of admission, counts as a full day. The day of discharge or death is not counted as a day. If admission and discharge or death occur on the same day, the day is considered a day of admission and is counted as one inpatient bed day. Inpatient bed days include all inpatient hospital benefit days as defined for medicare reporting purposes in section ~~216~~ *20.1 of chapter 3* of the centers for ~~medicaid and~~ medicare *and medicaid* services publication ~~10~~ *100-02*, the ~~Hospital~~ *Medicare Benefit Policy* Manual. Inpatient bed days also include all nursery days during which a newborn infant receives care in a nursery.

(b) The term does not include observation days or days of care in a swing bed, as defined in 50-5-101.

(3) "Patient" means an individual obtaining skilled medical and nursing services in a hospital. The term includes newborn infants.

(4) "Report" means the report of inpatient bed days required in 15-66-201.

(5) "Utilization fee" or "fee" means the fee required to be paid for each inpatient bed day, as provided in 15-66-102. (Void on occurrence of contingency—sec. 18, Ch. 390, L. 2003. ~~Terminates June 30, 2007—secs. 4, 7, Ch. 606, L. 2005.~~)"

Section 2. Section 15-66-102, MCA, is amended to read:

"15-66-102. (Temporary) Utilization fee for inpatient bed days. (1) Each hospital in the state shall pay to the department a utilization fee:

(a) in the amount of ~~$19.43~~ *$27.70* for each inpatient bed day between January 1, ~~2004~~ *2006*, and June 30, ~~2005~~ *2007*;

(b) in the amount of ~~$29.75~~ *$47* for each inpatient bed day between July 1, ~~2005~~ *2007*, and December 31, ~~2005~~ *2007*;

(c) in the amount of ~~$27.70~~ *$43* for each inpatient bed day between January 1, ~~2006~~ *2008*, and December 31, ~~2006~~ *2008*; *and*

(d) in the amount of $48 for each inpatient bed day beginning January 1, 2009 ~~and~~

~~(d) after January 1, 2007, in an amount determined by rule as provided in subsection (2)~~ .

~~(2) Prior to each calendar year that will be subject to the fee, the department by rule shall determine the amount of the fee, not to exceed $50, based upon:~~

~~(a) an estimate of the unpaid medicaid hospital costs, total inpatient days, and the federal medical assistance percentages;~~

~~(b) an estimate of any federal limit on federal financial participation for hospital services; and~~

~~(c) an estimate of federal disproportionate share funds not matched by state general funds.~~

~~(3)~~*(2)* ~~(a)~~ All proceeds from the collection of utilization fees, including penalties and interest, must be deposited to the credit of the department of public health and human services in a state special revenue account as provided in 53-6-149.

~~(b) A hospital may not place a fee created in this chapter on a patient's bill.~~ (Void on occurrence of contingency—sec. 18, Ch. 390, L. 2003. ~~Terminates June 30, 2007—secs. 4, 7, Ch. 606, L. 2005.~~)"

Section 3. Section 15-66-201, MCA, is amended to read:

"15-66-201. (Temporary) Reporting and collection of fee. ~~(1) On or before January 31, 2006, a hospital shall file with the department an annual report of the number of inpatient bed days in the hospital during each of the 6-month periods beginning January 1, 2005, and ending June 30, 2005, and beginning July 1, 2005, and ending December 31, 2005. The report must be in the form prescribed by the department. The report must be accompanied by a payment in an amount equal to the appropriate fee required to be paid under 15-66-102.~~

~~(2)~~ ~~(a)~~*(1)* ~~Except as provided in subsection (1), on~~ *On* or before January 31 of each year, a hospital shall file with the department an annual report of the number of inpatient bed days during the preceding year beginning January 1 and ending December 31. The report must be in the form prescribed by the department. The report must be accompanied by a payment in an amount equal to the fee required to be paid under 15-66-102.

~~(b)~~*(2)* On or before January 31 of each year, the department of public health and human services shall provide the department with a list of hospitals licensed and operating in the state during the preceding year beginning January 1 and ending December 31. (Void on occurrence of contingency—sec. 18, Ch. 390, L. 2003. ~~Terminates June 30, 2007—secs. 4, 7, Ch. 606, L. 2005.~~)"

Section 4. Section 20, Chapter 390, Laws of 2003, is amended to read:

"**Section 20. Termination.** [This act] terminates June 30, ~~2005~~ *2009*."

Section 5. Section 4, Chapter 606, Laws of 2005, is amended to read:

"**Section 4.** Section 20, Chapter 390, Laws of 2003, is amended to read:

"**Section 20. Termination.** [This act] terminates June 30, ~~2005~~ ~~*2007*~~ *2009*.""

Section 6. Section 7, Chapter 606, Laws of 2005, is amended to read:

"**Section 7. Termination.** [This act] terminates June 30, ~~2007~~ *2009*."

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

Section 8. Termination. [Sections 1 through 3] terminate June 30, 2009.

Approved May 18, 2007

CHAPTER NO. 518

[SB 161]

AN ACT GENERALLY REVISING CAPTIVE INSURANCE LAWS; ESTABLISHING A CAPTIVE INSURANCE REGULATORY AND SUPERVISION ACCOUNT; REVISING DEFINITIONS; EXPANDING THE DEFINITION OF "PURE CAPTIVE INSURANCE COMPANY" TO INCLUDE CONTROLLED UNAFFILIATED BUSINESS ENTITIES; PROVIDING FOR INVESTMENTS BY PROTECTED CELL CAPTIVE INSURANCE COMPANIES; REVISING LICENSING AND MINIMUM CAPITAL SURPLUS REQUIREMENTS; REVISING PROCEDURES FOR FORMING CAPTIVE INSURANCE COMPANIES; REVISING FILING AND EXAMINATION REQUIREMENTS FOR CAPTIVE RISK RETENTION GROUPS; CLARIFYING TAX COMPUTATION FOR PROTECTED CELL CAPTIVE INSURANCE COMPANIES; SUBSTITUTING THE TERM "PROTECTED CELL CAPTIVE INSURANCE COMPANY" FOR "SPONSORED CAPTIVE INSURANCE COMPANY"; AND AMENDING SECTIONS 33-28-101, 33-28-102, 33-28-104, 33-28-105, 33-28-106, 33-28-107, 33-28-108, 33-28-201, 33-28-202, 33-28-205, 33-28-206, 33-28-207, 33-28-301, 33-28-302, 33-28-303, 33-28-304, AND 33-28-306, MCA.

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

Section 1. Section 33-28-101, MCA, is amended to read:

"33-28-101. Definitions. As used in this chapter, unless the context requires otherwise, the following definitions apply:

(1) "Affiliated company" means any company in the same corporate system as a parent, an industrial insured, or a member ~~organization~~ by virtue of common ownership, control, operation, or management.

(2) "Association" means any legal association of sole proprietorships~~, corporations, partnerships, limited liability companies, or associations~~ *or*

business entities that has been in continuous existence for at least 1 year unless the 1-year requirement is waived by the commissioner~~, the member organizations~~ *and the members* of which collectively, or the association itself:

(a) owns, controls, or holds with power to vote all of the outstanding voting securities of an association captive insurance company incorporated as a stock insurer;

(b) has complete voting control over an association captive insurance company incorporated as a mutual insurer; or

(c) constitutes all of the subscribers of an association captive insurance company formed as a reciprocal insurer.

(3) "Association captive insurance company" means any company that insures risks of the ~~member organizations of an association~~ *members* and ~~their~~ *the* affiliated companies *of members*.

(4) "Branch business" means any insurance business transacted by a branch captive insurance company in this state.

(5) "Branch captive insurance company" means any foreign captive insurance company licensed by the commissioner to transact the business of insurance in this state through a business unit with a principal place of business in this state.

(6) "Branch operations" means any business operations of a branch captive insurance company in this state.

(7) (a) "Business entity" means a corporation, limited liability company, partnership, limited partnership, limited liability partnership, or other legal entity formed by an organizational document.

(b) The term does not include a sole proprietor.

~~(7)~~*(8)* "Captive insurance company" means any pure captive insurance company, association captive insurance company, ~~sponsored~~ *protected cell* captive insurance company, or industrial insured captive insurance company formed or licensed under the provisions of this chapter.

(9) "Captive reinsurance company" means a captive insurance company licensed in this state that reinsures the risk ceded by any other insurer.

(10) "Captive risk retention group" means a captive insurance risk retention group formed under the laws of this chapter and pursuant to Title 33, chapter 11.

~~(8)~~*(11)* "Cash equivalent" means any short-term, highly liquid investment that is:

(a) readily convertible to known amounts of cash; and

(b) so near to its maturity that it presents insignificant risk of changes in value because of changes in interest rates. Only an investment with an original maturity of 3 months or less qualifies as a cash equivalent.

(12) (a) "Controlled unaffiliated business entity" means a business entity or sole proprietorship:

(i) that is not in a parent's corporate system consisting of the parent and affiliated companies;

(ii) that has an existing, controlling contractual relationship with the parent or an affiliated company; and

(iii) whose risks are managed by a pure captive insurance company.

(b) The commissioner may promulgate rules that further define a controlled unaffiliated business entity.

~~(9)~~*(13)* "Excess workers' compensation insurance" means, in the case of an employer that has insured or self-insured its workers' compensation risks in accordance with applicable state or federal law, insurance that is in excess of a specified ~~perincident~~ *per-incident* or aggregate limit established by the commissioner.

~~(10)~~*(14)* "Foreign captive insurance company" means any captive insurance company formed under the laws of any jurisdiction other than this state.

~~(11)~~*(15)* "Industrial insured" means an insured:

(a) who procures the insurance of any risk or risks by use of the services of a full-time employee acting as an insurance manager or buyer;

(b) whose aggregate annual premiums for insurance on all risks total at least $25,000; and

(c) who has at least 25 full-time employees.

~~(12)~~*(16)* "Industrial insured captive insurance company" means any company that insures risks of the industrial insureds that comprise the industrial insured group and their affiliated companies.

~~(13)~~*(17)* "Industrial insured group" means any group ~~of industrial insureds that collectively~~ *that meets either of the following:*

(a) the group collectively:

~~(a)~~*(i)* owns, controls, or holds with power to vote all of the outstanding voting securities of an industrial insured captive insurance company incorporated as a stock insurer; or

~~(b)~~*(ii)* has complete voting control over an industrial insured captive insurance company incorporated as a mutual insurer*; or*

(b) the group is a captive risk retention group.

~~(14)~~*(18)* "Member ~~organization~~" means a sole proprietorship~~, corporation, partnership, or association~~ *or business entity* that belongs to an association.

(19) "Mutual insurer" means a business entity without capital stock and with a governing body elected by the policyholders.

(20) "Organizational document" means articles of incorporation, articles of organization, a partnership agreement, a subscribers' agreement, a charter, or any other document that establishes a business entity.

~~(15)~~*(21)* "Parent" means a ~~corporation, partnership~~ *sole proprietorship, business entity*, or individual that directly or indirectly owns, controls, or holds with power to vote more than 50% of the outstanding voting securities of a ~~pure~~ captive insurance company.

~~(16)~~*(22)* "Participant" means ~~an~~ *a sole proprietorship or business* entity~~, as enumerated in 33-28-304,~~ and any affiliates ~~of the entity~~ that are insured by a ~~sponsored~~ *protected cell* captive insurance company in which the losses of the participant are limited through a participant contract to the participant's pro rata share of the assets of one or more protected cells identified in the participant contract.

~~(17)~~*(23)* "Participant contract" means a contract by which a ~~sponsored~~ *protected cell* captive insurance company insures the risks of a participant and limits the losses of each participant in the contract.

~~(18)~~*(24)* "Protected cell" means a separate account established by a ~~sponsored~~ *protected cell* captive insurance company formed or licensed under the provisions of this chapter, in which assets are maintained for one or more participants in accordance with the terms of one or more participant contracts to fund the liability of the ~~sponsored~~ *protected cell* captive insurance company with respect to the participants as set forth in the participant contracts.

(25) "Protected cell captive insurance company" means any captive insurance company:

(a) in which the minimum capital and surplus required by applicable law are provided by one or more sponsors;

(b) that is formed or licensed under the provisions of this chapter;

(c) that insures the risks of separate participants through participant contracts; and

(d) that funds its liability to each participant through one or more protected cells and segregates the assets of each protected cell from the assets of other protected cells and from the assets of the protected cell captive insurance company's general account.

~~(19)~~*(26)* "Pure captive insurance company" means any company that insures risks of its parent and affiliated companies *and controlled unaffiliated business entities*.

(27) "Sole proprietorship" means an individual doing business in a noncorporate form.

~~(20)~~*(28)* "Sponsor" means any entity that meets the requirements of 33-28-301 and 33-28-302 and is approved by the commissioner to provide all or part of the capital and surplus required by the applicable law and to organize and operate a ~~sponsored~~ *protected cell* captive insurance company.

~~(21) "Sponsored captive insurance company" means any captive insurance company:~~

~~(a) in which the minimum capital and surplus required by applicable law are provided by one or more sponsors;~~

~~(b) that is formed or licensed under the provisions of this chapter;~~

~~(c) that insures the risks of separate participants through participant contracts; and~~

~~(d) that funds its liability to each participant through one or more protected cells and segregates the assets of each protected cell from the assets of other protected cells and from the assets of the sponsored captive insurance company's general account.~~"

Section 2. Captive insurance regulatory and supervision account. (1) There is an account in the state special revenue fund called the captive insurance regulatory and supervision account, which may be referred to as the captive account.

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

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

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

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

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

Section 3. Investments by protected cell captive insurance companies. The assets of two or more protected cells may be combined for the purposes of investment by a protected cell captive insurance company, and the combination of the protected cells may not be construed as defeating the segregation of the assets for accounting or other purposes.

Section 4. Section 33-28-102, MCA, is amended to read:

"33-28-102. Licensing — authority. (1) A captive insurance company, when permitted by its ~~articles of incorporation, charter, or other~~ organizational document, may apply to the commissioner for a license to provide property insurance, casualty insurance, life insurance, disability income insurance, and health insurance coverage *or a group health plan* as defined in 33-22-140, except that:

(a) a pure captive insurance company may not insure any risks other than those of its parent and affiliated companies *and controlled unaffiliated business entities*;

(b) an industrial insured captive insurance company may not insure any risks other than those of the industrial insureds that comprise the industrial insured group and their affiliated companies;

(c) an association captive insurance company may not insure any risks other than those of the ~~member organizations of its association or their~~ *members or* affiliated companies *of members*;

(d) a captive insurance company *or a branch captive insurance company* may not:

(i) provide personal lines of insurance, including but not limited to motor vehicle or homeowner's insurance coverage or any component of those coverages;

(ii) accept or cede reinsurance except as provided in 33-28-203; ~~or~~

(iii) provide health insurance coverage~~,~~ or a group health plan unless the captive insurance company *or branch captive insurance company* is ~~a pure captive insurance company~~ *only providing health insurance coverage or a group health plan for the parent company and its affiliated companies*; ~~and~~ *or*

(iv) write workers' compensation insurance on a direct basis; and

(e) a ~~sponsored~~ *protected cell* captive insurance company may not insure any risks other than those of its ~~participants~~ *participant affiliated companies and controlled unaffiliated business entities*.

(2) A captive insurance company may not ~~do~~ *write* any insurance business ~~in this state~~ unless:

(a) it first obtains from the commissioner a license authorizing it to do insurance business in this state;

(b) its board of directors or a reciprocal insurer's subscribers' advisory committee holds at least one meeting each year in this state; ~~and~~

(c) it maintains its principal place of business in this state*; and*

(d) (i) it appoints a registered agent to accept service of process;

(ii) the name and contact information and any subsequent changes regarding the registered agent are filed with the commissioner; and

(iii) it agrees that whenever the registered agent cannot be found with reasonable diligence, the commissioner's office may act as an agent of the captive insurance company with respect to any action or proceeding and may be served in accordance with 33-1-603.

(3) (a) Before receiving a license, a captive insurance company shall:

(i) with respect to a captive insurance company formed as a corporation:

(A) file with the commissioner a certified copy of its charter and bylaws, a statement under oath of its president and secretary showing its financial condition, and any other statements or documents required by the commissioner; and

(B) submit to the commissioner for approval a description of the coverages, deductibles, coverage limits, and rates, together with any additional information that the commissioner may reasonably require;

(ii) with respect to a captive insurance company formed as a reciprocal insurer:

(A) file with the commissioner a certified copy of the power of attorney of its attorney-in-fact, a certified copy of its subscribers' agreement, a statement under oath of its attorney-in-fact showing its financial condition, and any other statements or documents required by the commissioner; and

(B) submit to the commissioner for approval a description of the coverages, deductibles, coverage limits, and rates, together with any additional information that the commissioner may reasonably require.

(b) In the event of any subsequent material change in any of the items in the description provided for in subsection (3)(a), the captive insurance company shall submit to the commissioner for approval an appropriate revision and may not offer any additional kinds of insurance until a revision of the description is approved by the commissioner. The captive insurance company shall inform the commissioner of any change in rates within 30 days of the adoption of the change.

(c) In addition to the information required by subsections (3)(a) and (3)(b), each applicant captive insurance company shall file with the commissioner evidence of the following:

(i) the amount and liquidity of its assets relative to the risks to be assumed;

(ii) the adequacy of the expertise, experience, and character of the person or persons who will manage it;

(iii) the overall soundness of its plan of operation;

(iv) the adequacy of the loss prevention programs of its parent, ~~member organizations~~ *members*, or industrial insureds as applicable; and

(v) any other factors considered relevant by the commissioner in ascertaining whether the proposed captive insurance company will be able to meet its policy obligations.

(d) In addition to the information required by this section, each applicant that is a ~~sponsored~~ *protected cell* captive insurance company shall file with the commissioner the following:

(i) a business plan demonstrating how the applicant will account for the loss and expense experience of each protected cell at a level of detail found to be sufficient by the commissioner and how it will report the experience to the commissioner;

(ii) a statement acknowledging that all financial records of the ~~sponsored~~ *protected cell* captive insurance company, including records pertaining to any protected cells, must be made available for inspection or examination by the commissioner or the commissioner's designated agent;

(iii) all contracts or sample contracts between the ~~sponsored~~ *protected cell* captive insurance company and any participants; and

(iv) evidence that expenses will be allocated to each protected cell in a fair and equitable manner.

(e) Information submitted pursuant to this subsection (3) must remain confidential and may not be made public by the commissioner or an employee or agent of the commissioner without the written consent of the company, except that:

(i) the information may be discoverable by a party in a civil action or contested case to which the captive insurance company that submitted the information is a party, upon a showing by the party seeking to discover the information that the information sought is relevant to and necessary for the furtherance of the action or case, the information sought is unavailable from other nonconfidential sources, and a subpoena issued by a judicial or administrative officer of competent jurisdiction has been submitted to the commissioner;

(ii) the commissioner may, in the commissioner's discretion, disclose the information to a public officer having jurisdiction over the regulation of insurance in another state or to a public official of the federal government, as long as the public official agrees in writing to maintain the confidentiality of the information and the laws of the state in which the public official serves, if applicable, require the information to be and to remain confidential.

(4) (a) Each captive insurance company shall pay to the commissioner a nonrefundable fee of $200 for the examining, investigating, and processing of its application for license, and the commissioner is authorized to retain legal, financial, and examination services from outside the department, the reasonable cost of which may be charged to the applicant.

(b) The provisions of Title 33, chapter 1, part 4, apply to examinations, investigations, and processing conducted under the authority of this section. In addition, each captive insurance company shall pay a license fee for the year of registration and a renewal fee for each subsequent year of $300.

(5) If the commissioner is satisfied that the documents and statements that the applicant captive insurance company has filed comply with the provisions of this chapter and applicable provisions of Title 33, the commissioner may grant a license authorizing the company to do insurance business in this state. The

license is effective until March 1 of each year and may be renewed upon proper compliance with this chapter."

Section 5. Section 33-28-104, MCA, is amended to read:

"33-28-104. Minimum capital surplus — letter of credit. (1) A captive insurance company may not be issued a license unless it possesses and maintains unimpaired paid-in capital and surplus of:

(a) in the case of a pure captive insurance company, not less than $250,000;

(b) in the case of an industrial insured captive insurance company, not less than $500,000;

(c) in the case of an association captive insurance company, not less than $750,000;

(d) in the case of a ~~sponsored~~ *protected cell* captive insurance company, not less than ~~$1 million~~ *$500,000*~~; or~~. *However, if the protected cell captive insurance company does not assume any risks, the risks insured by the protected cells are homogenous, and if there are not more than 10 cells, the commissioner may reduce the amount required in this subsection (1)(d) to an amount not less than $250,000.*

(e) *(i)* in the case of a branch captive insurance company, not less than the applicable amount of capital and surplus required in subsections (1)(a) through (1)(d), as determined based upon the organizational form of the foreign captive insurance company*; and*

(ii) the minimum capital and surplus must be jointly held by the commissioner and the branch captive insurance company in a bank of the federal reserve system approved by the commissioner; or

(f) in the case of a captive reinsurance company, not less than 50% of the capital that would be required for that type of captive reinsurance company.

(2) The commissioner may require additional capital and surplus based upon the type, volume, and nature of insurance business transacted.

(3) Capital and surplus may be in the form of cash, cash equivalent, or an irrevocable letter of credit issued by a bank chartered by the state of Montana or a member bank of the federal reserve system and approved by the commissioner.

~~(4) Despite the requirements of subsection (1), a captive insurance company organized as a reciprocal insurer under this chapter may not be issued a license unless it possesses and maintains unimpaired paid-in capital and surplus of $1 million.~~

~~(5) In the case of a branch captive insurance company, security in an amount not less than the minimum capital and surplus required in this section must be jointly held by the commissioner and the branch captive insurance company in a bank of the federal reserve system approved by the commissioner.~~"

Section 6. Section 33-28-105, MCA, is amended to read:

"33-28-105. Formation of captive insurance companies. (1) A ~~pure~~ captive insurance company ~~or a sponsored captive insurance company~~ must be ~~incorporated as a stock insurer with its capital divided into shares and held by the stockholders~~ *formed or organized as a business entity as provided in this chapter*.

(2) An association captive insurance company or an industrial insured captive insurance company may be:

(a) incorporated as a stock insurer with its capital divided into shares and held by the stockholders;

(b) incorporated as a mutual insurer without capital stock, the governing body of which is elected by the ~~member organizations~~ *members* of its association or associations; or

(c) organized as a reciprocal insurer under Title 33, chapter 5.

(3) A captive insurance company incorporated or organized in this state may not have less than three incorporators, at least one of whom must be a resident of this state.

(4) (a) In the case of a captive insurance company formed as a ~~corporation~~ *business entity* and before the ~~articles of incorporation~~ *organizational documents* are transmitted to the secretary of state, the ~~incorporators~~ *organizers* shall file a copy of the proposed ~~articles of incorporation~~ *organizational documents* and a petition with the commissioner requesting the commissioner to issue a certificate that finds that the establishment and maintenance of the proposed ~~corporation~~ *business entity* will promote the general good of the state. In reviewing the petition, the commissioner shall consider:

(i) the character, reputation, financial standing, and purposes of the ~~incorporators~~ *organizers*;

(ii) the character, reputation, financial responsibility, insurance experience, and business qualifications of ~~the~~ *any* officers and directors; and

(iii) any other factors that the commissioner considers appropriate.

(b) If the commissioner does not issue a certificate or finds that the proposed ~~articles of incorporation~~ *organizational documents* of the captive insurance company do not meet the requirements of the applicable laws, including but not limited to 33-2-112, the commissioner shall refuse to approve the draft of the ~~articles of incorporation~~ *organizational documents* and shall return the draft to the proposed ~~incorporators~~ *organizers*, together with a written statement explaining the refusal.

(c) If the commissioner issues a certificate and approves the draft ~~articles of incorporation~~ *organizational documents*, the commissioner shall forward the certificate and an approved draft of ~~articles of incorporation~~ *organizational documents* to the proposed ~~incorporators~~ *organizers*. The ~~incorporators~~ *organizers* shall prepare two sets of the approved ~~articles of incorporation~~ *organizational documents* and shall file one set ~~of articles of incorporation~~ with the secretary of state as required by the applicable law and one set with the commissioner.

(5) The capital stock of a captive insurance company incorporated as a stock insurer may be authorized with no par value.

(6) *(a)* At least one of the members of the board of directors of a captive insurance company must be a resident of this state.

(b) In the case of a captive insurance company formed as a limited liability company, at least one of the managers must be a resident of the state.

(c) In case of a reciprocal insurer, at least one of the members of the subscribers' advisory committee must be a resident of the state.

(7) (a) A captive insurance company formed as a corporation *or another business entity* has the privileges and is subject to the provisions of general corporation law *or the laws governing other business entities*, as well as the applicable provisions contained in this chapter.

(b) In the event of conflict between the provisions of general corporation law *or the laws governing other business entities* and this chapter, the provisions of this chapter control.

(8) (a) With respect to a captive insurance company formed as a reciprocal insurer, the organizers shall petition and request that the commissioner issue a certificate that finds that the establishment and maintenance of the proposed association will promote the general good of the state. In reviewing the petition, the commissioner shall consider:

(i) the character, reputation, financial standing, and purposes of the organizers;

(ii) the character, reputation, financial responsibility, insurance experience, and business qualifications of the attorney-in-fact; and

(iii) any other factors that the commissioner considers appropriate.

(b) The commissioner may either approve the petition and issue the certificate or reject the petition in a written statement of the reasons for the rejection.

(c) *(i)* A captive insurance company formed as a reciprocal insurer has the privileges and is subject to the provisions of Title 33, chapter 5, in addition to the applicable provisions of this chapter. If there is a conflict between Title 33, chapter 5, and this chapter, the provisions of this chapter control.

~~(d)~~*(ii)* The subscribers' agreement or other organizing document of a captive insurance company formed as a reciprocal insurer may authorize a quorum of a subscribers' advisory committee to consist of at least one-third of the number of its members.

(d) A captive risk retention group has the privileges and is subject to the provisions of Title 33, chapter 11, and this chapter. If there is a conflict between Title 33, chapter 11, and this chapter, the provisions of this chapter prevail.

(9) Except as provided in 33-28-306, the provisions of Title 33*, chapter 3,* pertaining to mergers, consolidations, conversions, mutualizations, *and* voluntary dissolutions~~, and redomestications~~ apply in determining the procedures to be followed by captive insurance companies in carrying out any of those transactions.

(10) *(a)* With respect to a branch captive insurance company, the foreign captive insurance company shall petition and request that the commissioner issue a certificate that finds that, after considering the character, reputation, financial responsibility, insurance experience, and business qualifications of the officers and directors of the foreign captive insurance company, the licensing and maintenance of the branch operation will promote the general good of the state. The foreign captive insurance company ~~may~~ *shall* apply to the secretary of state for a certificate of authority to transact business in this state after the commissioner's certificate is issued.

(b) A branch captive insurance company established pursuant to the provisions of this chapter to write in this state only insurance or reinsurance of the employee benefit business of its parent and affiliated companies is subject to provisions of the Employee Retirement Income Security Act of 1974, 29 U.S.C.

1001, et seq. In addition to the general provisions of this chapter, the provisions of this section apply to branch captive insurance companies.

(c) A branch captive insurance company may not do any insurance business in this state unless it maintains the principal place of business for its branch operations in this state."

Section 7. Section 33-28-106, MCA, is amended to read:

"33-28-106. Dividends. (1) A captive insurance company may not pay a dividend out of, or other distribution with respect to, capital or surplus ~~in excess of the limitations set forth in 33-2-1114~~ without the prior approval of the commissioner.

(2) Approval of an ongoing plan for the payment of dividends or other distributions must be conditioned upon retention, at the time of each payment, of capital surplus in excess of the amounts specified by or determined in accordance with formulas approved by the commissioner."

Section 8. Section 33-28-107, MCA, is amended to read:

"33-28-107. Reports and statements. (1) A captive insurance company is not required to make an annual report except as provided in this section.

(2) (a) ~~On~~ *Except as provided in subsection (2)(b), on* or before March 1 of each year, each captive insurance company shall submit to the commissioner a report of its financial condition in a form and manner as required by the commissioner, verified by oath of two of its executive officers.

(b) A pure captive insurance company, branch captive insurance company, or industrial insured captive company, excluding captive risk retention groups, may make written application for filing the required report on a fiscal yearend basis. If an alternative reporting date is granted:

(i) the required report is due 60 days after fiscal yearend; and

(ii) in order to provide sufficient information to support the premium tax return, a pure captive insurance company or industrial insured insurance company shall file a report acceptable to the commissioner prior to March 1 of each year for the prior calendar yearend.

~~(b)~~*(c)* Each captive insurance company shall report using generally accepted accounting principles, unless the commissioner requires the use of statutory accounting principles, with any necessary or useful modifications or additions required by the commissioner. The commissioner may also require the report to be supplemented by additional information.

~~(c)~~*(d)* On or before March 1 of each year, each branch captive insurance company shall submit to the commissioner a copy of all reports and statements required to be filed under the laws in which the foreign captive insurance company is formed, verified by oath of two of its executive officers. If the commissioner is satisfied that the annual report filed by the foreign captive insurance company in its domiciliary jurisdiction provides adequate information concerning the financial condition of the foreign captive insurance company, the commissioner may waive the requirement for completion of the captive annual statement for business written in the foreign jurisdiction.

(3) The commissioner shall consider financial statements filed pursuant to this section as confidential.

(4) (a) Captive risk retention groups shall file reports and statements in accordance with Title 33, chapter 2, part 7, except that a captive risk retention group:

(i) may file using generally accepted accounting principles; and

(ii) the filing may include letters of credit that are established, issued, or confirmed by a bank chartered in this state, a member of the federal reserve system, or a bank chartered by another state if that state-chartered bank is acceptable to the commissioner.

(b) The filings are required on an annual and quarterly basis."

Section 9. Section 33-28-108, MCA, is amended to read:

"33-28-108. Examinations and investigations. (1) (a) At least once in 3 years, or more frequently if the commissioner considers it prudent, the commissioner or some competent person appointed by the commissioner shall visit each captive insurance company and thoroughly inspect and examine its affairs to ascertain its financial condition, its ability to fulfill its obligations, and whether it has complied with the provisions of this chapter.

(b) The commissioner, upon application and in the commissioner's discretion, may enlarge the 3-year period to 5 years if the captive insurance company is:

(i) subject to a comprehensive annual audit during the 5-year period of a scope satisfactory to the commissioner; and

(ii) the audit is conducted by independent auditors approved by the commissioner.

(c) The expenses and charges of the examination must be paid to the commissioner by the company or companies examined.

(2) The provisions of Title 33, chapter 1, part 4, apply to examinations conducted under this section.

(3) Except as provided in subsection (4), all examination reports, preliminary examination reports or results, working papers, recorded information, documents, and their copies produced by, obtained by, or disclosed to the commissioner or any other person in the course of an examination made under this section are confidential, are not subject to subpoena, and may not be made public by the commissioner or an employee or agent of the commissioner without the written consent of the company or upon court order.

(4) *(a)* Subsection (3) does not prevent the commissioner from using information obtained pursuant to this section in furtherance of the commissioner's regulatory authority under Title 33. The commissioner may, in the commissioner's discretion, grant access to information obtained pursuant to this section to public officers having jurisdiction over the regulation of insurance in any other state or country or to law enforcement officers of this state or any other state or agency of the federal government at any time, as long as the officers receiving the information agree in writing to hold it in a manner consistent with this section.

(b) Captive risk retention group reports produced pursuant to the examination requirements of this section are public writings as defined in 2-6-101.

(5) ~~(a)~~ Except as provided in subsection ~~(5)(b)~~ *(6)*, the provisions of this section apply to all business written by a captive insurance company.

~~(b)~~*(6)* The examination for a branch captive insurance company may only be of branch business and branch operations if the branch captive insurance company has satisfied the requirements of 33-28-107~~(2)(c)~~*(2)(d)* to the satisfaction of the commissioner.

(7) As a condition of licensure of a branch captive insurance company, the foreign captive insurance company shall grant authority to the commissioner for examination of the affairs of the foreign captive insurance company in the jurisdiction in which the foreign captive insurance company is formed."

Section 10. Section 33-28-201, MCA, is amended to read:

"33-28-201. Tax on premiums collected. (1) (a) Each captive insurance company shall pay to the commissioner, on or before March 1 of each year, a tax on the direct premiums collected or contracted for on policies or contracts of insurance written by the captive insurance company during the year ending December 31, after deducting from the direct premiums subject to the tax the amounts paid to policyholders as return premiums, including dividends on unabsorbed premiums or premium deposits returned or credited to policyholders.

(b) The tax on direct premiums collected in this state must be calculated as follows:

(i) 0.4% on the first $20 million;

(ii) 0.3% on the next $20 million;

(iii) 0.2% on the next $20 million; and

(iv) 0.075% on each subsequent dollar collected.

(2) (a) Each captive insurance company shall pay to the commissioner on or before March 1 of each year a tax on assumed reinsurance premiums.

(b) A reinsurance tax does not apply to premiums for risks or portions of risks that are subject to taxation on a direct basis pursuant to subsection (1).

(c) A reinsurance premium tax is not payable in connection with the receipt of assets in exchange for the assumption of loss reserves and other liabilities of another insurer under common ownership and control if the transaction is part of a plan to discontinue the operations of the other insurer and if the intent of the parties to the transaction is to renew or maintain the business with the captive insurance company.

(d) The amount of the reinsurance tax must be calculated as follows:

(i) 0.225% on the first $20 million of assumed reinsurance premiums;

(ii) 0.150% on the next $20 million of assumed reinsurance premiums; and

(iii) 0.050% on each subsequent dollar of assumed reinsurance premiums.

(3) (a) If the aggregate taxes to be paid by a captive insurance company calculated under subsections (1) and (2) amount to less than $5,000 in any year, the captive insurance company shall pay a tax of $5,000 for that year.

(b) Aggregate taxes to be paid by a captive insurance company under this section may not exceed $100,000 in any year.

(c) Each protected cell in a protected cell captive insurance company must be considered separately in determining the aggregate tax to be paid by the protected cell captive insurance company. If the protected cell captive insurance company insures any risks in addition to the protected cells, the determination of

the aggregate tax to be paid by the protected cell captive insurance company must also include the premium on those risks.

(4) Two or more captive insurance companies under common ownership and control must be taxed as though they were a single captive insurance company.

(5) For the purposes of this section, "common ownership and control" means:

(a) in the case of stock corporations, the direct or indirect ownership of 80% or more of the outstanding voting stock of two or more corporations by the same shareholder or shareholders; and

(b) in the case of mutual ~~corporations~~ *insurers*, the direct or indirect ownership of 80% or more of the surplus and the voting power of two or more ~~corporations~~ *insurers* by the same member or members.

(6) Only the branch business of a branch captive insurance company is subject to taxation under the provisions of this section.

(7) The tax provided for in this section must be calculated on an annual basis notwithstanding policies or contracts of insurance or contracts of reinsurance issued on a multiyear basis. In the case of multiyear policies or contracts, the premium must be prorated for the purposes of determining the tax."

Section 11. Section 33-28-202, MCA, is amended to read:

"33-28-202. Legal investments. (1) An industrial insured captive insurance company*,* ~~and~~ an association captive insurance company*, and a captive risk retention group* shall comply with the investment requirements contained in Title 33, chapter 12, and the rules promulgated in accordance with these provisions. ~~Notwithstanding any other provision of this title, the~~ *The* commissioner may approve the use of alternative reliable methods of valuation and rating.

(2) A pure captive insurance company is not subject to any restrictions on allowable investments, except that the commissioner may prohibit or limit any investment that threatens the solvency or liquidity of the company.

(3) Only a pure captive insurance company may make loans to its parent company or affiliates. Loans to a parent company or any affiliate may not be made without prior written approval of the commissioner and must be evidenced by a note in a form approved by the commissioner. Loans of minimum capital and surplus funds required by 33-28-104 are prohibited."

Section 12. Section 33-28-205, MCA, is amended to read:

"33-28-205. Exemption from compulsory organizations. A captive insurance company may not join or contribute financially to any plan, pool, association, or guaranty or insolvency fund in this state, and a captive insurance company, its insureds, its parent, any affiliated company, or any member ~~organization~~ of an association may not receive any benefit from the plan, pool, association, or guaranty or insolvency fund for claims arising out of the operations of the captive insurance company."

Section 13. Section 33-28-206, MCA, is amended to read:

"33-28-206. Rules. The commissioner may adopt rules necessary to implement the provisions of this chapter. The rules may include but are not limited to rules relating to forms, payment of fees, licensing, capital and surplus, formation of companies, reports, examinations, investigations, *redomestications, captive risk retention groups, risk-based capital and holding company systems, letters of credit, risks managed by pure captive insurance*

companies, standards to ensure that parent or affiliated companies are able to exercise control of the risk management function of any controlled unaffiliated entities to be insured by the pure captive insurance companies, the use of deductible reimbursement with workers' compensation, and suspension and revocation of licenses."

Section 14. Section 33-28-207, MCA, is amended to read:

"33-28-207. Applicable laws. (1) The following apply to captive insurance companies:

(a) *the* definitions of property insurance provided in 33-1-210, casualty insurance provided in 33-1-206, life insurance provided in 33-1-208, health insurance coverage *and group health plans* provided in 33-22-140, and disability income insurance provided in 33-1-235;

(b) the limitation provided in 33-2-705 on the imposition of other taxes;

(c) the provisions relating to supervision, rehabilitation, and liquidation of insurance companies as provided for in Title 33, chapter 2, part 13; and

(d) the provisions of *33-1-603,* 33-18-201, 33-18-203, 33-18-205, and 33-18-242.

(2) This chapter may not be construed as exempting:

~~(a)~~ a captive insurance company, its parent, or affiliated companies from compliance with the laws governing workers' compensation insurance~~; or~~

~~(b) a captive insurance company that is a risk retention group from complying with the provisions of Title 33, chapter 11~~.

(3) A captive insurance company or branch captive insurance company that writes health insurance coverage or group health plans as defined in 33-22-140 shall comply with applicable state and federal laws.

~~(3)~~*(4)* Except as expressly provided in this chapter, the provisions of Title 33 do not apply to captive insurance companies."

Section 15. Section 33-28-301, MCA, is amended to read:

"33-28-301. ~~Sponsored~~ *Protected cell* captive insurance company. (1) One or more sponsors may form a ~~sponsored~~ *protected cell* captive insurance company.

(2) A ~~sponsored~~ *protected cell* captive insurance company formed or licensed under the provisions of this chapter may establish and maintain one or more protected cells to insure risks of one or more participants, subject to the following conditions:

(a) The shareholders of the ~~sponsored~~ *protected cell* captive insurance company must be limited to its participants and sponsors.

(b) Each protected cell must be accounted for separately on the books and records of the ~~sponsored~~ *protected cell* captive insurance company to reflect the financial condition and result of operations of the protected cell, including but not limited to the net income or loss, dividends or other distributions to participants, and any other factor provided in the participant contract or required by the commissioner.

(c) The assets of a protected cell may not be chargeable with liabilities arising from any other insurance business of the ~~sponsored~~ *protected cell* captive insurance company.

(d) A sale, exchange, or other transfer of assets may not be made by a ~~sponsored~~ *protected cell* captive insurance company among any of its protected cells without the consent of the participants of each affected protected cell.

(e) A sale, exchange, transfer of assets, dividend, or distribution may not be made from a protected cell to a sponsor or a participant without the commissioner's prior written approval, which may not be given if the sale, exchange, transfer, dividend, or distribution would result in insolvency or impairment with respect to the protected cell.

(f) Each ~~sponsored~~ *protected cell* captive insurance company shall file annually with the commissioner any financial reports required by the commissioner and shall include, without limitation, accounting statements detailing the financial experience of each protected cell.

(g) Each ~~sponsored~~ *protected cell* captive insurance company shall notify the commissioner in writing within 20 business days from the time that a protected cell has become impaired or insolvent or is otherwise unable to meets its claim or expense obligations.

(h) A participant contract may not take effect without the commissioner's prior written approval.

(i) An addition of each new protected cell or the withdrawal of any participant of an existing protected cell constitutes a change in the business plan of the ~~sponsored~~ *protected cell* captive insurance company and may not be effective without the commissioner's prior written approval.

(j) The business written by a ~~sponsored~~ *protected cell* captive insurance company, with respect to each cell, must be:

(i) fronted by an insurance company licensed under the laws of any state;

(ii) reinsured by a reinsurer authorized or approved by the commissioner; or

(iii) secured by a trust fund in the United States for the benefit of policyholders and claimants, which must be funded by an irrevocable letter of credit or other asset that is acceptable to the commissioner, and with the following requirements:

(A) the amount of the security provided by the trust fund may not be less than the reserves associated with the liabilities that are not fronted or reinsured, including but not limited to reserves for losses that are allocated for loss adjustment expenses, incurred but not reported losses, and unearned premiums for business written through the participant's protected cell;

(B) the commissioner may require the ~~sponsored~~ *protected cell* captive insurance company to increase the funding of any trust;

(C) if the form of security in the trust is a letter of credit, the letter of credit must be established, issued, or confirmed by a bank chartered in this state, a member of the federal reserve system, or a bank chartered by another state if that state-chartered bank is acceptable to the commissioner; and

(D) the trust and trust instrument must be in a form and with terms approved by the commissioner."

Section 16. Section 33-28-302, MCA, is amended to read:

"33-28-302. Qualification of sponsors. A sponsor of a ~~sponsored~~ *protected cell* captive insurance company must be an insurer licensed under the laws of any state, a reinsurer licensed under the laws of any state, a captive insurance

company formed or licensed under this chapter, or an insurance producer licensed under chapter 17 of this title and approved by the commissioner."

Section 17. Section 33-28-303, MCA, is amended to read:

"33-28-303. Delinquency of ~~sponsored~~ *protected cell* captive insurance company. If delinquency proceedings have been taken against a ~~sponsored~~ *protected cell* captive insurance company:

(1) the assets of a protected cell may not be used to pay any expenses other than those attributable to the protected cell; and

(2) the capital and surplus of the ~~sponsored~~ *protected cell* captive insurance company must be available at all times to pay expenses of or claims against the ~~sponsored~~ *protected cell* captive insurance company."

Section 18. Section 33-28-304, MCA, is amended to read:

"33-28-304. Participants in ~~sponsored~~ *protected cell* captive insurance companies. (1) ~~An association, corporation, limited liability company, partnership, trust, or other~~ *A* business entity may be a participant in a ~~sponsored~~ *protected cell* captive insurance company.

(2) A sponsor may be a participant in a ~~sponsored~~ *protected cell* captive insurance company.

(3) A participant is not required to be a shareholder of a ~~sponsored~~ *protected cell* captive insurance company or its affiliate.

(4) A participant shall insure only its own risks through a ~~sponsored~~ *protected cell* captive insurance company."

Section 19. Section 33-28-306, MCA, is amended to read:

"33-28-306. Conversion to or merger with reciprocal insurer. (1) An association captive insurance company or industrial insured group formed as a stock or mutual ~~corporation~~ *insurer* may be converted to or merged with a reciprocal insurer in accordance with the provisions of this section.

(2) A plan for conversion or merger must:

(a) be fair and equitable to the shareholders, in the case of a stock insurer, or the policyholders, in the case of a mutual insurer; and

(b) provide for the purchase of the shares of any nonconsenting shareholder of a stock insurer or the policyholder interest of any nonconsenting policyholder of a mutual insurer.

(3) In order to convert to a reciprocal insurer, the conversion must be accomplished under a reasonable plan and procedure approved by the commissioner. The commissioner may not approve the plan unless it:

(a) provides for a hearing upon notice to the insurer, directors, officers, and stockholders or policyholders who have the right to appear at the hearing, unless the commissioner waives or modifies the requirements for the hearing;

(b) provides for the conversion of the existing stockholder or policyholder interests into subscriber interests in the resulting reciprocal insurer proportionate to stockholder or policyholder interests;

(c) (i) in the case of a stock insurer, is approved, by a majority of the shareholders who are entitled to vote and who are represented at a regular or special meeting at which a quorum is present either in person or by proxy; or

(ii) in the case of a mutual insurer, by a majority of the voting interests of the policyholders who are represented at a regular or special meeting at which a quorum is present either in person or by proxy; and

(d) meets the requirements of 33-28-105.

(4) If the commissioner approves a plan of conversion, the certificate of authority for the converting insurer must be amended to state that it is a reciprocal insurer. The conversion is effective and the corporate existence of the converting entity ceases to exist ~~upon~~ *on* the date on which the amended certificate is issued to the attorney-in-fact of the reciprocal insurer. The resulting reciprocal insurer shall notify the secretary of state of the conversion.

(5) The commissioner may not approve a plan for a merger unless it:

(a) meets the requirements of:

(i) 33-3-217, with respect to the merger with a captive stock insurer; or

(ii) 33-3-218, with respect to the merger with a captive mutual insurer; and

(b) meets the requirements of 33-28-105."

Section 20. Codification instruction. (1) [Section 2] is intended to be codified as an integral part of Title 33, chapter 28, part 1, and the provisions of Title 33, chapter 28, part 1, apply to [section 2].

(2) [Section 3] is intended to be codified as an integral part of Title 33, chapter 28, part 3, and the provisions of Title 33, chapter 28, part 3, apply to [section 3].

Section 21. Directions to code commissioner. (1) Section 33-28-305 is intended to be renumbered and codified as an integral part of Title 33, chapter 28, part 1.

(2) In any enacted legislation that refers to a sponsored captive insurance company, the code commissioner shall change the reference to a protected cell captive insurance company.

Approved May 17, 2007

CHAPTER NO. 519

[SB 205]

AN ACT TO EXEMPT AUTHORIZED GAME WARDEN POSITIONS FROM THE IMPOSITION OF VACANCY SAVINGS WHEN ESTABLISHING THE BUDGET FOR THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS; AND PROVIDING AN EFFECTIVE DATE.

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

Section 1. Game warden positions exempt from vacancy savings — report to audit committee. (1) Vacancy savings may not be imposed on authorized game warden positions in the department.

(2) For purposes of this section:

(a) "authorized game warden positions" means those game warden positions included in the list of current authorized positions that the department of fish, wildlife, and parks is required to maintain under 2-18-206;

(b) "department" means the department of fish, wildlife, and parks established in 2-15-3401; and

(c) "vacancy savings" means the difference between the cost of fully funding authorized positions for an entire fiscal year and the actual cost of funding those authorized positions during that fiscal year.

(3) Each fiscal year, the department shall provide to the legislative audit committee provided for in 5-13-201 a detailed report on all authorized game warden positions in the department. At a minimum, the report must include the following information:

(a) the number of authorized game warden positions that were filled during the year and the average salary paid at hire;

(b) the total number of vacancies incurred during the year broken out by position title, the cause of each vacancy, and the length of time the authorized game warden position remained vacant;

(c) the total number of hours worked in authorized game warden positions during the year broken out by enforcement activity and position title.

Section 2. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 17, chapter 7, part 1, and the provisions of Title 17, chapter 7, part 1, apply to [section 1].

Section 3. Effective date. [This act] is effective July 1, 2007.

Approved May 20, 2007

CHAPTER NO. 520

[SB 222]

AN ACT REQUIRING A REDUCTION IN SPEED OF AT LEAST 20 MILES PER HOUR BELOW THE POSTED SPEED LIMIT IN CERTAIN SITUATIONS WHEN APPROACHING AN EMERGENCY OR POLICE VEHICLE ON A PUBLIC HIGHWAY WITH A POSTED SPEED LIMIT OF 50 MILES PER HOUR OR GREATER; AND AMENDING SECTIONS 61-8-346 AND 61-9-402, MCA.

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

Section 1. Section 61-8-346, MCA, is amended to read:

"61-8-346. Operation of vehicles on approach of authorized emergency vehicles or police vehicles — approaching stationary emergency vehicles or police vehicles. (1) Upon the immediate approach of an authorized emergency vehicle making use of audible and visual signals meeting the requirements of 61-9-402 or of a police vehicle properly and lawfully making use of an audible signal only, the operator of every other vehicle shall yield the right-of-way and shall immediately drive to a position parallel to, and as close as possible to, the right-hand edge or curb of the roadway clear of any intersection and shall stop and remain in that position until the authorized emergency vehicle or police vehicle has passed, except when otherwise directed by a police officer or highway patrol officer.

(2) This section does not relieve the driver of an authorized emergency vehicle or police vehicle from the duty to drive with due regard for the safety of all persons using the highway.

(3) *Except as provided in subsection (4),* ~~Upon~~ *upon* approaching a stationary authorized emergency vehicle or police vehicle that is displaying visible signals

of flashing or rotating amber, blue, red, or green lights, the operator of the approaching vehicle shall:

(a) reduce the vehicle's speed, proceed with caution, and, if possible considering safety and traffic conditions, move to a lane that is not adjacent to the lane in which the authorized emergency vehicle or police vehicle is located or move as far away from the authorized emergency vehicle or police vehicle as possible; or

(b) if changing lanes is not possible or is determined to be unsafe, reduce the vehicle's speed, proceed with caution, and maintain a reduced speed, appropriate to the road and the conditions, through the area where the authorized emergency vehicle or police vehicle is stopped.

(4) Upon approaching a stationary authorized emergency vehicle or police vehicle that is displaying visible signals of flashing or rotating amber, blue, red, or green lights on a public highway with a posted speed limit of 50 miles per hour or greater, when driving in a lane that is directly next to the emergency vehicle or police vehicle, the operator of the approaching vehicle shall reduce the vehicle's speed by at least 20 miles per hour below the posted speed limit."

Section 2. Section 61-9-402, MCA, is amended to read:

"61-9-402. Audible and visual signals on police, emergency vehicles, and on-scene command vehicles — immunity. (1) A police vehicle must be equipped with a siren capable of giving an audible signal and may be equipped with alternately flashing or rotating red or blue lights as specified in this section.

(2) An authorized emergency vehicle must be equipped:

(a) with a siren and an alternately flashing or rotating red light as specified in this section; and

(b) with signal lamps mounted as high and as widely spaced laterally as practicable that are capable of displaying to the front two alternately flashing red lights located at the same level and to the rear two alternately flashing red lights located at the same level. These lights must have sufficient intensity to be visible at 500 feet in normal sunlight.

(3) A bus used for the transportation of school children must be equipped with signal lamps mounted as high and as widely spaced laterally as practicable, displaying to the front two red and two amber alternating flashing lights and to the rear two red and two amber alternating flashing lights. These lights must have sufficient intensity to be visible at 500 feet in normal sunlight. The warning lights must be as prescribed by the board of public education and approved by the department.

(4) A police vehicle and an authorized emergency vehicle may, and an emergency service vehicle must, be equipped with alternately flashing or rotating amber lights as specified in this section.

(5) The use of signal equipment as described in this section imposes upon the operators of other vehicles the obligation to yield right-of-way or to stop and to proceed past the signal or light ~~only with caution and at a speed that is no greater than is reasonable and proper under the conditions existing at the point of operation~~ *as provided in 61-8-346 and* subject to the provisions of 61-8-209 and 61-8-303.

(6) An employee, agent, or representative of the state or a political subdivision of the state or of a fire department who is operating a police vehicle,

an authorized emergency vehicle, or an emergency service vehicle and using signal equipment in rendering assistance at a highway crash scene or in response to any other hazard on the roadway that presents an immediate hazard or an emergency or life-threatening situation is not liable, except for willful misconduct, bad faith, or gross negligence, for injuries, costs, damages, expenses, or other liabilities resulting from a motorist operating a vehicle in violation of subsection (5).

(7) Blue, red, and amber lights required in this section must be mounted as high as and as widely spaced laterally as practicable and capable of displaying to the front two alternately flashing lights of the specified color located at the same level and to the rear two alternately flashing lights of the specified color located at the same level or one rotating light of the specified color, mounted as high as is practicable and visible from both the front and the rear. These lights must have sufficient intensity to be visible at 500 feet in normal sunlight. Except as provided in 61-9-204(6), only police vehicles as defined in 61-8-102 may display blue lights, lenses, or globes.

(8) A police vehicle and authorized emergency vehicle may be equipped with a flashing signal lamp that is green in color, visible from 360 degrees, and attached to the exterior roof of the vehicle for purposes of designation as the on-scene command and control vehicle in an emergency or disaster. The green light must have sufficient intensity to be visible at 500 feet in normal sunlight. Only the on-scene command and control vehicle may display green lights, lenses, or globes.

(9) Only a police vehicle or an authorized emergency vehicle may be equipped with the means to flash or alternate its headlamps or its backup lights.

(10) A violation of subsection (5) is considered reckless endangerment of a highway worker, as provided in 61-8-301(4), and is punishable as provided in 61-8-715."

Approved May 18, 2007

CHAPTER NO. 521

[SB 550]

AN ACT REVISING THE LAWS GOVERNING LOCAL GOVERNMENT STUDY COMMISSIONS; AUTHORIZING THE IMPOSITION OF A MILL LEVY AND PROVIDING FOR AN EXCEPTION FROM THE MILL LEVY LIMITS FOR A LEVY FOR FUNDING LOCAL GOVERNMENT STUDY COMMISSIONS; CLARIFYING THE PROCEDURES FOR PROPOSALS FOR ALTERNATIVE FORMS OR PLANS OF GOVERNMENT MADE BY PETITION OR BY A STUDY COMMISSION; PROVIDING THAT ELECTED OFFICIALS REMAIN IN OFFICE UNLESS THE NEW FORM OR PLAN ELIMINATES THE OFFICE FOR WHICH THEY WERE ELECTED; AND AMENDING SECTIONS 7-3-122, 7-3-141, 7-3-142, 7-3-149, 7-3-151, 7-3-152, 7-3-153, 7-3-155, 7-3-156, 7-3-157, 7-3-158, 7-3-160, 7-3-161, 7-3-175, 7-3-178, 7-3-184, 7-3-187, 7-3-192, 7-3-193, AND 15-10-420, MCA.

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

Section 1. Section 7-3-122, MCA, is amended to read:

"7-3-122. Definitions. As used in 7-3-121 through 7-3-161, unless the context indicates otherwise, the following definitions apply:

(1) "Authority" means:

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

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

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

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

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

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

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

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

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

(2) "Finance administrator" means the individual responsible for the financial administration of the local government and generally means the county or city treasurer or town clerk unless the alternative form or governing body specifies a different individual.

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

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

~~(4)~~*(5)* "Local improvement district" means an improvement district in which property is assessed to pay for specific capital improvements benefiting the assessed property.

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

~~(5)~~*(7)* "Records administrator" means the individual responsible for keeping the public records of the local government and generally means the county, city, or town clerk unless the alternative form or governing body specifies a different individual.

~~(6)~~*(8)* "Subordinate service district" means a special district within a local government in which certain services are provided and in which taxes may be levied to finance the services."

Section 2. Section 7-3-141, MCA, is amended to read:

"7-3-141. Permissible recommendations. (1) A petition proposing to alter an existing ~~form of~~ county government may:

(a) recommend amendments to the existing plan of government;

(b) recommend any ~~plan~~ *form* of government authorized by Title 7, chapter 3, parts 1 through ~~6~~ *5*;

(c) draft a charter;

(d) recommend municipal-county consolidation or amendments to an existing consolidation; or

(e) in cooperation with a similar petition calling for an election on county merger circulated in an adjoining county, recommend county merger.

(2) A petition proposing to alter ~~an existing form of~~ *a* municipal government may:

(a) recommend amendments to the existing plan of government;

(b) recommend any ~~plan~~ *form* of government authorized by Title 7, chapter 3, parts 1 through 6;

(c) draft a charter; or

(d) recommend disincorporation."

Section 3. Section 7-3-142, MCA, is amended to read:

"7-3-142. Requirements for petition. A petition proposing an alteration of ~~an existing form of~~ *a* local government must contain:

(1) a certificate containing the ~~"~~plan of government~~"~~ of the existing form of local government;

(2) a certificate containing the ~~"~~plan of government~~"~~ of the proposed new form of ~~local~~ government or amendments to the existing plan;

(3) a certificate containing the ~~"~~plan of apportionment~~"~~ of commissioner districts if districts are contained in the ~~"~~plan of government~~"~~; and

(4) a comparison of the existing *form of government and* plan *of government* and proposed *form of government and* plan of ~~local~~ government, including, if desired, a statement of the strengths and weaknesses of the existing and proposed *forms and* plans of ~~local~~ government, information that supports the adoption of the proposed *form and* plan, and information that supports retention of the present *form and* plan."

Section 4. Section 7-3-149, MCA, is amended to read:

"7-3-149. Election on ~~alternative~~ *alteration of* form *of government.* (1) The governing body shall call a special election on the question of an ~~alternative~~ *alteration of the* form of government *or change in a plan of government proposed by petition* to be held at the next regular or primary election that is at least 75 days after the call and the date of filing with the records administrator under 7-3-146. The records administrator shall prepare and print notices of the election.

(2) The cost of the election must be paid for by the local government.

(3) (a) The affirmative vote of a simple majority of those voting on the question is required for adoption.

(b) In any election involving the question of consolidation, each question must be submitted to the electors in the county and requires an affirmative vote of a simple majority of the votes cast in the county on the question for adoption. There is no requirement for separate majorities in local governments voting on consolidation.

(c) In any election involving the question of county merger, the questions must be submitted to the electors in the counties affected and require a majority of the votes cast on the questions in each affected county for adoption.

(d) If the electors disapprove the proposed new form of local government, amendments, or consolidation plan, the local government retains its existing form."

Section 5. Section 7-3-151, MCA, is amended to read:

"7-3-151. Treatment of suboptions for *proposed* alternative forms. (1) *A* ~~No~~ petition recommendation may *not* involve more than three separate suboptions, and ~~no~~ *a* suboption may *not* contain more than two alternatives. If a suboption is submitted to the voters, only the ballot alternatives within that suboption receiving the highest number of affirmative votes are considered approved and included in the alternative form of government. If the alternative form of government fails, a suboption is of no effect.

(2) A proposed *change of the form of government or change in a* plan *of government* ~~shall~~ *must* be submitted to the voters as a single question, except that the suboptions within the ~~alternative plan~~ *form* of local government authorized in Title 7, chapter 3, parts 1 through 6, and the suboptions authorized in a charter may be submitted to the electors as separate questions. The question of adopting a suboption ~~shall~~ *must* be submitted to the electors in substantially the following form:

Vote for one:

A legal officer (who may be called the "county attorney"):

☐ ~~Shall~~ *To* be elected for a term of 4 years.

☐ ~~Shall~~ *To* be appointed for a term of 4 years by the ~~chairman~~ *presiding officer* of the local governing body."

Section 6. Section 7-3-152, MCA, is amended to read:

"7-3-152. Effect of adoption of new form of government *or change in plan of government*. The adoption of a new *form of government or a change in a* plan of government does not affect the validity of any bond, debt, contract, obligation, or cause of action accrued or established under the prior form of government."

Section 7. Section 7-3-153, MCA, is amended to read:

"7-3-153. Filing of approved plan. (1) A copy of the ~~existing or proposed~~ *new form of government or change in a* plan of government *that is proposed by petition and that is* ratified by the voters and any apportionment plan or consolidation or merger plan must be certified by the presiding officer of the governing body and filed with the department of administration, the county records administrator, and the municipal records administrator if it is a municipal plan.

(2) The approved *form of government or change in a* plan *of government* filed with the department of administration is the official plan and is a public record open to inspection by the public and judicially noticeable by all courts."

Section 8. Section 7-3-155, MCA, is amended to read:

"7-3-155. Three-year moratorium. (1) Unless the constitution requires otherwise, the electors of any unit of local government ~~which~~ *that* has voted upon the question of changing the form of local government, charter, or consolidation plan ~~or upon the question of amending the alternative form, charter, or consolidation plan~~ may not vote on the question of changing ~~or amending~~ the form of local government for 3 years.

(2) For the purposes of this section, general election dates are considered to be 1 year apart and may be used in computing the 3-year moratorium. ~~No~~ *An* election on the question of changing an alternative form of a unit of local government may *not* be challenged as failing to conform with the moratorium provisions of this section because 3 full calendar years may not have elapsed."

Section 9. Section 7-3-156, MCA, is amended to read:

"7-3-156. Effective date of alternative ~~plan~~ *form* or amendment — *officers.* (1) ~~An alternative plan~~ *A change in form* of ~~local~~ government *or plan of government* approved by the electors takes effect when the new officers take office *pursuant to 7-3-161*, except as otherwise provided in any charter or ~~consolidation~~ *transition* plan. A consolidation or merger plan adopted by the electors takes effect in the same manner.

(2) Provisions creating offices and establishing qualifications for office under any apportionment plan become effective immediately for the purpose of electing officials.

~~(3)~~*(3)* An amendment to *the plan of* an existing ~~plan~~ *form* of government becomes effective at the beginning of the local government's fiscal year commencing after the election results are officially declared *unless the plan provides for an increase in the number or type of elective officers, in which case the amendment takes effect when the new officers take office*."

Section 10. Section 7-3-157, MCA, is amended to read:

"7-3-157. General transition provisions. (1) The governing body shall prepare an advisory plan for orderly transition to a new *form of government or* plan of ~~local~~ government *proposed by petition*. The transition plan may propose necessary ordinances, plans for consolidation of services and functions, and a plan for reorganizing boards, departments, and agencies.

(2) The governing body of a local government may enact and enforce ordinances to bring about an orderly transition to the new *form of government or* plan of government, including transfer of powers, records, documents, properties, assets, funds, liabilities, or personnel. These ordinances are to be consistent with the approved plan and necessary or convenient to place it into full effect. Whenever a question arises concerning transition ~~which~~ *that* is not provided for, the governing body may provide for the transition by ordinance, rule, or resolution not inconsistent with law."

Section 11. Section 7-3-158, MCA, is amended to read:

"7-3-158. Transition provisions affecting personnel. (1) The members of the governing body holding office on the date the new plan of government is adopted by the electors of the local government continue in office and in the performance of their duties until the governing body authorized by the plan has been elected and qualified~~, whereupon the prior governing body is abolished~~.

(2) An officer, including a member of the governing body, elected under an existing form of government or plan of government continues to hold office under a new form of government or change to a plan of government if the new form or plan continues to have that office, whether the new officer is to be elected or appointed. A successor may be elected or appointed, as appropriate, to fill the office at the end of the term for which the holdover officer was elected.

~~(2)~~*(3)* All other employees holding offices or positions~~, whether elective or appointive,~~ under the government of the county or municipality continue in the performance of the duties of their respective offices and positions until provisions are made for the performance or discontinuance of the duties or the discontinuance of the offices or positions.

~~(3)~~*(4)* A ~~charter or a petition proposing an alteration to an existing form of local government~~ *change in a form of government or a plan of government* may provide that existing elected officers ~~shall~~ *of an office that is abolished may*

continue in office until the end of the term for which they were elected or may provide that *the* existing elected officers ~~shall~~ be retained as local government employees until the end of the term for which they were elected, and their salaries may not be reduced."

Section 12. Section 7-3-160, MCA, is amended to read:

"7-3-160. Election of new officials. (1) Within 20 days after an election at which ~~the~~ *a* new ~~plan~~ *form* of government *or change in a plan of government* is approved by the electors, the governing body of the local government shall meet and order a special primary and general election for the purpose of electing the officials required by the new form *or plan* of government. The elections for officials ~~may~~ *must* be held in conjunction with any other election *of that government*.

(2) The order ~~shall~~ *must* specify:

(a) a date for the primary election to be held no later than the *government's* next regularly scheduled ~~city or county~~ primary election; and

(b) a date for the general election to be held no later than the next regularly scheduled city or county general election following the primary election date established under subsection (2)(a)."

Section 13. Section 7-3-161, MCA, is amended to read:

"7-3-161. Organization of new governing body. (1) The first meeting of a new governing body for a ~~new plan~~ *different form* of government ~~shall~~ *must* be held at 10 a.m., 60 days after the election of the new officers. At that time, newly elected ~~members~~ *officers* shall take the oath of office prior to assuming the duties of office.

(2) If the terms of the commissioners are to be overlapping, ~~they shall~~ *newly elected commissioners shall* draw lots to establish their respective terms of office."

Section 14. Section 7-3-175, MCA, is amended to read:

"7-3-175. Election on question of establishing study commission. (1) The question of conducting a local government review and establishing a study commission ~~shall~~ *must* be submitted to the electors in substantially the following form:

Vote for one:

☐ FOR the review of the government of (insert name of local government) and the establishment *and funding, not to exceed (insert dollar or mill amount),* of a local government study commission consisting of (insert number of members) members to examine the government of (insert name of local government) and submit recommendations ~~thereon~~ *on the government*.

☐ AGAINST the review of the government of (insert name of local government) and the establishment *and funding, not to exceed (insert dollar or mill amount),* of a *local government* study commission *consisting of (insert number of members) members to examine the government of (insert name of local government) and submit recommendations on the government*.

(2) The question of conducting a local government review and establishing a study commission requires an affirmative vote of a majority of those voting on the question for passage.

(3) Except for elections to be conducted pursuant to 7-3-173(2), a special election on the question of reviewing a local government and establishing a study commission ~~shall~~ *must* be held no sooner than 60 days and no later than 90 days after the passage of a resolution or the certification of a petition calling for an election on the question."

Section 15. Section 7-3-178, MCA, is amended to read:

"7-3-178. Term of office — vacancies — compensation. (1) The term of office of study commission members begins on the day *that* their election to the study commission is declared or certified under 13-15-405 or on the day of their appointment and ends on the day of the vote on the alternative plan. If the alternative plan is adopted, the term continues for 90 days after the day of the vote on the alternative plan. If the commission recommends no alternative plan, the term ends 30 days after submission of the final report in accordance with 7-3-187.

(2) Except as provided in subsection (1), the term of office of study commission members terminates on the date of the first statewide general election following the election required by 7-3-176.

~~(2)~~*(3)* A vacancy on a study commission, including an ex officio member vacancy, ~~shall~~ *must* be determined in the same manner as a vacancy in municipal office as provided in 7-4-4111. A vacancy on a study commission ~~shall~~ *must* be filled by appointment by the governing body of the local government being studied by the commission. The appointment ~~shall~~ *must* be made within 30 days of the date the vacancy occurs.

~~(3)~~*(4)* Members of the study commission may *not* receive ~~no~~ compensation other than for actual and necessary expenses incurred in their official capacity."

Section 16. Section 7-3-184, MCA, is amended to read:

"7-3-184. Financial administration. (1) A study commission shall prepare a budget for each fiscal year *that* it is in existence and *shall* submit it to the local governing body for approval.

(2) (a) ~~Subject to 15-10-420~~ *For the support of the study commission*, for each fiscal year *that* the study commission is in existence, each local government under study ~~may~~ *shall* appropriate an amount necessary to fund the study*, and the local government may levy mills in excess of all other mill levies authorized by law to fund the appropriation for the support of the study commission*.

(b) The local government shall provide office and meeting space and clerical assistance to the study commission. The cost of clerical assistance and other in-kind services provided by the local government may be used to partially fulfill the appropriation provision of subsection (2)(a).

(c) The local government may provide additional funds and other assistance.

(3) The study commission may apply for and accept available private, state, and federal money and may accept donations from any source.

(4) All money received by the study commission must be deposited with the local government finance administrator. The finance administrator is authorized to disburse appropriated money of the study commission on the study commission's order after approval of the budget by the governing body. Unexpended money of the study commission does not revert to the general fund of the local government at the end of the fiscal year but carries over to the study commission's appropriation for the following fiscal year. Upon termination of

the study commission, unexpended money reverts to the general fund of the local government."

Section 17. Section 7-3-187, MCA, is amended to read:

"7-3-187. Final report. (1) A study commission shall adopt a final report. If the study commission recommends an ~~alternative form of~~ *alteration of a local* government, the final report must contain the following materials and documents, each signed by a majority of the study commission members:

(a) those materials and documents required of a petition proposing an alteration of ~~an existing form of~~ *a local* government in 7-3-142;

(b) a certificate establishing the date of the special election, which must be held in conjunction with a regular or primary election, at which the alternative form *of government or change in a plan* of government is presented to the electors and a certificate establishing the form of the ballot question or questions; and

(c) a certificate establishing the dates of the first primary and general elections for officers of a new government if the proposal is approved and establishing the effective date of the proposal if approved.

(2) The final report must contain any minority report signed by members of the commission who do not support the majority proposal.

(3) If the study commission is not recommending any changes, its final report must indicate that changes are not recommended.

(4) The study commission shall file two copies of the final report with the department of administration, one of which the department shall forward to the state library. A copy of the final report must be certified by the study commission to the municipal or county records administrator within 30 days after the adoption of the final report.

(5) Sufficient copies of the final report must be prepared for public distribution. The final report must be available to the electors not later than 30 days prior to the election on the issue of adopting the alternative *form or* plan *of government*. Copies of the final report may be distributed to electors or residents of the local government or governments affected.

(6) After submission of the final report, the commission shall deposit copies of its minutes and other records with the county clerk and recorder."

Section 18. Section 7-3-192, MCA, is amended to read:

"7-3-192. Election on recommendation. (1) An alternative *form or* plan of government recommended by a study commission must be submitted to the voters as provided in 7-3-149. The election must be held in conjunction with any regularly scheduled election.

(2) General ballot requirements and treatment of suboptions on an alternative *form or* plan of government recommended by a study commission must be the same as for recommendations by petition as provided in 7-3-150 and 7-3-151."

Section 19. Section 7-3-193, MCA, is amended to read:

"7-3-193. Application of other sections. (1) Except as provided in subsection (2) *of this section*, *the provisions of* 7-3-122 and 7-3-152 through 7-3-161 apply to the adoption of an alternative *form or* plan of government upon recommendation by a study commission.

(2) (a) The ~~chairman~~ *presiding officer* of the study commission and not the ~~chairman~~ *presiding officer* of the governing body shall certify documents under 7-3-153.

(b) The study commission and not the governing body shall prepare an advisory plan for orderly transition to a new *form or* plan of ~~local~~ government under 7-3-157.

(c) A study commission plan may provide for existing elected officers under 7-3-158~~(3)~~*(4)*."

Section 20. Section 15-10-420, MCA, is amended to read:

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

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

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

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

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

(i) annexation of real property and improvements into a taxing unit;

(ii) construction, expansion, or remodeling of improvements;

(iii) transfer of property into a taxing unit;

(iv) subdivision of real property; and

(v) transfer of property from tax-exempt to taxable status.

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

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

(i) a change in the boundary of a tax increment financing district;

(ii) an increase in the base value of the tax increment financing district pursuant to 7-15-4287; or

(iii) the termination of a tax increment financing district.

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

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

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

(a) school district levies established in Title 20; or

(b) the portion of a governmental entity's property tax levy for premium contributions for group benefits excluded under 2-9-212 or 2-18-703.

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

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

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

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

(i) a judgment levy under 2-9-316, 7-6-4015, or 7-7-2202;

(ii) a levy to repay taxes paid under protest as provided in 15-1-402; ~~or~~

(iii) an emergency levy authorized under 10-3-405, 20-9-168, or 20-15-326*; or*

(iv) a levy for the support of a study commission under 7-3-184.

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

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

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

Approved May 20, 2007

RESOLUTIONS

Adopted by the

SIXTIETH LEGISLATURE
IN REGULAR SESSION

Held at Helena, the Seat of Government
January 3, 2007, through April 27, 2007

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 URGING CONGRESS TO DEVELOP HEALTH CARE REFORMS ADDRESSING THE INCREASING COSTS OF HEALTH CARE, THE INCREASING NUMBER OF PEOPLE WITHOUT HEALTH INSURANCE, A LACK OF UNIFORM QUALITY, AND DISPARATE HEALTH CARE LEGISLATION AMONG STATES THAT IMPACTS THE NATION'S ECONOMY AND AMERICANS' HEALTH.

WHEREAS, the cost of health care is increasing at a rate higher than the rate of consumer inflation and driving up costs of businesses, workers, retirees, and state government for health insurance or health care coverage and workers' compensation health care costs; and

WHEREAS, the impacts of rising health care costs decrease profits for companies that provide health insurance for employees and lower profits from what they otherwise might have been, thus decreasing investment income for retirement funds that invest in these companies; and

WHEREAS, access to health care can be considered one of the many ways that government, in the words of the preamble to the U.S. Constitution, promotes "the common welfare" and helps Americans to avoid needless early mortality and lost productivity; and

WHEREAS, an estimated 19% of the Montana population is without health insurance coverage and yet still needs access to health care whether through insurance coverage, subsidized health care, incentives, or other methods of increasing access; and

WHEREAS, quality of health care may be uneven between rural and urban areas, income groups, or regions of the country because of separate state laws, lack of uniform guidelines of care, or other disparate reasons.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Congress of the United States be urged to:

(1) increase its work with states, businesses, labor groups, health insurers, health benefit plans, health care providers, and consumers to address strategies that provide all Americans with basic health care coverage in a manner that positively addresses the increasing costs of health care, the increasing numbers of Americans without health insurance coverage or access to health care, and the uneven quality of health care;

(2) include in its objectives for health care reform a simplification of the current complex system of health care;

(3) work with states, businesses, labor groups, health insurers, health benefit plans, health care providers, and consumers to determine best practice health care guidelines and health care administration guidelines;

(4) look at a health care financing system that recognizes inequity in ability to pay as well as the tendency to shift costs to others if pricing is out of line with ability to pay or impairs competitiveness; and

(5) encourage states to be the laboratory of innovation regarding health care reform and not preempt innovative state laws.

BE IT FURTHER RESOLVED, that the Secretary of State send copies of this resolution to the United States Congress and, specifically, to Montana's Congressional Delegation.

Adopted March 29, 2007

HOUSE JOINT RESOLUTION NO. 3

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA URGING 24-HOUR SERVICE AT THE PORT OF ENTRY-WILD HORSE.

WHEREAS, there is only one 24-hour port of entry on the border between the State of Montana and the Canadian Province of Alberta; and

WHEREAS, an escalating amount of commercial traffic serving the oil sands region of Alberta hauls freight from manufacturers and suppliers located in the midwestern and southern United States; and

WHEREAS, the findings of a report prepared for Alberta's Legislative Assembly documented the need for an alternate trade corridor and the economic development potential that such a passage would have on communities along the corridor by routing that commercial traffic through Montana by way of Secondary Highway 232 and into Alberta on Provincial Highway 41; and

WHEREAS, on April 10, 2006, Alberta's Legislative Assembly unanimously approved Motion 506 that states: "Be it resolved that the Legislative Assembly urge the Government to promote the use of Highway 41, up to and including Highway 63, from Wildhorse to Fort McMurray, as an alternate north-south transportation corridor from the United States"; and

WHEREAS, Alberta Highway 41 connects to Montana Secondary Highway 232 at the Port of Entry-Wild Horse and serves as an arterial connector to U.S. Highway 2 in Havre; and

WHEREAS, the practicality of this alternate trade corridor is contingent on a 24-hour border crossing facility at the Port of Entry-Wild Horse on Montana Secondary Highway 232; and

WHEREAS, 24-hour service at the Port of Entry-Wild Horse and the development of an alternate trade corridor between Montana and eastern Alberta would remove a barrier to trade and travel for oil and gas, coal, bioenergy, wind, agriculture, tourism, and other industries that require efficient access to markets, thus encouraging new investment and thereby supporting the economic development vision for Montana by promoting investment in central and eastern Montana, including six of the state's Indian reservations.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the House of Representatives and Senate of the State of Montana urge Governor Schweitzer and Montana's Congressional Delegation, as well as the

Governor's Office of Economic Development and the Montana Department of Transportation, to work with the U.S. Department of Homeland Security and the Federal Highway Administration to develop 24-hour service at the Port of Entry-Wild Horse and to fund the necessary expansion of infrastructure that would make that service possible.

BE IT FURTHER RESOLVED, that the Montana Secretary of State forward copies of this resolution to the President of the United States, the Prime Minister of Canada, the Governor of Montana, the Premier of Alberta, Montana's Congressional Delegation, the Canadian Minister of Citizenship and Immigration, the Canadian Minister of Public Safety and Emergency Preparedness, the Director of the U.S. Department of Homeland Security, the Director of the U.S. Federal Highway Administration, the Alberta Minister of International and Intergovernmental Relations, the Alberta Minister of Economic Development, the Director of the Montana Department of Transportation, the Director of the Montana Department of Commerce, the Chief Development Officer of the Governor's Office of Economic Development, the Speaker of the Legislative Assembly of Alberta, and the Mayors of Medicine Hat, Alberta, and Havre, Montana.

Adopted February 9, 2007

HOUSE JOINT RESOLUTION NO. 4

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA OPPOSING THE RELAXATION OF MAIL DELIVERY STANDARDS UNDER CONSIDERATION BY THE PRESIDENT'S COMMISSION ON THE UNITED STATES POSTAL SERVICE; REQUESTING THAT THE UNITED STATES POSTAL SERVICE MAINTAIN CURRENT LEVELS OF SERVICE; AND REQUESTING THAT THE UNITED STATES POSTAL SERVICE MAINTAIN CURRENT OVERNIGHT DELIVERY STANDARDS AND NOT CENTRALIZE MONTANA'S MAIL-SORTING OPERATIONS.

WHEREAS, the United States Postal Service, founded in 1775, provides dependable, affordable mail service to Montana communities; and

WHEREAS, the United States Postal Service remains an important part of the nation's economic infrastructure through which nearly $1 trillion of economic activity is conducted each year and in which 9 million people are employed; and

WHEREAS, many Montanans, especially in rural areas, do not have easy access to the Internet or to electronic banking and bill paying and are heavily dependent on the United States Postal Service for communication and conducting business transactions; and

WHEREAS, Americans currently enjoy the most extensive postal service at the lowest postage rates of any major industrialized nation in the world; and

WHEREAS, the President's Commission on the United States Postal Service has recommended changes to postal operations that could sever postal employees from federal employee health, retirement, and workers' compensation programs and has recommended repeal of laws that could pave the way toward reducing rank-and-file wages and benefits while simultaneously eliminating the current salary cap on executive level postal positions; and

WHEREAS, the Commission has recommended a new Presidentially appointed, corporate-style board of directors and a new postal regulatory board and has proposed giving these new politically appointed governing bodies broad authority to set rates; and

WHEREAS, the Commission has proposed to refine the scope of the United States Postal Service's "universal service" obligation and uniform rate structure and change and restrict the scope of services currently protected under postal monopoly regulations; and

WHEREAS, the new board's broad authority could allow post offices to be closed and prices to be set with a complicated postage rate structure or could turn over postal operations to private, for-profit enterprises; and

WHEREAS, replacing the United States Postal Service's public service obligation with a profit-seeking mandate would undermine the United States Postal Service's historical "universal service" obligation and weaken its national infrastructure; and

WHEREAS, in the interim period prior to legislated postal reform, the United States Postal Service may move forward with initiatives to close postal facilities in Montana; and

WHEREAS, the United States Postal Service is requesting that the United States Postal Rate Commission investigate relaxation of overnight delivery standards; and

WHEREAS, the United States Postal Service could consolidate the processing of mail in Montana, including moving all Helena outgoing mail-sorting operations to Great Falls; and

WHEREAS, this consolidation would not serve the public's best interest because of the decrease in productivity compared to the current processing of mail in Helena; and

WHEREAS, the consolidation could result in the elimination of the agency's current obligation to deliver local mail overnight and could relax other mail delivery standards across Montana; and

WHEREAS, the economy of the Helena area would be negatively impacted as a result of the relaxation of overnight delivery standards; and

WHEREAS, the public health and the public services provided by state agencies would be negatively impacted as a result of the relaxation of overnight delivery standards.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Montana Legislature urges the President, the Congress of the United States, and the United States Postal Service to continue to maintain affordable, dependable mail service at current levels because of its social and economic importance to our nation.

BE IT FURTHER RESOLVED, that any recommendation from the President's Commission on the United States Postal Service or the United States Postal Rate Commission that curtails public services in the current postal service be rejected.

BE IT FURTHER RESOLVED, that the Legislature of the State of Montana opposes any changes that would harm the public and workers of the United States Postal Service, including legislated or United States Postal Service

initiatives to close or consolidate postal facilities, relax overnight delivery standards, centralize mail-sorting operations, take away or modify the collective bargaining system of postal workers, or change the current bargaining system for employee benefits.

BE IT FURTHER RESOLVED, that copies of this resolution be sent by the Secretary of State to the Honorable George W. Bush, President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, the Majority and Minority Leaders of the United States Senate and House of Representatives, the Postmaster General of the United States Postal Service, the United States Postal Rate Commission, the President's Commission on the United States Postal Service, the Committee on Ways and Means, the Committee on Rules, and the Committee on the Budget of the United States House of Representatives, the Budget Committee of the United States Senate, and each member of the Montana Congressional Delegation.

Adopted March 29, 2007

HOUSE JOINT RESOLUTION NO. 5

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA URGING MONTANA'S CONGRESSIONAL DELEGATION TO INTRODUCE AND SUPPORT LEGISLATION REQUIRING THE U.S. ARMY CORPS OF ENGINEERS TO INCREASE AND MAINTAIN A MINIMUM POOL ELEVATION IN FORT PECK RESERVOIR OF 2226 FEET ABOVE MEAN SEA LEVEL AND TO PROTECT MONTANA'S WATER RIGHTS.

WHEREAS, due to management of downstream barge traffic by the U.S. Army Corps of Engineers, the water levels of Fort Peck Reservoir have reached historic lows; and

WHEREAS, the low water levels have had an adverse impact on recreational uses of Fort Peck Reservoir; and

WHEREAS, the declining water levels have had an adverse effect on fisheries management of Fort Peck Reservoir; and

WHEREAS, declining reservoir levels are affecting the availability of water for irrigation and other agricultural uses; and

WHEREAS, the ability of Montana water users to exercise their water rights is adversely affected; and

WHEREAS, reduced reservoir levels have exposed thousands of acres of land, resulting in an accelerated spread of noxious weeds; and

WHEREAS, the reduced water levels have caused a severe economic impact on all of central and eastern Montana in that marinas have closed, most boat ramps no longer reach the water and are unusable, and recreational boaters have limited use of the reservoir, thereby causing an economic disaster to the service industries of central and eastern Montana that provide food, lodging, fuel, sporting goods, boats, and marinas; and

WHEREAS, studies have concluded that the economic value of barge traffic is approximately $7 million annually, and the economic value of recreational uses of upstream dams is estimated to be $85 million annually; and

WHEREAS, the drawdown of the reservoirs on the Missouri River will have an impact on the cost of electricity to customers that receive power from the Western Area Power Administration; and

WHEREAS, restoring the lake level to 2226 feet above mean sea level will restore most of the recreational uses and will still allow for future flood control.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That Montana's Congressional Delegation be strongly urged to introduce and support legislation requiring the U.S. Army Corps of Engineers to increase and maintain a minimum pool elevation in Fort Peck Reservoir of 2226 feet above mean sea level.

Adopted April 5, 2007

HOUSE JOINT RESOLUTION NO. 6

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA SUPPORTING THE "25 X 25" INITIATIVE TO INCREASE PRODUCTION OF RENEWABLE ENERGY BY THE AGRICULTURAL COMMUNITY.

WHEREAS, having an affordable, clean, reliable, and plentiful energy supply is critical to Montana's economy, as well as the national and international food supply; and

WHEREAS, current and future risks to national energy security are mounting while domestic and global energy demands are growing exponentially; and

WHEREAS, Montana and the United States have tremendous renewable energy resources; and

WHEREAS, the development of a broad spectrum of renewable energy resources, including wind power, biofuels, biomass, methane digesters, ethanol, and solar, benefit the environment and will have a direct economic benefit to agricultural landowners and rural communities; and

WHEREAS, rural communities and agriculture will experience multiple benefits, including establishing additional markets for agricultural commodities, increasing farm income, creating added-value uses for crops, livestock, and their byproducts, encouraging more productive use of marginal lands, resolving air, water, and soil quality problems that may arise from agricultural operations, improving wildlife habitat, and creating many new job opportunities; and

WHEREAS, American agriculture is well positioned to play an expanded role in the development and implementation of new energy solutions and with appropriate technological innovation, incentives, and investments, America's farms and ranches can become the factories that produce a new generation of fuels to help meet the nation's energy needs; and

WHEREAS, "25 x 25" is an agriculturally led initiative that envisions America's farms and ranches producing 25% of America's energy supply by the year 2025 while continuing to produce abundant, safe, and affordable food and fiber; and

WHEREAS, agriculture's role as an energy producer will have a positive effect on national security and trade imbalances and will serve as a catalyst for rural development in Montana and the United States; and

WHEREAS, Governor Brian Schweitzer (D-MT), Governor Dave Heineman (R-NE), Governor Tim Pawlenty (R-MN), Governor Mitch Daniels (R-IN), Governor Ed Rendell (D-PA), former Governor Jeb Bush (R-FL), Governor Kathleen Sebelius (D-KS), former Governor Tom Vilsack (D-IA), former Governor George Pataki (R-NY), former Governor Robert Ehrlich (R-MD), Governor Jennifer Granholm (D-MI), former Governor James Risch (R-ID), Governor Jim Doyle (D-WI), Governor Jim Douglas (R-VT), Governor Ernie Fletcher (R-KY), Governor John Lynch (D-NH), former Governor Bob Taft (R-OH), Governor Tim Kaine (D-VA), Governor Arnold Schwartzenegger (R-CA), and Governor Rod Blagojevich (D-IL) have endorsed "25 x 25"; and

WHEREAS, state legislatures from Colorado, Nebraska, Kansas, and Vermont have endorsed "25 x 25".

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Montana Legislature endorses the "25 x 25" vision of agriculture providing 25% of the total energy consumed in the United States by the year 2025, while continuing to produce abundant, safe, and affordable food and fiber.

BE IT FURTHER RESOLVED, that copies of this resolution be sent by the Secretary of State to the Honorable George W. Bush, President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, the Majority and Minority Leaders of the United States Senate and House of Representatives, and each member of the Montana Congressional Delegation.

Adopted March 8, 2007

HOUSE JOINT RESOLUTION NO. 7

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA URGING THE EXECUTIVE AND JUDICIAL BRANCHES OF STATE GOVERNMENT TO IMPLEMENT TELECOMMUTING, ALSO KNOWN AS "TELEWORK", WITHIN BRANCH AGENCIES BY IDENTIFYING FUNCTIONS THAT MAY BE PERFORMED BY EMPLOYEES WHO TELEWORK, ADOPTING POLICIES AND PROCEDURES FOR TELEWORK, AND IMPLEMENTING THOSE POLICIES.

WHEREAS, one of the most important issues to the citizens of Montana is the energy issue in all its facets; and

WHEREAS, telecommuting, also known as "telework", keeps more vehicles parked and reduces energy waste, foreign oil dependence, and even terrorist funding; and

WHEREAS, telework reduces stress and wasted time behind the wheel and improves highway safety by reducing traffic; and

WHEREAS, telework has been shown to increase employee productivity, improve retention, and bring efficiency to the use of employer assets; and

WHEREAS, telework reduces the number of children without parents at home; and

WHEREAS, Chapter 56, Laws of 2005, authorized and directed the Department of Administration to adopt policies to encourage agencies to implement telework for agency employees when in the state's best interest.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Executive and Judicial Branches of the government of the State of Montana be urged to:

(1) assess each function within each branch agency and identify which functions could be performed through telework;

(2) develop and adopt policies and procedures necessary to implement telework for the identified functions; and

(3) implement telework for the identified functions.

BE IT FURTHER RESOLVED, that the Secretary of State provide a copy of this resolution to the Governor and the Chief Justice of the Montana Supreme Court.

Adopted March 29, 2007

HOUSE JOINT RESOLUTION NO. 14

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA URGING CONGRESS TO INCLUDE A RIGHT OF FIRST REFUSAL FOR A STATE IN WHICH FEDERAL LAND PROPOSED FOR SALE IS LOCATED.

WHEREAS, the President's budget proposed the reauthorization of the Secure Rural Schools and Community Self-Determination Act of 2000 for another 5 years and, to help fund this initiative, recommended selling a number of acres of National Forest System lands around the nation; and

WHEREAS, the western states contain vast tracts of federal land that have helped shape the economic and recreational cultures of those states; and

WHEREAS, public land management should not be subject to the whims of temporary budget cycles; and

WHEREAS, the western states have vast experience in managing the public lands that were granted to them through the Enabling Acts under which they were admitted to statehood; and

WHEREAS, the retention of public land creates economic opportunities, preserves the rich western tradition of outdoor activity, and enhances a clean and healthy environment.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That Congress include in any legislation considering the sale of federal land a right of first refusal at the appraised value for the state in which the federal land proposed for sale is located.

BE IT FURTHER RESOLVED, that the Secretary of State send copies of this resolution to the United States Congress and, specifically, to Montana's Congressional Delegation.

Adopted April 5, 2007

HOUSE JOINT RESOLUTION NO. 16

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA URGING THAT THE REVISION OF THE CRIMINAL CODES WITHIN TITLE 87 OF THE MONTANA CODE ANNOTATED BE GIVEN PRIORITY .

WHEREAS, the hunting and fishing heritage of Montana recreationists means that a large number of Montanans are subject to the fish and game laws; and

WHEREAS, there are a large number of fish and game bills every session and significant changes to the fish and game laws are enacted at each session; and

WHEREAS, the law school and other entities have expressed the desire to assist the Legislative Branch in long-term projects related to Montana law; and

WHEREAS, practitioners, judges, and citizens find that the criminal codes intertwined within Title 87 of the Montana Code Annotated are difficult to read, understand, and prosecute.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That priority be given to a revision of the criminal codes regarding fish, wildlife, and parks violations that are contained in Title 87 of the Montana Code Annotated and that the revision be proposed to the 2009 Legislature.

BE IT FURTHER RESOLVED, that entities interested in a proposed revision of the criminal codes in Title 87 are encouraged to participate in the proposed revision.

BE IT FURTHER RESOLVED, that revisions will not include policy changes to current laws and will adhere to the intent of the legislatures that crafted the laws.

BE IT FURTHER RESOLVED, that the Department of Fish, Wildlife, and Parks, the Attorney General, and the Montana Magistrates Association join in requesting the Montana Supreme Court to appoint a Fish, Wildlife, and Parks Criminal Code Revision Commission to oversee and direct a revision.

BE IT FURTHER RESOLVED, that the Attorney General's Office, the Legislative Services Division, the Department of Fish, Wildlife, and Parks, the Montana Magistrates Association, and the Montana County Attorneys Association assist and participate in the proposed revision.

BE IT FURTHER RESOLVED, that the Law School at the University of Montana-Missoula be requested to provide assistance and participate in the proposed revision.

BE IT FURTHER RESOLVED, that funding for the revision project and the Fish, Wildlife, and Parks Criminal Code Revision Commission will be absorbed by the Department of Fish, Wildlife, and Parks without additional funds.

Adopted April 12, 2007

HOUSE JOINT RESOLUTION NO. 17

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA URGING THE UNITED STATES GOVERNMENT TO ALLOW THE INTERSTATE SHIPMENT OF MEAT THAT IS PROCESSED IN APPROVED STATE-INSPECTED MEAT PROCESSING AND PACKING FACILITIES, AS ALLOWED BY UNITED STATES DEPARTMENT OF AGRICULTURE REGULATIONS.

WHEREAS, agriculture is Montana's top industry and Montana's cattle ranchers produce beef of exceptional quality that is desired nationally and around the world; and

WHEREAS, the continued success of agriculture is dependent on the economic development practice of adding value to existing products; and

WHEREAS, the input cost of transporting meat for processing places an additional burden on Montana's ranchers, who are already struggling to remain viable in a volatile marketplace; and

WHEREAS, United States Department of Agriculture (USDA) regulations allow for state-inspected meat processing and packing plants, and the USDA considers state-inspected plants to be commensurate with federally inspected plants; and

WHEREAS, the USDA thoroughly inspects and approves state-inspected meat processing and packing plants every 3 years; and

WHEREAS, the USDA pays one-half of the cost of state inspection for state meat processing and packing plants, provided that state standards equal or exceed federal standards; and

WHEREAS, Montana's meat processing standards are more stringent than federal standards; and

WHEREAS, state-inspected meat processing and packing plants have been operating successfully and safely in Montana for over 20 years; and

WHEREAS, the market for specialized meat products is expanding, and producers need access to processing plants to capitalize on these new consumer tastes; and

WHEREAS, consumers appreciate the right to choose agricultural products that are produced and processed in Montana; and

WHEREAS, despite USDA regulations that allow the interstate shipment of state-inspected meat, federal law restricts state-inspected meat from interstate commerce.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the United States government be urged to lift its ban on the interstate shipment of meat processed in approved state-inspected meat processing and packing plants.

BE IT FURTHER RESOLVED, that the Secretary of State send a copy of this resolution to Montana's Congressional Delegation and to the Governor of Montana.

Adopted March 29, 2007

HOUSE JOINT RESOLUTION NO. 19

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA URGING MEDICAL AND MENTAL HEALTH CARE PROVIDERS TO ASSIST PERSONS WITH A CHRONIC ILLNESS AND THEIR FAMILIES TO FACILITATE METHODS OF ACCESS TO HEALTH CARE INFORMATION OR TO BRING A STATE LAW THAT PREVENTS ACCESS TO THE ATTENTION OF THE LEGISLATURE, THE GOVERNOR, OR THE ATTORNEY GENERAL.

WHEREAS, persons who are receiving or in need of treatment for chronic illness need the support of their families and their medical providers; and

WHEREAS, the U.S. Department of Health and Human Services issued the Privacy Rule to implement the privacy requirements of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), and Privacy Rule standards address the use and disclosure of individuals' health information, called "protected health information", by organizations subject to the Privacy Rule, called "covered entities", such as medical providers and health care insurers, and address individuals' privacy rights, including the right to understand and control how their health information is used; and

WHEREAS, if a state law is contrary to the Privacy Rule, a state has the ability to seek a HIPAA exception to the general rule of federal preemption in which the Secretary of the U.S. Department of Health and Human Services may make a determination that a contrary provision of state law will not be preempted by HIPAA when the intrusion into privacy is warranted when balanced against the need to be served; and

WHEREAS, there are other steps that individuals may take to share their protected health information with family members, such as by agreement or by designating a personal representative through a health care or general power of attorney, legal guardianship, or advanced health care directive; and

WHEREAS, there are provisions for medical care providers to share information with family when it is in the best interest of the individual and when the family member is involved with or responsible for their family member's care; and

WHEREAS, protected health information may be used or disclosed to assist in the notification of a family member of the individual's location or general condition; and

WHEREAS, professional organizations for health care providers and third-party payors have developed sophisticated systems to share information between entities for medical and payment purposes but have not concentrated on efforts to assist persons with chronic illness and their families in sharing information and participating in the persons' care.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That medical and mental health professionals, advocates, associations, and the Department of Public Health and Human Services endeavor to understand the provisions of HIPAA, to assist persons with chronic illness and their families to understand the provisions, and to encourage, facilitate, and make available to them the information that would allow them to create and use methods to support persons with chronic illness with their treatment and provide respect for their privacy rights and independence.

BE IT FURTHER RESOLVED, that if there are provisions of state law that persons with chronic illness, family members, or medical and mental health care professionals believe to be contrary to HIPAA and worthy of an exception, they bring it to the attention of the Legislature, the Governor, or the Attorney General to seek an exception to the general rule of federal preemption.

BE IT FURTHER RESOLVED, that the Secretary of State send copies of this resolution to all of the Divisions of the Department of Public Health and Human Services, the Montana chapter of the National Alliance on Mental Illness, the Montana Advocacy Program, the Montana Medical Association, the Montana Psychological Association, the Montana Nurses' Association, the Montana Psychiatric Association, the Montana Primary Care Association, community health centers and clinics, community mental health centers, the National Association of Social Workers - Montana chapter, the Montana Children's Initiative Provider Association, and MHA - An Association of Montana Health Care Providers.

Adopted April 5, 2007

HOUSE JOINT RESOLUTION NO. 20

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA URGING THE U.S. DEPARTMENT OF DEFENSE TO REQUIRE MALMSTROM AIR FORCE BASE TO TAKE FINANCIAL RESPONSIBILITY FOR REMEDIATION OF SEDIMENT IN THE MISSOURI RIVER RESULTING FROM STORM WATER.

WHEREAS, Montana conservation districts are political subdivisions of the State of Montana created by the Legislature in 1939; and

WHEREAS, conservation districts' main function is to conduct local activities to promote conservation of natural resources; and

WHEREAS, the Whitmore ravine is a natural drainage located on the east end of Great Falls between Malmstrom Air Force Base and the Missouri River; and

WHEREAS, two feasibility studies completed in 2003 and 2005 estimate that 470,000 tons of sediment have entered the Missouri River through the Whitmore ravine; and

WHEREAS, the feasibility studies note that Malmstrom Air Force Base is the only major developed area contributing storm water discharges to the ravine; and

WHEREAS, Malmstrom Air Force Base has a valid storm water discharge permit from the Department of Environmental Quality; and

WHEREAS, the Cascade County conservation district has diligently worked to form a Whitmore ravine task force to include the participation of all stakeholders; and

WHEREAS, current contributions total $48,700 from private sources and from local and state governments to fund the feasibility studies, with $30,000 representing the state share from the coal tax trust fund; and

WHEREAS, the feasibility studies estimate a minimum construction cost of $2.3 million to remedy the erosion problem and sediment pollution to the Missouri River; and

WHEREAS, Malmstrom Air Force Base expresses a goal to be a good steward of the land.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the State of Montana formally request the U.S. Department of Defense to acknowledge the damage that storm water from Malmstrom Air Force Base has caused and require Malmstrom Air Force Base to take financial responsibility for any remediation actions and to work in close cooperation with affected landowners and the Cascade County conservation district to effectively resolve this major natural resource problem.

Adopted March 20, 2007

HOUSE JOINT RESOLUTION NO. 22

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN APPROPRIATE INTERIM COMMITTEE TO STUDY REPAYMENT PROGRAMS AND OTHER INCENTIVE PROGRAMS TO SUPPORT ACCESS TO DENTAL CARE IN THE STATE, WITH EMPHASIS ON RURAL AREAS.

WHEREAS, access to a dentist in the rural or sparsely populated areas of Montana is difficult or nonexistent; and

WHEREAS, Montana's population of practicing dentists is growing older and concern exists in the dental profession in Montana that the supply of dentists is not being replenished; and

WHEREAS, it is anticipated that a large percentage of Montana dentists currently practicing will retire or reduce practice in the coming decade, severely restricting many Montanans' access to dental care; and

WHEREAS, Montana has no dental school of its own and must rely upon dental programs at other out-of-state educational institutions to provide Montana with graduate dental students; and

WHEREAS, for the medical profession, the state has created the Montana Rural Physician Incentive Program and the Montana Family Practice Residency Program, but no similar programs exist to bring new dentists into the state; and

WHEREAS, the University of Washington Dental School proposes a regional dental educational program entitled "the Regional Initiatives in Dental Education (RIDE) program" for Montana students; and

WHEREAS, proponents of the RIDE program request funding for the program from the State of Montana; and

WHEREAS, there is a need to determine whether requiring students who receive funding from the program to repay all or a portion of the funds or creating other incentive programs may increase access to dental care within the state by attracting and retaining dentists.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to designate an appropriate interim committee, pursuant to section 5-5-217, MCA, or direct sufficient staff resources to study and make recommendations on issues regarding:

(1) initiatives to increase the supply of dental care professionals, especially in rural and underserved areas in Montana;

(2) programs that require students who receive educational support through the Regional Initiatives in Dental Education program to repay all or a portion of the funds appropriated by the State of Montana for their education; and

(3) dental loan forgiveness programs administered through the Office of the Commissioner of Higher Education.

BE IT FURTHER RESOLVED, that the committee request participation in the study by the Office of the Commissioner of Higher Education, the Office of Economic Development, the Department of Labor and Industry, the Department of Public Health and Human Services, and representation from dental health professionals.

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, 2008.

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 61st Legislature.

Adopted April 2, 2007

HOUSE JOINT RESOLUTION NO. 24

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA URGING CONGRESS TO BAN THE SALE, DISTRIBUTION, TRANSFER, OR EXPORT OF ELEMENTAL MERCURY.

WHEREAS, the free trade of mercury and mercury compounds on the world market, at relatively low prices and in ready supply, encourages the continued use of mercury outside of the United States, often involving highly dispersive activities such as small-scale gold mining in developing countries; and

WHEREAS, although the intentional use of mercury is declining in the United States as a consequence of process changes in the manufacturing of products, including batteries, paints, switches, and measuring devices, those uses remain substantial in the developing world, where releases from the products are extremely likely due to the limited pollution control and waste management infrastructures in those countries; and

WHEREAS, according to the United States Geologic Survey, during the period from 2000 through 2004, the United States exported 506 metric tons of mercury more than it imported, making it a net exporter of mercury; and

WHEREAS, the Environmental Council of the States has adopted a resolution requesting the President of the United States to issue to federal agencies, including the Department of Defense and the Environmental Protection Agency, that are involved in the storage and management of mercury a directive to work to recommend a plan to manage the long-term storage of mercury; and

WHEREAS, banning exports of mercury from the United States will have a notable effect worldwide on the market availability of mercury and will facilitate switching to affordable mercury alternatives throughout the developing world.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

(1) That Congress is encouraged to enact legislation that:

(a) prohibits the sale, distribution, or transfer of elemental mercury by the Department of Defense and the Department of Energy to any other department or agency of the federal government, any state or local government, or any private person or entity;

(b) prohibits the export of elemental mercury from the United States;

(c) authorizes the President, subject to notification and justification requirements, to prohibit the export of any mercury compound from the United States, as necessary to avoid subversion of the export ban; and

(d) requires the President to establish sufficient storage capacity to safely store quantities of elemental mercury and any mercury compounds covered by the prohibitions that are in excess of quantities necessary for domestic consumption and to establish necessary regulations with respect to the establishment and operation of these storage facilities.

(2) That copies of this resolution be sent by the Secretary of State to the President of the United States and the Montana Congressional Delegation.

Adopted April 5, 2007

HOUSE JOINT RESOLUTION NO. 25

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA OPPOSING ANY EFFORT TO IMPLEMENT A TRINATIONAL POLITICAL, GOVERNMENTAL ENTITY AMONG THE UNITED STATES, CANADA, AND MEXICO; OPPOSING THE SECURITY AND PROSPERITY PARTNERSHIP OF NORTH AMERICA AND INITIATIVES PURSUED IN CONJUNCTION WITH THE PARTNERSHIP THAT THREATEN THE

SOVEREIGNTY OF THE UNITED STATES; OPPOSING A NORTH AMERICAN UNION; AND OPPOSING THE NORTH AMERICAN FREE TRADE AGREEMENT SUPERHIGHWAY SYSTEM.

WHEREAS, the Security and Prosperity Partnership of North America was launched in March of 2005 as a trilateral effort among the United States, Canada, and Mexico to share information and streamline traffic across shared borders; and

WHEREAS, in meeting Security and Prosperity Partnership initiatives, the security and prosperity ministers are examining opportunities to open the borders between the United States, Canada, and Mexico; and

WHEREAS, the gradual creation of such a North American Union from a merger of the United States, Mexico, and Canada would be a direct threat to the Constitution and national independence of the United States and imply an eventual end to national borders within North America; and

WHEREAS, according to the Department of Commerce, United States trade deficits with Mexico and Canada have significantly widened since the implementation of the North American Free Trade Agreement (NAFTA); and

WHEREAS, the economic and physical security of the United States is impaired by the potential loss of control of its borders attendant to the full operation of NAFTA; and

WHEREAS, a NAFTA Superhighway System from the west coast of Mexico through the United States and into Canada has been suggested as part of a North American Union and the broader plan to advance the Security and Prosperity Partnership; and

WHEREAS, it would be particularly difficult for Americans to collect insurance from Mexican companies that employ Mexican drivers involved in accidents in the United States, which would increase the insurance rates for American drivers; and

WHEREAS, future unrestricted foreign trucking into the United States can pose a safety hazard due to inadequate maintenance and inspection and can act collaterally as a conduit for the entry into the United States of illegal drugs, illegal human smuggling, and terrorist activities; and

WHEREAS, a NAFTA Superhighway System would be funded by foreign consortiums and controlled by foreign management, which threatens the sovereignty of the United States; and

WHEREAS, the Security and Prosperity Partnership aims to integrate United States laws with Mexico and Canada on a broad range of issues such as e-commerce, transportation, environment, health, agriculture, financial services, and national security, which may lead to negative changes in United States administrative laws; and

WHEREAS, state and local governments throughout the United States would be negatively impacted by the Security and Prosperity Partnership or a North American Union process, such as an open borders vision, eminent domain takings of private property along potential superhighways, and increased law enforcement problems along such superhighways; and

WHEREAS, this trilateral partnership to develop a North American Union has never been presented to Congress as an agreement or treaty and has had virtually no congressional oversight; and

WHEREAS, initiatives advancing the Security and Prosperity Partnership will lead to the erosion of United States sovereignty and could lead to integrated continental court systems and currency; and

WHEREAS, United States policy, not foreign consortiums, should be used to control our national borders and to ensure that national security is not compromised.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Montana Legislature urge the President and the Congress of the United States to withdraw the United States from any further participation in the Security and Prosperity Partnership, any efforts to implement a trinational political, governmental entity among the United States, Canada, and Mexico, or any other efforts used to accomplish any form of a North American Union.

BE IT FURTHER RESOLVED, that the Montana Legislature urge the President and the Congress of the United States not to engage in the construction of a North American Free Trade Agreement Superhighway System.

BE IT FURTHER RESOLVED, that copies of this resolution be sent by the Secretary of State to the Honorable George W. Bush, President of the United States, the Vice President of the United States, the United States Secretary of Commerce, and each member of the United States Congress.

Adopted April 18, 2007

HOUSE JOINT RESOLUTION NO. 26

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING THAT AN INTERIM COMMITTEE OR STAFF STUDY AND DEVELOP AN IMPLEMENTATION PLAN FOR MENTAL HEALTH CARE FOR ADULTS AND YOUTH IN THE CRIMINAL AND JUVENILE JUSTICE SYSTEMS.

WHEREAS, criminal justice research data revealed that more than half of jail inmates and state prisoners have mental health problems, based on symptoms within the past 12 months, which is significantly more prevalent than in the general population; and

WHEREAS, a number of youth in the juvenile justice system suffer from mental health problems, some experiencing disorders so severe that their ability to function is significantly impaired; and for some youth, contact with the juvenile justice system is often their first and only chance to get help; and

WHEREAS, appropriate and early intervention and treatment of adults and youth with mental disorders may divert them from costly incarceration and future crime and assist them to become productive members of society; and

WHEREAS, community treatment options for adult and juvenile offenders may require supervision, housing, and employment supports toward a recovery-based life, and a study of the issue of mental health care for adult and juvenile offenders is needed to determine ways to improve the criminal and juvenile justice systems; and

WHEREAS, the Law and Justice Interim Committee of the Montana Legislature studied the "disproportionate minority contact in the Montana

criminal justice system" and found that a significant number of individuals in the corrections system have mental health issues; and

WHEREAS, at least one previous interim study of the Montana Legislature addressed the mental health of individuals in the juvenile justice system but did not study the criminal justice system as a whole; and

WHEREAS, there is a need for a comprehensive interim study that would include a review of all previous studies and laws related to mental health issues in the criminal and juvenile justice systems for the purposes of development of a plan to implement priorities to deal with those issues.

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 address mental health care in the criminal and juvenile justice systems.

BE IT FURTHER RESOLVED, that the goal be to study and develop an implementation plan to provide mental health care in the criminal and juvenile justice systems that includes:

(1) mental health care of youth who are adjudicated as delinquent;

(2) mental health care of convicted adult defendants;

(3) addressing options for supervising adjudicated youth and convicted adults in the community, including mental health probation options;

(4) developing a continuum of care encompassing community placements and inpatient treatment options and addressing the interplay between community placements and treatment options; and

(5) the availability and use of mental health treatment prior to adjudication of juvenile or conviction of adult defendants.

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, 2008.

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 61st Legislature.

Adopted April 2, 2007

HOUSE JOINT RESOLUTION NO. 28

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN INTERIM STUDY OF BUSINESSES INFRASTRUCTURE IN MONTANA AS IT RELATES TO ECONOMIC DEVELOPMENT INITIATIVES.

WHEREAS, Montana is a part of the global marketplace as technology bridges the divide between local businesses and the vibrant national economy and the world; and

WHEREAS, it is the innovation and initiative of entrepreneurs in the private sector that drive our economy and provide for the quality of life that Americans enjoy; and

WHEREAS, even the most recent invention or well-crafted business plan needs an infrastructure in which to prosper.

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:

(1) to analyze and study the state of "business infrastructure" in Montana, including:

(a) traditional land and air transportation systems, both internal to the state and with adjoining states, to determine feasibility for movement of merchandise manufactured within Montana and materials needed by existing and potential businesses in the state;

(b) communication and technological systems, including but not limited to traditional and cell phone coverage, Internet and wireless access, and teleconferencing, both statewide and at a microlevel in each of Montana's urban centers; and

(c) current and potential businesses designed to assist entrepreneurship and provide logistical support to small businesses, including but not limited to office parks designed for shared usage of administrative support; computers, technology, and meeting space; firms designed to allow for outsourcing of human resources, payroll, and accounting functions; and printing and shipping functions;

(2) to identify areas in which legislatively initiated programs in other states have addressed the development of any business infrastructure components listed in subsection (1), to be viewed by leaders in the businesses community and included in subsequent public policy considerations.

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 presentations and review requirements, be concluded prior to September 15, 2008.

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 61st Legislature.

Adopted April 19, 2007

HOUSE JOINT RESOLUTION NO. 31

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA OPPOSING THE ROCKIES PROSPERITY ACT.

WHEREAS, bills with the same content have been introduced in the Congress for the past three sessions, named successively the Northern Rockies Ecosystem Protection Act of 2001, the Northern Rockies Ecosystem Protection Act of 2003, and the Rockies Prosperity Act of 2005; and

WHEREAS, these acts would designate more than 15.4 million acres as new wilderness, more than 1.4 million acres as park preserves, more than 1 million acres as recovery areas, and an additional 8.51 million acres as biological connecting corridors; and

WHEREAS, the proposed wilderness, preserves, and recovery areas would impose severe restrictions on access and human activities in violation of existing laws such as the Multiple-Use Sustained-Yield Act; and

WHEREAS, severe restrictions on the management of the private property within the corridors would lead to prohibition of even-aged silvicultural management, prohibition of timber harvesting, prohibition of mineral, oil, and gas exploration, prohibition of road construction or reconstruction with the goal of achieving zero miles of road in the corridors over a short time period, causing loss of value to private property even to the point of forcing landowners to abandon their properties, hopes, and dreams and causing extreme hardship and anguish; and

WHEREAS, additional taking of private property would occur with the reduction of water rights on National Forest land and the reduction of grazing rights on National Forest land, causing hardship and loss of business to ranchers, farmers, and residents in the region; and

WHEREAS, the requirements for implementation of the management plans set forth in the acts are extremely unbalanced in their approach to conservation, focus entirely on plant, animal, and ecological effects and leave out the social, economic, and cultural impacts on people who also are part of the natural environment, and are in violation of existing law, such as the National Environmental Policy Act; and

WHEREAS, the Montana Legislature does not believe these acts, drafted by extreme special interest groups funded by international foundations and other sources that do not represent the majority of Montana residents, should be allowed to subject land in Montana to this sort of unbalanced, unnecessary control; and

WHEREAS, the placing of environmental or other restrictions upon the use of private lands has been held by a number of recent United States Supreme Court decisions to constitute a taking of the land for public purposes; and

WHEREAS, these acts do not include proposals to purchase the private lands; and

WHEREAS, the restrictions contemplated constitute an unlawful taking of that land in violation of Article I, section 8, clause 17, of the Constitution of the United States, which provides that before any state land can be purchased, the consent of the state Legislature and not the state Executive Branch must be obtained; and

WHEREAS, Article IV, section 3, clause 2, of the Constitution of the United States provides that "nothing in this Constitution shall be so construed as to prejudice any claims of the United States, or of any particular state"; and

WHEREAS, Article IV, section 4, of the Constitution of the United States provides that "the United States shall guarantee to every state in this union a republican form of government"; and

WHEREAS, Amendment V of the Constitution of the United States provides that no person shall "be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation".

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Montana Legislature is opposed to the passage of these acts.

BE IT FURTHER RESOLVED, that the Montana Legislature urge the members of Congress, especially the Montana delegation, to vigorously oppose these acts and any revisions of these acts and to vote against these acts at every opportunity.

BE IT FURTHER RESOLVED, that the Secretary of State send copies of this resolution to the President of the United States, the Secretary of State of the United States, the President of the Senate and the Speaker of the House of Representatives of the United States, and Montana's Congressional Delegation.

Adopted April 27, 2007

HOUSE JOINT RESOLUTION NO. 33

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN INTERIM STUDY OF ISSUES RELATED TO POLIO AND POSTPOLIO SEQUELAE IN MONTANA, THEIR IMPACTS IN MONTANA, AND WAYS TO ADDRESS POLIO-RELATED ISSUES TO IMPROVE THE LONG-TERM HEALTH OF MONTANANS.

WHEREAS, the injectable polio vaccine first developed in the 1950s eliminated naturally occurring polio cases in the United States but has not yet eliminated polio in other parts of the world; and

WHEREAS, as few as 57% of American children receive all doses of necessary vaccines during childhood, including the polio vaccine; and

WHEREAS, the success of the polio vaccines has caused people to forget the 1.6 million Americans who were born before the development of the vaccines and who contracted polio during the epidemics in the middle of the 20th century; and

WHEREAS, at least 70% of the paralytic polio survivors and 40% of nonparalytic polio survivors are developing postpolio sequelae, which are unexpected and often disabling symptoms that occur up to 35 years after the poliovirus attack, including overwhelming fatigue, muscle weakness, muscle and joint pain, sleep disorders, heightened sensitivity to anesthesia, and difficulty in swallowing and in breathing; and

WHEREAS, research and clinical work have discovered that postpolio sequelae can be treated, and even prevented, if polio survivors are taught to conserve energy and use assistive devices to stop damaging and killing the reduced number of overworked, poliovirus-damaged neurons in the spinal cord and brain that survived the polio attack; and

WHEREAS, many medical professionals and polio survivors do not know of the existence of postpolio sequelae or of the available treatments.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to designate an appropriate interim committee, pursuant to section 5-5-217, MCA, or direct sufficient staff resources to study and make recommendations on:

(1) the number of Montana children who do not receive recommended childhood vaccinations, including the polio vaccination, and the number of Montanans who contracted polio and are suffering or may in the future suffer from postpolio sequelae;

(2) ways to increase the number of Montanans vaccinated against polio and other diseases, including but not limited to improved education about the need to follow the recommended schedule of vaccinations for infants, children, and adults and measures that the state could take to encourage and ensure that children receive the vaccinations that they need;

(3) issues regarding postpolio sequelae, including but not limited to improved education on the risk factors, the signs and symptoms of the syndrome, and the ways to treat and prevent postpolio sequelae; and

(4) additional efforts that could be undertaken through the collaborative efforts of the Department of Public Health and Human Services, local boards of health, groups promoting childhood vaccinations, and groups working on issues related to postpolio sequelae, to improve the long-term health of Montana's children and adults as it relates to polio and postpolio sequelae.

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, 2008.

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 61st Legislature.

Adopted April 2, 2007

HOUSE JOINT RESOLUTION NO. 34

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA URGING MONTANA'S CONGRESSIONAL DELEGATION AND THE UNITED STATES BUREAU OF RECLAMATION TO ACT IN SUPPORT OF PROTECTING FLOWS IN THE MONTANA STRETCH OF THE BIGHORN RIVER.

WHEREAS, the Bighorn River is an internationally famous blue-ribbon trout fishery; and

WHEREAS, the Bighorn River is the backbone of a vibrant economy in Montana and for the Crow Indian nation; and

WHEREAS, the Bighorn River is a popular recreation destination; and

WHEREAS, the Bighorn River is a highly diversified and fragile natural resource.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Montana Legislature recognizes the importance of the Bighorn River to Montana's economy and to the Crow Indian nation's economy.

BE IT FURTHER RESOLVED, that the Montana Legislature recognizes the Bighorn River's value as a natural resource.

BE IT FURTHER RESOLVED, that the Montana Legislature strongly disapproves of efforts to reduce the flow of the Bighorn River downstream of Yellowtail Reservoir below 2,500 cubic feet per second.

BE IT FURTHER RESOLVED, that Montana's Congressional Delegation and the United States Bureau of Reclamation be urged to act in support of protecting flows in the Montana stretch of the Bighorn River.

BE IT FURTHER RESOLVED, that the Secretary of State send a copy of this resolution to Montana's Congressional Delegation and Secretary of Interior Kempthorne.

Adopted April 5, 2007

HOUSE JOINT RESOLUTION NO. 35

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA RESOLVING THAT THE LEGISLATIVE AUDIT COMMITTEE PRIORITIZE A PERFORMANCE AUDIT OF THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS' WEED MANAGEMENT PROGRAM AND THAT THE LEGISLATIVE AUDITOR PRESENT FINDINGS FROM THE PERFORMANCE AUDIT, WITH RECOMMENDATIONS FOR PROPOSED LEGISLATION, TO THE 61ST LEGISLATURE.

WHEREAS, the Good Neighbor Policy set out in section 23-1-126, MCA, requires the Department of Fish, Wildlife, and Parks to seek a goal of no impact upon adjoining private and public lands by preventing impact on those adjoining lands from noxious weeds, trespass, litter, noise and light pollution, streambank erosion, and loss of privacy; and

WHEREAS, section 23-1-127, MCA, requires implementation of the Good Neighbor Policy in regard to state parks and fishing access sites and requires that priority be given to maintenance of existing facilities, including weed control, rather than capital development; and

WHEREAS, the Parks Division of the Department of Fish, Wildlife, and Parks has received substantial increases in funding through license plate fees; and

WHEREAS, the Governor has proposed an increase of $15 million in funding for the purchase of more land for state parks and fishing access sites without reference to maintenance.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Audit Committee prioritize a performance audit of the Department of Fish, Wildlife, and Parks' weed management program and that, as part of the performance audit, the Legislative Auditor shall:

(1) evaluate the effectiveness and efficiency of the department's weed management program and program compliance with applicable state weed laws, particularly sections 23-1-126 and 23-1-127, MCA;

(2) present findings from the performance audit and any recommendations for proposed legislation or restrictions on the Department of Fish, Wildlife, and Parks' budget to the 61st Legislature; and

(3) present findings from the performance audit in a readily accessible format for use by the Legislature and any interested parties.

Adopted March 26, 2007

HOUSE JOINT RESOLUTION NO. 36

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA URGING CONGRESS TO DE-COUPLE FEDERAL MINERAL ROYALTY REVENUE PAYMENTS FROM STATES TO COUNTIES WHEN CALCULATING PAYMENT IN LIEU OF TAX PAYMENTS.

WHEREAS, the federal Mineral Leasing Act intended for states to share mineral royalties with counties, giving priority to those taxing jurisdictions with impact and infrastructure needs incurred by the industry that pays the royalty; and

WHEREAS, payment in lieu of tax (PILT) payments are payments in lieu of taxes on federal lands; and

WHEREAS, federal mineral royalty revenue is considered prior year payments in the current PILT formula; and

WHEREAS, federal mineral royalty revenue that is passed on from the states to counties is currently being deducted from their PILT payments as prior year payments; and

WHEREAS, prior year payments connected to the PILT formula are a detriment to any economic development in which federal natural resources are extracted in that local government jurisdiction; and

WHEREAS, the decision to extract natural resources owned by the federal government should be based only on the economic and scientific data available and not on other programs such as PILT; and

WHEREAS, local governments may not have increased nontax revenue because of increased prior year payments because PILT is deducted proportionately; and

WHEREAS, the federal mineral royalties are derived not only from minerals held under federal land but from under private land as well; and

WHEREAS, a county should not be penalized when the state shares royalty revenue with the county for offsetting the impacts of the industry.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That Congress de-couple federal mineral royalty revenue payments from states to counties when calculating payment in lieu of tax payments.

BE IT FURTHER RESOLVED, that the Secretary of State send copies of this resolution to the United States Congress and, specifically, to Montana's Congressional Delegation.

Adopted April 5, 2007

HOUSE JOINT RESOLUTION NO. 38

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA STATING FINDINGS OF THE LEGISLATURE; REPEALING, RESCINDING, CANCELING, VOIDING, AND SUPERSEDING ANY AND ALL EXTANT APPLICATIONS BY THE LEGISLATURE OF THE STATE OF MONTANA PREVIOUSLY MADE DURING ANY LEGISLATIVE SESSION TO THE CONGRESS OF THE UNITED STATES OF AMERICA TO CALL A CONVENTION PURSUANT TO THE TERMS OF ARTICLE V OF THE UNITED STATES CONSTITUTION FOR PROPOSING ONE OR MORE AMENDMENTS TO THE CONSTITUTION; URGING THE LEGISLATURES OF THE OTHER STATES TO DO THE SAME; AND DIRECTING COPIES OF THIS RESOLUTION BE SENT TO SPECIFIED PERSONS.

WHEREAS, the Legislature of the State of Montana, acting with the best of intentions, has, at various times and during various sessions, previously made applications to the Congress of the United States of America to call one or more conventions to propose either a single amendment concerning a specific subject or to call a general convention to propose an unspecified and unlimited number of amendments to the United States Constitution, pursuant to the provisions of Article V of the United States Constitution; and

WHEREAS, former Chief Justice of the United States of America Warren E. Burger, former Associate Justice of the United States Supreme Court Arthur J. Goldberg, and other leading constitutional scholars agree that such a convention may propose sweeping changes to the Constitution, any limitations or restrictions purportedly imposed by the states in applying for a convention or conventions to the contrary notwithstanding, thereby creating an imminent peril to the well-established rights of the citizens and the duties of various levels of government; and

WHEREAS, the Constitution of the United States of America has been amended many times in the history of this nation and may be amended many more times, without the need to resort to a constitutional convention, and has been interpreted for more than 200 years and has been found to be a sound document that protects the lives and liberties of the citizens; and

WHEREAS, there is no need for, and rather there is great danger in, a new Constitution or in opening the Constitution to sweeping changes, the adoption of which would only create legal chaos in this nation and only begin the process of another 2 centuries of litigation over its meaning and interpretation.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislature does hereby repeal, rescind, cancel, nullify, and supersede to the same effect as if they had never been passed any and all extant

applications by the Legislature of the State of Montana to the Congress of the United States of America to call a convention to propose amendments to the Constitution of the United States of America, pursuant to the terms of Article V of the Constitution, regardless of when or by which session or sessions of the Montana Legislature the applications were made and regardless of whether the applications were for a limited convention to propose one or more amendments regarding one or more specific subjects and purposes or for a general convention to propose an unlimited number of amendments upon an unlimited number of subjects.

BE IT FURTHER RESOLVED, that the following resolutions and memorials are specifically repealed, rescinded, canceled, nullified, and superseded: Joint Concurrent Resolution No. 2, 1901; House Joint Resolution No. 1, 1905; Senate Joint Resolution No. 1, 1907; House Joint Memorial No. 7, 1911; House Joint Resolution No. 13, 1963; and Senate Joint Resolution No. 5, 1965.

BE IT FURTHER RESOLVED, that the Legislature of the State of Montana urges the Legislatures of each and every state that has applied to Congress to call a convention for either a general or a limited constitutional convention to repeal and rescind the applications.

BE IT FURTHER RESOLVED, that the Secretary of State is directed to send copies of this resolution to the Secretary of State of each state in the Union, to the presiding officers of both houses of the Legislatures of each state in the Union, to the President of the United States Senate, to the Speaker of the United States House of Representatives, and to the Montana Congressional Delegation.

Adopted April 5, 2007

HOUSE JOINT RESOLUTION NO. 39

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN INTERIM STUDY ON THE ECONOMIC BENEFITS OF PURSUING COMMERCIALIZATION PROJECTS WITH EXISTING RESEARCH UNITS WITHIN THE MONTANA UNIVERSITY SYSTEM.

WHEREAS, Montana's economy has a long history of expansion and retraction that continues to the present day because of the volatility of extraction and agricultural markets; and

WHEREAS, Montana has one of the lowest levels of per capita income in the nation and has the fifth worst rate of net outmigration of young, single, college-educated adults, according to the U.S. Bureau of the Census; and

WHEREAS, research universities across the country have proved that academic research in sciences and technology can be commercialized into products and businesses that provide high paying jobs that retain and recruit the brightest minds; and

WHEREAS, the University System in the State of Montana is not in a competitive position relative to other state's university systems with regard to research facilities and infrastructure; and

WHEREAS, businesses born out of research and commercialization efforts are typically light manufacturers, including those that produce solely an

intellectual product, thus bringing in much needed financial gains to the state with little impact to natural amenities; and

WHEREAS, the creation of high paying jobs in the high-tech sector will have a positive economic satellite effect to other job sectors and the state economy as a whole.

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:

(1) to study the potential economic development that can arise from high-tech and biotech research; and

(2) to include as a component of this study the appropriate degree of state financial contribution to research projects in the Montana University System, including:

(a) building research buildings and core facilities and providing for the maintenance of these structures;

(b) providing support for technically trained personnel to provide service on and to maintain state-of-the-art equipment necessary for research;

(c) providing fellowships to support postdoctoral personnel and graduate students in research programs; and

(d) providing startup funds for new research faculties to allow those faculties to initially equip and start research laboratories.

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 presentations and review requirements, be concluded prior to September 15, 2008.

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 61st Legislature.

Adopted April 12, 2007

HOUSE JOINT RESOLUTION NO. 40

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA URGING CONGRESS TO APPROVE INCREASED FUNDING FOR REGIONAL WATER PROJECTS IN MONTANA.

WHEREAS, some communities in Montana are plagued with drinking water that contributes to debilitating physical conditions or diseases because of elevated levels of dissolved minerals in the water; and

WHEREAS, some communities face a drastic shortage of drinking water, as well as significant cost increases for treatment facility repairs and mandated upgrades; and

WHEREAS, four regional water projects that are planned or under construction in Montana would provide Indian tribes, farms, ranches, and rural communities with clean and plentiful water; and

WHEREAS, regional water systems, through a centralized water treatment plant, provide for a more economical means of upgrading and updating water treatment processes in response to more stringent federal and state regulations; and

WHEREAS, the Montana Legislature has supported regional water projects through establishment of the treasure state endowment regional water system fund, using coal severance tax money to fund the state portion of the projects; and

WHEREAS, the Fort Peck-Dry Prairie rural water system and the Rocky Boy-North Central Montana system have congressional approval, yet federal funding is not keeping up with inflation for systems with an estimated cost of more than $250 million each; and

WHEREAS, the Fort Peck-Dry Prairie rural water system and the Rocky Boy-North Central Montana system are each capable of expending up to $30 million of federal funding a year for construction of system infrastructure.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

(1) That the United States Congress approve increased funding for regional water projects in Montana.

(2) That copies of this resolution be sent by the Secretary of State to the Montana Congressional Delegation.

(3) That the Secretary of State send a copy of this resolution to each tribal government located on the seven Montana reservations and to the Little Shell Chippewa tribe.

Adopted April 5, 2007

HOUSE JOINT RESOLUTION NO. 41

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA RECOGNIZING THE SERVICE OF MONTANANS IN THE ARMED FORCES OF THE UNITED STATES.

WHEREAS, all Americans have the right, by virtue of wearing the noble title of citizen, to great personal freedoms in the pursuit of life, liberty, and happiness; and

WHEREAS, the history of our young country demonstrates countless examples of bravery and personal sacrifice in order to preserve the freedoms and liberties of the collective citizenry; and

WHEREAS, since September 11, 2001, the nation has once again called upon those who have dedicated their lives to the defense of the nation to stand up against forces that wish ill upon the United States; and

WHEREAS, Montanans have always answered the call to defend the nation, and Montanans will continue to serve and lead in the global war on terror; and

WHEREAS, Montanans serving in every branch of service, both active duty and guard and reserves, have been deployed in the global war on terror at great personal sacrifice to themselves and their families; and

WHEREAS, a number of Montanans have made the ultimate sacrifice in Operation Enduring Freedom and Operation Iraqi Freedom; and

WHEREAS, we as Montanans will continue to support these heroes as they return home to face the challenge of rejoining family, friends, and community.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Montana Legislature recognize the dedication, professionalism, and bravery of all Montanans who have served and will serve in the armed forces of the United States as a part of the global war on terror.

BE IT FURTHER RESOLVED, that the Secretary of State send copies of this resolution to the Montana Congressional Delegation and to Montana service personnel informing them that the heartfelt thanks of all Montanans are extended to them, that we are proud of them, that they are in our prayers, and that we send them best wishes for a safe return.

Adopted April 12, 2007

HOUSE JOINT RESOLUTION NO. 42

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA DESIGNATING APRIL 28 THROUGH MAY 5, 2007, AS SAFE KIDS WEEK IN MONTANA.

WHEREAS, unintentional injury is the number one killer of children 14 years of age and younger; and

WHEREAS, each year, more than 5,000 children 14 years of age and younger die from unintentional injuries; and

WHEREAS, emergency rooms experience nearly 2.4 million visits from children 14 years of age and younger each summer; and

WHEREAS, 90% of these injuries are preventable; and

WHEREAS, 41% of deaths from injuries occur during "trauma season", the months of May, June, July, and August; and

WHEREAS, the risk activities that show the greatest seasonal surge in injuries and deaths between May and August compared to the rest of the year are biking, water-related activities, pedestrian-related activities, motor vehicle-related activities, and falls; and

WHEREAS, Safe Kids Worldwide and Safe Kids USA promote childhood injury prevention by uniting diverse groups into local and state coalitions, developing innovative educational tools and strategies, initiating public policy changes, promoting new technology, and raising awareness through the media; and

WHEREAS, Safe Kids Worldwide, with the support of founding sponsor Johnson & Johnson, is launching Safe Kids Week 2007, "Make it a Safe Summer", which focuses on five of the deadliest warm weather risk activities; and

WHEREAS, Safe Kids USA has planned special childhood injury prevention activities and community-based events for Safe Kids Week 2007 in an effort to educate families about summer safety.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Governor call upon all the residents of the State of Montana to join the Governor in supporting the efforts and activities of safe kids to prevent childhood injury and proclaim April 28 through May 5, 2007, as Safe Kids Week in Montana.

Adopted April 4, 2007

HOUSE JOINT RESOLUTION NO. 44

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA RECOGNIZING THE IMPORTANCE OF THE MONTANA CHILDREN'S HEALTH INSURANCE PROGRAM; AND URGING THE TIMELY CONGRESSIONAL REAUTHORIZATION OF FEDERAL FUNDS FOR THE PROGRAM.

WHEREAS, the Legislature of the State of Montana regards the health of children to be of paramount importance to families in our state; and

WHEREAS, there are approximately 228,000 children under the age of 19 in Montana, and 37,000 children or 1 in 6 children have no health insurance; and

WHEREAS, Montana's uninsured children could stretch 28 miles if they held hands, fill 673 school buses, and form 4,111 Little League teams; and

WHEREAS, uninsured children are nearly five times more likely than insured children to have at least one delayed or unmet health care need; and

WHEREAS, the Legislature of the State of Montana regards poor child health as a threat to the educational achievement and social and psychological well-being of the children of our state; and

WHEREAS, the Legislature of the State of Montana considers protecting the health of our children to be essential to the well-being of our youngest citizens and to the quality of life in our state; and

WHEREAS, the Legislature of the State of Montana considers the Montana Children's Health Insurance Program, which insures 13,130 children a month, to be an integral part of the arrangements for health benefits for the children of the State of Montana; and

WHEREAS, the Legislature of the State of Montana recognizes the value of the Montana Children's Health Insurance Program in preserving child wellness, preventing and treating childhood disease, improving health outcomes, and reducing overall health costs; and

WHEREAS, insurance costs consume 32% of the median family income in Montana for a family of four; and

WHEREAS, 83% of Montanans polled in a January 2007 Lee Newspaper poll supported the expansion of the state Children's Health Insurance Program; and

WHEREAS, the Legislature of the State of Montana considers the federal funding available for the state Children's Health Insurance Program to be indispensable for providing health benefits for children of modest means.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

(1) That the Legislature of the State of Montana urge the members of Montana's Delegation to the United States Congress to ensure that Congress timely reauthorize the Montana Children's Health Insurance Program to ensure federal funding for the state Children's Health Insurance Program.

(2) That the Legislature of the State of Montana urge the Governor to use the Governor's best efforts to work with Montana's Congressional Delegation to ensure that the state Children's Health Insurance Program is reauthorized in a timely manner.

(3) That the Legislature of the State of Montana proclaim that all components of state government should work together with educators, health care providers, social workers, and parents to ensure that all available public and private assistance for providing health benefits to uninsured children in this state be used to the maximum extent possible.

(4) That the Legislature of the State of Montana urge the Governor to use the Governor's best efforts to provide meaningful assistance to help identify and enroll children who qualify for Medicaid or the Montana Children's Health Insurance Program.

Adopted April 4, 2007

HOUSE JOINT RESOLUTION NO. 45

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN INTERIM STUDY TO IDENTIFY INADEQUACIES IN AND PROPOSE OPTIONS TO IMPROVE STATE SYSTEMS THAT DO NOT ALLOW FOR THE ACCURATE AND CONSISTENT SPELLING AND USE OF EVERY CITIZEN'S FULL LEGAL NAME; REQUESTING THAT THE STUDY ENGAGE THE EXPERTISE AVAILABLE WITHIN THE DEPARTMENT OF ADMINISTRATION; AND REQUIRING A REPORT OF THE STUDY'S FINDINGS, CONCLUSIONS, AND RECOMMENDATIONS.

WHEREAS, Montana residents periodically experience delays or difficulties in conducting their business or personal affairs if there is a discrepancy between the resident's name as presented on a state-issued document and the name as it appears on other identification or business documents that a resident may be asked to present, particularly regarding the proper or customary use of spacing, uppercase and lowercase letters, apostrophes, hyphens, and other symbols; and

WHEREAS, name formats on some state-issued documents may be constrained because of limitations in the information technology or other systems used by state agencies or because of external requirements arising from interfaces between state information technology systems and information technology systems maintained by other governmental entities or third parties.

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 identify issues and develop options to ensure that whenever state agency information technology systems are upgraded or replaced or whenever

business processes for issuing state-authorized driver's licenses, identification cards, permits, certificates, or other similar credentials specific to an individual person are reviewed and revised, state agencies use "best practices" and alternatives that record or present a person's full legal name in a consistent format or manner that includes such typographical characters as apostrophes, hyphens, and other symbols as part of the person's name and that uses customary style conventions, such as uppercase and lowercase lettering, as appropriate.

BE IT FURTHER RESOLVED, that the committee work closely with the Department of Administration, particularly the Information Technology Services Division, to identify the cost-effective application of technology in other public jurisdictions and the private sector that potentially is adaptable for use by the state to address the challenges posed by inadequate or antiquated technology currently used by the state.

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, 2008.

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 61st Legislature.

Adopted April 11, 2007

HOUSE JOINT RESOLUTION NO. 46

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING THAT AN APPROPRIATE INTERIM COMMITTEE OR SUFFICIENT STAFF RESOURCES BE ASSIGNED TO DEVELOP LEGISLATION THAT PROVIDES FOR A COMPREHENSIVE CLEANUP AND CLARIFICATION OF CURRENT ELECTION LAWS, INCLUDING THE POSSIBLE REVISIONS TO MAIL BALLOT ELECTION LAWS TO REQUIRE OR PERMIT THAT ALL ELECTIONS BE CONDUCTED BY MAIL BALLOT; AND PROVIDING THAT THE DRAFT LEGISLATION BE PRESENTED TO THE 61ST LEGISLATURE FOR CONSIDERATION.

WHEREAS, Title 13, chapter 19, of the Montana Code Annotated allows local elections to be conducted by mail as a cost-effective and efficient alternative for conducting an election by requiring electors to vote at the polls; and

WHEREAS, current law that allows absentee voting and late registration has resulted in a significant increase in absentee voting, which demonstrates that absentee voting is a popular alternative to voting only at the polling place on election day; and

WHEREAS, a mail ballot election is essentially absentee voting; and

WHEREAS, all elections in Oregon are conducted by mail, which has proven for Oregon to be not only cost-effective but to have significantly improved voter participation; and

WHEREAS, Montana's election laws have undergone significant changes in the past 20 years due to federal legislation, including changes required by the Voting Accessibility for the Elderly and Handicapped Act, the Uniformed and Overseas Citizens Absentee Voting Act, the National Voter Registration Act of 1993, and the Help America Vote Act of 2002; and

WHEREAS, Montana's election laws have also undergone significant revision due to state-level legislation revising absentee voting, voter registration, and mail ballot elections; and

WHEREAS, in the past 20 years, there has not been a comprehensive examination of the election statutes or comprehensive legislation to clean up, clarify, and better coordinate all the election statutes;

WHEREAS, most recently, bill draft request LC 1503, which would have provided that all elections be conducted by mail, highlighted the fact that current statutes on mail ballot elections are outdated, inadequate, and unwieldy and that there are significant gaps and overlaps in laws with respect to not only mail ballot elections, but also with respect to absentee and provisional voting and accessibility for elderly and disabled voters; and

WHEREAS, work already completed on LC 1503 lays a foundation for developing comprehensive legislation concerning mail ballot elections, absentee and provisional voting, and accessibility so that all elections could be conducted by mail; and

WHEREAS, despite the amount of work already completed on LC 1503, more work is required so that a technically sufficient bill can be properly considered and debated by the Legislature and so that the legislation will not only update current laws but will enhance the integrity of the process for voter registration, for absentee, provisional, and mail ballots, and for signature verification; and

WHEREAS, assigning this project to an interim committee or to staff during the interim would provide greater opportunity for public participation and discussion among all interested persons and stakeholders with respect to Montana's election laws, especially concerning mail ballot elections and absentee voting.

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 draft legislation to provide for a comprehensive update, clarification, and cleanup of current election law statutes and to require or permit all elections to be conducted by mail.

BE IT FURTHER RESOLVED, that the legislation be drafted with input from the Office of the Secretary of State, local election administrators, interested persons and organizations, and the general public.

BE IT FURTHER RESOLVED, that if assigned to staff, the draft legislation be presented to and reviewed by an appropriate interim committee designated by the Legislative Council.

BE IT FURTHER RESOLVED, that the draft legislation be completed and presented to the appropriate interim committee prior to September 15, 2008.

BE IT FURTHER RESOLVED, that the draft legislation, including any findings, conclusions, comments, or recommendations of the appropriate committee, be reported to the 61st Legislature.

Adopted April 27, 2007

HOUSE JOINT RESOLUTION NO. 47

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING THAT AN INTERIM COMMITTEE STUDY THE FUNDING, EXPENDITURES, AND EFFECTIVENESS OF MONTANA'S STATEWIDE GENETICS PROGRAM.

WHEREAS, the statewide genetics program has served Montanans since its creation in the 1960s at what was then known as the Boulder River School and Hospital; and

WHEREAS, the Montana Legislature established the statewide genetics program in the Department of Public Health and Human Services in 1985; and

WHEREAS, the Department of Public Health and Human Services issues a request for proposals to contract for the statewide genetics program; and

WHEREAS, the statewide genetics program provides unique clinical and laboratory services to diagnose and treat genetic disorders, as well as to prevent genetic disorders by determining a person's risk factors and providing information to help manage high-risk pregnancies; and

WHEREAS, the statewide genetics program holds clinics in towns throughout the state each year to allow Montanans to obtain genetics services without traveling to Helena; and

WHEREAS, if the statewide genetics program no longer existed, Montanans could obtain similar genetic services only by going out of state; and

WHEREAS, the statewide genetics program is highly respected and well-recognized within the field of genetics; and

WHEREAS, the Montana Legislature in 1985 established a fee on each Montana resident insured under any individual or group disability or health insurance policy, including those insured through the state employee insurance plan, to fund the statewide genetics program; and

WHEREAS, the Montana Legislature has amended the genetics program fee four times since its imposition and is again considering a change in the level of the fee; and

WHEREAS, creating a stable and equitable source of funding will benefit not only the statewide genetics program, but also Montanans who use the program and the Montana economy.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to designate an appropriate interim committee, pursuant to section 5-5-217, MCA, or direct sufficient staff resources to:

(1) study the history of the funding of the statewide genetics program established in section 50-19-211, MCA;

(2) review the current public and private sources of the program's funding;

(3) review program expenditures;

(4) evaluate the effectiveness of the program by examining factors that include but are not limited to the number of people served by the program, the number of communities visited by the program, and the types of services provided; and

(5) make recommendations for maintaining an effective statewide genetics program, including but not limited to recommendations for providing a stable and equitable source of funding for the program.

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, 2008.

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 61st Legislature.

Adopted April 26, 2007

HOUSE JOINT RESOLUTION NO. 48

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING THAT AN INTERIM COMMITTEE STUDY HEALTH INSURANCE REFORM AND PUBLICLY FUNDED HEALTH CARE PROGRAMS.

WHEREAS, the cost of health care is increasing at a rate higher than the rate of consumer inflation and is driving up costs of businesses, workers, retirees, and state and local governments for health insurance or health care coverage; and

WHEREAS, an estimated 19% of the Montana population remains without health insurance coverage while still needing access to health care; and

WHEREAS, the State of Montana has previously sought to expand health insurance coverage by establishing the Insure Montana program to help small employers provide health insurance to employees, the Montana Comprehensive Health Association plan to help high-risk individuals obtain health insurance coverage, and the Children's Health Insurance Program to provide health insurance coverage for uninsured, low-income children; and

WHEREAS, health care insurance represents a significant component of public budgets, and the control of escalating health insurance costs would help to control public budgets; and

WHEREAS, states regulate health insurance and have the flexibility to revise and reform the way in which health insurance is offered at the state level; and

WHEREAS, many states are determining how best to reform their health care or health insurance systems in an attempt to reduce costs to individuals and employers and reduce the number of uninsured residents; and

WHEREAS, the health care and health insurance systems are complex, and changes to these systems are of interest to health care providers, health insurers, businesses, labor groups, government bodies, and consumers.

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 an appropriate combination of interim committees, pursuant to section 5-5-217, MCA, or direct sufficient staff resources to study and make recommendations on reforms of the Montana health insurance and health care systems, including publicly funded health care programs. The study must include all interested parties in addressing:

(1) the creation of a system of universal, portable, affordable health insurance coverage for all Montanans that involves private health insurance issuers and that incorporates existing public programs; and

(2) ways to improve the quality, affordability, and delivery of health care.

BE IT FURTHER RESOLVED, that in exploring options for a universal, portable, affordable, private health insurance system, the study examine the concept of a health insurance exchange and the ways in which a health insurance exchange could be implemented in Montana.

BE IT FURTHER RESOLVED, that in exploring the options for providing a universal, portable, affordable, private health insurance system, the study consider the following factors:

(1) similar reforms enacted in other states, including the cost of the reforms to the state and to consumers, the extent to which the reforms have improved the availability and affordability of health insurance coverage, and barriers that states may have encountered and overcome to improve newly enacted health insurance coverage systems;

(2) the advantages and disadvantages of mandating the private universal coverage;

(3) the ways in which existing state-supported private insurance programs, including the Insure Montana program and the Montana Comprehensive Health Association plan, may be incorporated into any reforms;

(4) whether public employee health benefit programs should be included in a reformed system;

(5) potential changes to publicly funded health care programs, including the Medicaid program and the Children's Health Insurance Program, to maximize the use of federal funds and to ensure broader coverage of those in need of assistance;

(6) the ways in which health care providers handle uncompensated care, including whether those costs are shifted to other entities or individuals, and an estimate of the uncompensated costs;

(7) ways in which the state could work with the federal government on integrating aspects of health care services and programs operated by the federal government, including the Indian Health Service, into the state's health care system;

(8) other issues related to access to health care, including access in rural areas; and

(9) the potential for coordinating state health care workforce planning with federal, state, and private funding for medical education.

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, 2008.

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 61st Legislature.

Adopted April 26, 2007

HOUSE JOINT RESOLUTION NO. 50

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING THAT AN APPROPRIATE INTERIM COMMITTEE STUDY MONTANA'S PSYCHIATRIC PRECOMMITMENT EXAMINATION, DETENTION, AND TREATMENT PROCESS AND COSTS.

WHEREAS, section 53-21-132, MCA, requires Montana counties to serve as the payor of last resort for the psychiatric precommitment examination, detention, and treatment costs incurred when a court order has been sought to commit a seriously mentally ill person to the Montana State Hospital; and

WHEREAS, psychiatric precommitment evaluations for which counties have been billed have ranged in duration from 3 days to more than 45 days; and

WHEREAS, the lack of time limits on psychiatric precommitment evaluations not only creates uncertainty for a person subject to commitment proceedings, but also may delay the person's placement in the most appropriate treatment setting; and

WHEREAS, the lack of time limits on psychiatric precommitment evaluations also creates financial uncertainty for Montana's counties, resulting in unanticipated costs.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to designate an appropriate interim committee, pursuant to section 5-5-217, MCA, or direct sufficient staff resources to:

(1) study the ways in which the psychiatric precommitment examination, detention, and treatment provisions of state law have been used across the state, including the number of days that individuals are in precommitment evaluation status in each county;

(2) determine the amount of money that Montana's county governments have paid for psychiatric precommitment examination, detention, and treatment, including the trends in those costs over time; and

(3) review the number of people committed to the Montana State Hospital pursuant to the provisions of Title 53, chapter 21, part 1, MCA, including the number of people committed from each Montana county.

BE IT FURTHER RESOLVED, that the study involve discussions with county officials, mental health providers, District Judges, County Attorneys, the Office of State Public Defender, the Department of Public Health and Human Services, and mental health advocates to provide needed information on ways to streamline the system for both mental health consumers and county governments.

BE IT FURTHER RESOLVED, that the committee identify alternatives to the current psychiatric precommitment examination, detention, and treatment process that would:

(1) allow timely resolution of commitment proceedings to ensure that a person who is subject to a commitment proceeding is placed in the most appropriate treatment setting as quickly as possible; and

(2) improve a county government's ability to predict and budget for the costs of psychiatric precommitment evaluations.

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, 2008.

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 61st Legislature.

Adopted April 23, 2007

HOUSE JOINT RESOLUTION NO. 52

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN INTERIM STUDY OF THE ECONOMIC AND SOCIETAL COSTS OF GAMBLING WITH THE PURPOSE OF INCREASING AWARENESS ABOUT THE INDUSTRY AND ITS EFFECTS ON THE LIVES OF MONTANA CITIZENS AND THEIR COMMUNITIES.

WHEREAS, the impact of gambling in Montana is not well-documented in terms of societal costs but is well-recorded in terms of revenues, which from the video gambling tax alone surpassed $62 million in 2006 with nearly $57.3 million of that going into the state general fund and with revenue increases from the video gambling tax projected at 4.5% in 2007 and 6.3% in each of the next 2 fiscal years; and

WHEREAS, various states and institutions are conducting studies that look at the economic and societal impacts of gambling and, in particular, at the impacts of problem and pathological gambling on individuals and communities; and

WHEREAS, more information is needed for the Legislature to develop policies to deal with problem gambling or pathological gambling, an impulse

control disorder listed in the Diagnostic and Statistical Manual of Mental Disorders of the American Psychiatric Association; and

WHEREAS, the Council on Problem Gambling, an industry-based group, has been providing treatment options and has requested more information on societal and economic influences affecting problem gambling in order to develop solutions and better evaluate the effectiveness of the treatments and the program.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

(1) That the Legislative Council be requested to designate an appropriate interim committee, pursuant to section 5-5-217, MCA, or direct sufficient staff resources to:

(a) review and update, whenever possible, past studies conducted on gambling in Montana, including the positive and negative impacts;

(b) examine the results and recommendations of studies conducted in other states or nationwide for their possible correlation to the economic and societal impacts of gambling in Montana, including convenience gambling and problem gambling; and

(c) include information from the Department of Justice, the Department of Public Health and Human Services, the Department of Revenue, the Banking and Financial Institutions Division of the Department of Administration, the Department of Commerce, and court records regarding the effect of gambling on any of the following:

(i) bankruptcies;

(ii) suicide;

(iii) embezzlement and theft;

(iv) lack of child support;

(v) abuse within families;

(vi) increased requests for public assistance; and

(vii) economic impacts on main street businesses.

(2) That the study include information on tribal gambling compacts and relevant details about state and tribal relations in regard to gambling on reservations.

(3) That the study incorporate analyses from studies that identify:

(a) risk factors for problem gambling;

(b) recommendations regarding programs or treatments; and

(c) outcomes or effectiveness of the programs or treatments.

(4) That, if the information provides clear evidence of negative impacts connected to gambling, the study include recommendations for increasing public awareness of the problem and recommendations for policies intended to decrease negative impacts.

(5) That the study include representatives of the gambling industry and other businesses impacted by the gambling industry, along with consumers and members of the financial, legal, law enforcement, and counseling industries as well as representatives of cities and towns, counties, and the state.

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, 2008.

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 61st Legislature.

Adopted April 26, 2007

HOUSE JOINT RESOLUTION NO. 57

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA PROVIDING FOR AN INTERIM STUDY OF CONSERVATION EASEMENTS ON STATE TRUST LANDS.

WHEREAS, citizens of the State of Montana value the preservation of traditional uses on school trust lands of grazing, farming, timber harvest, and general recreation; and

WHEREAS, if a conservation easement was purchased on school trust land, the public would get to examine and comment on that agreement to see how traditional uses are affected before the easement was finalized; and

WHEREAS, if valuable school trust lands are sold, the traditional uses on these lands could be lost; and

WHEREAS, the Department of Natural Resources and Conservation is charged with managing the state's school trust lands in a manner that derives revenue for the support of the common schools, the University System, and other state institutions; and

WHEREAS, the Department of Natural Resources and Conservation is currently working to increase the revenue earned from school trust lands by diversifying existing uses on school trust lands; and

WHEREAS, conservation easements are an effective tool available to protect these traditional uses while preserving the long-term value of trust lands and retaining the trust land base; and

WHEREAS, the money raised from the purchase of conservation easements on school trust lands is deposited in a nondistributable permanent trust, the interest of which can be used to benefit schools and other trust beneficiaries; and

WHEREAS, the money invested from the purchase of a conservation easement plus the money derived from annual leases or licenses for traditional uses can make traditional uses more financially lucrative for the schools and other trust beneficiaries.

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 benefits to the various trusts of granting easements in terms of years and in perpetuity;

(2) assess the alternatives with regard to appropriate entities to hold conservation easements on state trust land;

(3) analyze how or if conservation easements can ensure that multiple use management occurs;

(4) evaluate the effectiveness and cost or benefit to the various trusts of continuing traditional classified uses as part of the terms of a conservation easement;

(5) determine options and alternatives for providing the continuance of recreational uses that were in place prior to an easement being granted; and

(6) evaluate opportunities for the Department of Natural Resources and Conservation to partner with other organizations to acquire state trust lands that have restricted development rights, which would lower land acquisition costs while also perpetuating traditional uses of the land.

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, 2008.

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 61st Legislature.

Adopted April 26, 2007

HOUSE JOINT RESOLUTION NO. 59

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING THAT THE LEGISLATIVE COUNCIL DESIGNATE AN APPROPRIATE INTERIM COMMITTEE OR ASSIGN SUFFICIENT STAFF RESOURCES TO STUDY PUBLIC EMPLOYEE RETIREMENT SYSTEMS AND PRODUCE A LEGISLATOR'S GUIDE ON MONTANA'S PUBLIC EMPLOYEE RETIREMENT PLANS THAT INCLUDES COMPARISONS OF PLAN DESIGN AND FUNDING OPTIONS AND OFFERS FINDINGS AND RECOMMENDATIONS.

WHEREAS, the fair value of invested assets of Montana's public employee retirement systems is in excess of $7 billion; and

WHEREAS, the actuarial accrued liabilities of the retirement systems amount to $7.8 billion; and

WHEREAS, the excess actuarial unfunded liability has caused actuarial unsoundness in the teachers', public employees', and sheriffs' retirement systems; and

WHEREAS, actuarial soundness is required by the Montana Constitution under Article VIII, Section 15, and Montana's current statutory law, section

19-2-409, MCA, interprets actuarial soundness to be actuarial funding sufficient to amortize system unfunded liabilities over 30 years or less; and

WHEREAS, to address the actuarial unsoundness of the teachers' and public employees' retirement systems, the Legislature during the December 2005 special session appropriated from the general fund to the teachers' retirement system $100 million and to the public employees' retirement system $25 million and during this 2007 regular session is considering appropriating additional millions to the teachers' retirement system; and

WHEREAS, the current structure and funding of Montana's public employee retirement plans is set by statute, making it the Legislature's duty to ensure that statutory provisions reflect sound policy principles that balance considerations about actuarial soundness, employer objectives, employee retirement savings, and Montana's tax base; and

WHEREAS, previous Legislatures and interim legislative committees have laid a foundation upon which this and the next Legislature can continue to build; and

WHEREAS, the public employee retirement boards, directors, attorneys, and actuaries can assist the Legislature by providing information, research, and analysis to evaluate strengths and weaknesses, identify alternatives, and make recommendations; and

WHEREAS, pursuant to section 5-5-228, MCA, the State Administration and Veterans' Affairs Interim Committee is responsible for the legislative oversight of the public employee retirement plans; and

WHEREAS, a legislator's guide on Montana's retirement systems that is updated before each legislative session and that may be explained to legislators is a valuable resource that will assist Montana's Legislature in making informed retirement policy and funding decisions.

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 public employee retirement systems and produce for the next Legislature a legislator's guide that includes:

(1) a brief history of Montana's retirement plans;

(2) a concise summary of the rationale for the current retirement plan features of Montana's public employee retirement systems, including but not limited to vesting, early retirement, disability, postretirement benefit adjustments, postretirement earning limits, service purchase and rollover provisions, and benefit formulas;

(3) an overview of and background on policy principles established by the State Administration and Veterans' Affairs Interim Committee pursuant to section 5-5-228(2)(b), MCA, the retirement boards, and the Board of Investments;

(4) a review of current trends and best practices in public retirement plan design and funding, including a compilation of research and analysis comparing and contrasting options such as money purchase plans, cash balance plans, floor plans, pension equity plans, deferred retirement option plans, and other hybrid defined benefit and defined contribution retirement plans;

(5) a comparison of Montana's public employee retirement systems with current trends and best practices, and identification of viable alternatives to current structure and funding;

(6) a general analysis of the fiscal implications of potential plan design changes on employee and employer contributions, retirement savings, investment responsibilities, and funding obligations; and

(7) findings and recommendations, including recommendations from the Teachers' Retirement Board, the Public Employees' Retirement Board, and the Board of Investments, on whether Montana's public employee retirement plans should be updated or changed and if so, how, to best serve public employers, public employees, and all people of Montana.

BE IT FURTHER RESOLVED, that the Public Employees' Retirement Board, the Teachers' Retirement Board, the Board of Investments, and the National Conference of State Legislatures be requested to provide assistance and technical expertise in gathering and analyzing information, identifying and analyzing options, and developing findings and recommendations.

BE IT FURTHER RESOLVED, that if considered necessary by the designated interim committee, the Legislative Council be requested to authorize the expenditure of interim committee resources for consulting services.

BE IT FURTHER RESOLVED, that if the study is assigned as a staff study rather than a committee study, the State Administration and Veterans' Affairs Interim Committee provide guidance and oversight.

BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review requirements, be concluded prior to September 15, 2008.

BE IT FURTHER RESOLVED, that informational briefings on the public employee retirement systems be made available to the next Legislature, including a briefing from the presiding officer of the State Administration and Veterans' Affairs Interim Committee.

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 61st Legislature.

Adopted April 24, 2007

HOUSE JOINT RESOLUTION NO. 61

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN INTERIM STUDY TO ASSESS THE CONFORMITY OF MONTANA'S INCOME TAX LAWS WITH FEDERAL INCOME TAX LAWS AND TO CONSIDER REORGANIZING CERTAIN PROVISIONS OF MONTANA'S INCOME TAX LAWS; AND REQUIRING THAT THE FINAL RESULTS OF THE STUDY BE REPORTED TO THE 61ST LEGISLATURE.

WHEREAS, the Montana individual income tax is the largest source of general fund revenue; and

WHEREAS, the corporation license tax is a significant source of general fund revenue; and

WHEREAS, most states that impose individual income taxes and corporation net income taxes have laws that conform, to varying degrees, with federal income tax laws in the determination of gross income and the use of allowable deductions; and

WHEREAS, conformity with federal income tax laws facilitates both taxpayer compliance with and the administration of a state's income tax laws; and

WHEREAS, many states routinely enact conforming legislation with federal income tax laws; and

WHEREAS, a state's conforming legislation may also include provisions to "decouple" from certain elements of federal income tax laws; and

WHEREAS, Montana law provides that individual income taxes and corporation net income taxes are, for the most part, intricately tied to the Internal Revenue Code of 1986, as amended; and

WHEREAS, because Montana does not routinely enact conforming legislation with federal income tax laws, the state may be improperly delegating much of its tax policy and taxing authority to the federal government; and

WHEREAS, certain business activities in a state, including Montana, may be treated for state income tax purposes in ways that are different for federal income tax purposes; and

WHEREAS, the existing organizational structure of Montana's income tax laws may be confusing to taxpayers, tax preparers, and tax administrators alike; and

WHEREAS, the Montana Legislature finds that a study of Montana's conformity with federal income tax laws is long overdue.

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 study committee or statutory committee, pursuant to section 5-5-217, MCA, or direct sufficient staff resources to:

(1) conduct a general review of federal income tax laws;

(2) review Montana statutory provisions that conform with or are related to federal income tax laws and statutory provisions that do not conform with federal income tax laws and the reasons for nonconformity;

(3) analyze the legal implications of Montana's income tax provisions as they relate to federal income tax laws;

(4) review the extent of other states' conformity or nonconformity with federal income tax law;

(5) review the differences between federal income tax laws and state income tax laws in the tax treatment of business activities; and

(6) determine whether improvements may be made to Montana's income tax laws to give the state more control over its tax policy and taxing authority.

BE IT FURTHER RESOLVED, that the study may also consider whether consolidating or reorganizing certain provisions of Montana's income tax laws would provide for more transparency in the compliance with and the administration of the state's income tax laws.

BE IT FURTHER RESOLVED, that the study consider the views of:

(1) certified public accountants;

(2) tax attorneys;

(3) taxpayer groups;

(4) representatives of agricultural groups;

(5) representatives of natural resource groups;

(6) representatives of pass-through entities;

(7) representatives of C corporations;

(8) the department of revenue; and

(9) other persons with knowledge of state and federal income tax laws.

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 before September 15, 2008.

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 61st Legislature.

Adopted April 25, 2007

House Resolutions

HOUSE RESOLUTION NO. 1

A RESOLUTION OF THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REVISING AND ADOPTING THE HOUSE RULES.

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the following rules be adopted:

RULES OF THE MONTANA

HOUSE OF REPRESENTATIVES

CHAPTER 1

Administration

H10-10. House officers — definitions. (1) House officers include a Speaker, a Speaker pro tempore, majority and minority leaders, and majority and minority whips (section 5-2-221, MCA).

(2) A majority of representatives voting elects the Speaker and Speaker pro tempore from the House membership. A majority of each caucus voting nominates House members to the remaining offices, and those nominees are considered to have been elected by a majority vote of the House.

(3) (a) "Majority leader" means the leader of the majority party, elected by the caucus as provided in 5-2-221.

(b) "Majority party" means the party with the most members, subject to subsection (2).

(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 (2).

(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 appoint and may remove the members of all standing and select committees not otherwise specified by law or rule. Prior to making committee assignments, the Speaker shall take into consideration the recommendations of the minority leader for minority committee assignments and the appointment of the minority vice chairmen. For the Rules Committee, the Speaker shall determine the total number of members and the party division, but each party shall appoint its own members. The Speaker may appoint an additional at-large member to the Rules Committee from either party.

(5) The Speaker shall sign all necessary certifications by the House, including enrolled bills and resolutions, journals (section 5-11-201, MCA), subpoenas, and payrolls.

(6) The Speaker shall arrange the agendas for second and third readings each legislative day. Representatives may amend the agendas as provided in H40-130.

(7) The Speaker is the chief officer of the House, with authority for all House employees. The Speaker may seek the advice and counsel of the Legislative Administration Committee regarding employees.

(8) 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.

(9) Upon request of the House Leader of the opposite party, 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 presession 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. 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 shall have authority to act in the interim to prepare for future legislative sessions. It may delegate specific duties to a legislative agency.

(3) The committee shall approve contracts for purchase or lease of equipment and supplies for the House, subject to the approval of the Speaker.

(4) The committee shall comprise the House membership of the Joint Legislative Administration Committee.

H10-60. Employees. (1) The Speaker shall appoint a Chief Clerk, Sergeant-at-Arms, and Chaplain, subject to confirmation of the House (section 5-2-221, MCA).

(2) The Speaker shall recommend to the Legislative Administration Committee employment of necessary staff. All House staff hired to date will be retained.

(3) The secretary for a standing or select committee is generally responsible to the committee chair but shall work under the direction of the Chief Clerk.

(4) The Speaker and majority and minority leaders may each appoint a private secretary.

H10-70. 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.

H10-80. Sergeant-at-Arms duties. 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 H20-80;

(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.

H10-90. 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.

H10-100. Legislative interns. A legislative intern is a person designated under Title 5, chapter 6, MCA.

H10-110. 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.

H10-120. 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).

H10-130. 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.

CHAPTER 2

Decorum

H20-10. Addressing the House — recognition. (1) When a member desires to speak to or address any matter to the House, the member should rise and respectfully address the Speaker or the presiding officer.

(2) The Speaker or presiding officer may ask, "For what purpose does the member rise?" or "For what purpose does the member seek recognition?" and may then decide if recognition is to be granted. There is no appeal from the Speaker's or presiding officer's decision.

H20-20. Questions of order and privilege. (1) The Speaker shall decide all questions of order and privilege, subject to an appeal by any representative seconded by two representatives. The question on appeal is, "Shall the decision of the chairman be sustained?".

(2) Responses to parliamentary inquiries and decisions of recognition may not be appealed.

(3) Questions of order and privilege, in order of precedence, are:

(a) those affecting the collective rights, safety, dignity, and integrity of the House; and

(b) those affecting the rights, reputation, and conduct of individual representatives.

(4) A member may not address the House on a question of privilege between the time:

(a) an undebatable motion is offered and the vote is taken on the motion;

(b) the previous question is ordered and the vote is taken on the proposition included under the previous question; or

(c) a motion to lay on the table is offered and the vote is taken on the motion.

H20-30. Limits on lobbying. Lobbying on the House floor and in the anteroom is prohibited during a daily session, 2 hours before the session, and 2 hours after the session.

H20-40. Admittance to the House floor. (1) The following persons may be admitted to the House floor during a daily session: present and former legislators; legislative employees necessary for the conduct of the session; accredited news staff; and members' spouses and children. The Speaker may allow exceptions to this rule.

(2) Only a member may sit in a member's chair when the House is in session.

H20-50. Dilatory motions or questions. The House has a right to protect itself from dilatory motions or questions used for the purpose of delaying or obstructing business. The presiding officer shall decide if motions (except a call of the House) or questions are dilatory. This decision may be appealed to the House.

H20-60. 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.

H20-70. Lobbying by employees. (1) A legislative employee, intern, or aide of either house is prohibited from lobbying, although a legislative committee may request testimony from a person so restricted.

(2) The Speaker or the Legislative Administration Committee may discipline or discharge any House employee violating this prohibition. The Speaker or the committee may withdraw the privileges of any House aide or intern violating this prohibition.

H20-80. Papers distributed on desks. A paper concerning proposed legislation may not be placed on representatives' desks unless it is authorized by a member and permission has been granted by the Speaker. The Sergeant-at-Arms shall direct its distribution.

H20-90. Violation of rules. (1) If a member, in speaking or otherwise, violates the rules of the House, the Speaker shall, or the majority or minority leader may, call the member to order, in which case the member called to order must be seated immediately.

(2) The member called to order may move for an appeal to the House and if the motion is seconded by two members, the matter must be submitted to the House for determination by majority vote. The motion is nondebatable.

(3) If the decision of the House is in favor of the member called to order, the member may proceed. If the decision is against the member, the member may not proceed.

(4) If a member is called to order, the matter may be referred to the Rules Committee by the majority or minority leader. The Committee may recommend to the House that the member be censured or be subject to other action. The House shall act upon the recommendation of the Committee.

CHAPTER 3

Committees

H30-10. House standing committees — appointments. (1) The Speaker shall determine the total number of members and the party division and shall appoint the members to the following standing committees: Agriculture; Appropriations; Business and Labor; Education; Ethics; Federal Relations, Energy, and Telecommunications; Fish, Wildlife, and Parks; Transportation; Human Services; Judiciary; Legislative Administration; Local Government; Natural Resources; Rules; State Administration; and Taxation.

(2) The Speaker shall appoint the chairman, vice chairman, and minority vice chairman of each standing committee while retaining the authority to remove and replace any chairman, vice chairman, or minority vice chairman at any time. The appointment or removal of a minority vice chairman requires the consent of the minority leader. The Speaker shall give notice of each appointment to the Chief Clerk for publication.

(3) 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. The principal duties of the chairman of standing or select committees are to:

(1) preside over meetings of the committee and to put all questions;

(2) maintain order and decide all questions of order subject to appeal to the committee;

(3) supervise and direct staff of the committee;

(4) have the committee secretary keep the official record of the minutes;

(5) sign reports of the committee and submit them promptly to the Chief Clerk;

(6) appoint subcommittees to perform on a formal or an informal basis; and

(7) inform the Speaker of committee activity.

H30-30. Quorum — officers as members. (1) A quorum of a committee is a majority of the members of the committee. A quorum of a committee must be present at a meeting to act officially. A quorum of a committee may transact business, and a majority of the quorum, even though it is a minority of the committee, is sufficient for committee action.

(2) The Speaker, the majority leader, and the minority leader are ex officio, nonvoting members of all House committees. They may count toward establishing a quorum.

H30-40. Meetings. (1) All meetings of committees must be open to the public at all times, subject always to the power and authority of the chairman to maintain safety, order, and decorum. The date, time, and place of committee meetings must be posted.

(2) A committee or subcommittee may be assembled for:

(a) a public hearing at which testimony is to be heard and at which official action may be taken on bills, resolutions, or other matters;

(b) a formal meeting at which the committees may discuss and take official action on bills, resolutions, or other matters without testimony; or

(c) a work session at which the committee may discuss bills, resolutions, or other matters but take no formal action.

(3) All committees meet at the call of the chairman or upon the request of a majority of the members of the committee directed to and with the approval of the Speaker.

(4) All committees shall provide for and give public notice, reasonably calculated to give actual notice to interested persons, of the time, place, and subject matter of regular and special meetings. All committees are encouraged to provide at least 3 legislative days notice to members of committees and the general public. However, a meeting may be held upon notice appropriate to the circumstances.

(5) A committee may not meet during the time the House is in session without leave of the Speaker. Any member attending such a meeting must be considered excused to attend business of the House subject to a call of the House.

(6) All meetings of committees must be recorded and the minutes must be available to the public within a reasonable time after the meeting. The official record must contain at least the following information:

(a) the time and place of each meeting of the committee;

(b) committee members present, excused, or absent;

(c) the names and addresses of persons appearing before the committee, whom each represents, and whether the person is a proponent, opponent, or other witness;

(d) all motions and their disposition;

(e) the results of all votes;

(f) references to the recording log, sufficient to serve as an index to the original recording; and

(g) testimony and exhibits submitted in writing.

H30-50. Procedures. (1) The chairman shall notify the sponsor of any bill pending before the committee of the time and place it will be considered.

(2) A standing or select committee may not take up referred legislation unless the sponsor or one of the cosponsors is present or unless the sponsor has given written consent.

(3) The committee shall act on each bill in its possession:

(a) by reporting the bill out of the committee:

(i) with the recommendation that it be referred to another committee;

(ii) favorably as to passage; or

(iii) unfavorably; or

(b) by tabling the measure in committee.

(4) The committee may not report a bill to the House without recommendation.

(5) The committee may recommend that a bill on which it has made a favorable recommendation by unanimous vote be placed on the consent calendar.

(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.

(8) A second to any motion offered in a committee is not required in order for the motion to be considered by the committee.

(9) The vote of each member on all committee actions must be recorded. All motions may be adopted only on the affirmative vote of a majority of the members voting.

(10) A motion to take a bill from the table may be adopted by the affirmative vote of a majority of the members present at any meeting of the committee.

(11) An action formally taken by a committee may not be altered in the committee except by reconsideration and further formal action of the committee.

(12) A committee may reconsider any action as long as the matter remains in the possession of the committee. A committee member need not have voted with the prevailing side in order to move reconsideration.

(13) Any legislation requested by a committee requires three-fourths of all members of the committee to vote in favor of the question to allow the committee to request the drafting or introduction of legislation. Votes requesting drafting and introduction of committee legislation may be taken jointly or separately.

(14) The chairman shall decide points of order.

(15) The privileges of committee members include the following:

(a) to participate freely in committee discussions and debate;

(b) to offer motions;

(c) to assert points of order and privilege;

(d) to question witnesses upon recognition by the chairman;

(e) to offer any amendment to any bill; and

(f) to vote, either by being present or by proxy, using a standard form or through the vice chairman or minority vice chairman.

(16) Any meeting of a committee held through the use of telephone or other electronic communication must be conducted in accordance with Chapter 3 of the House Rules.

(17) A committee may consolidate into one bill any two or more related bills referred to it whenever legislation may be simplified by the consolidation.

(18) Committee procedure must be informal, but when any questions arise on committee procedure, the rules or practices of the House are applicable except as stated in the House Rules.

H30-60. Public testimony. (1) Testimony from proponents, opponents, and informational witnesses must be allowed on every bill or resolution before a standing or select committee. All persons, other than the sponsor, offering testimony shall complete a "Witness Form" and submit it to the committee secretary.

(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.

CHAPTER 4

Legislation

H40-10. Introduction deadlines. If a representative accepts drafted legislation from the Legislative Services Division after the deadline for preintroduction, the representative may not introduce that legislation after 2 legislative days from the time the bill was accepted from the Legislative Services Division.

H40-20. House resolutions. (1) A House resolution is used to adopt or amend House rules, make recommendations on the districting and apportionment plan (Montana Constitution, Art. V, Sec. 14), express the sentiment of the House, or assist House operations.

(2) As to drafting, introduction, and referral, a House resolution is treated as a bill. A House resolution may be requested and introduced at any time. Final passage of a House resolution is determined by the Committee of the Whole report. A House resolution does not progress to third reading.

(3) The Chief Clerk shall transmit a copy of each passed House resolution to the Senate and the Secretary of State.

H40-30. Cosponsors. (1) Prior to submitting legislation to the Chief Clerk for introduction, the chief sponsor may add representatives and senators as cosponsors by having them sign the legislation.

(2) After legislation is submitted for introduction but before the legislation returns from the first House committee, the chief sponsor may add or remove cosponsors by filing a cosponsor form with the Chief Clerk. This filing must be noted by the Chief Clerk for the record on Order of Business No. 11.

H40-40. Introduction — receipt. (1) During a session, proposed House legislation may be introduced in the House by submitting it, endorsed with the signature of a representative as chief sponsor, to the Chief Clerk for introduction. Except for the first 15 bill numbers that may be reserved for preintroduced legislation, in each session of the Legislature, the proposed legislation must be numbered consecutively by type in the order of receipt. Submission and numbering of properly endorsed legislation constitutes introduction.

(2) Preintroduction of legislation prior to a session under provisions of the joint rules constitutes introduction in the House.

(3) Acknowledgment by the Chief Clerk of receipt of legislation or other matters transmitted from the Senate for consideration by the House constitutes introduction of the Senate legislation in the House or receipt by the House for purposes of applying time limits contained in the House rules. All legislation may be referred to a committee prior to being read across the rostrum as provided in H40-50.

(4) Acknowledgment by the Chief Clerk of receipt of messages from the Senate or other elected officials constitutes receipt by the House for purposes of any applicable time limit. Senate legislation or messages received from the Senate or elected officials are subject to all other rules.

H40-50. First reading. Legislation properly introduced or received in the House must be announced across the rostrum and public notice provided. This announcement constitutes first reading, and no debate or motion is in order except that a representative may question adherence to rules. Acknowledgment by the Chief Clerk of receipt of legislation transmitted from the Senate commences the time limit for consideration of the legislation. All legislation received by the House may be referred to a committee prior to being read across the rostrum.

H40-60. One reading per day. Except on the final legislative day, legislation may receive no more than one reading per legislative day. On the final legislative day, legislation may receive more than one reading.

H40-70. Referral. (1) The Speaker shall refer to a House committee, joint select committee, or joint special committee all properly introduced House legislation and transmitted Senate legislation in conformity to the committee jurisdiction.

(2) Legislation may not receive final passage and approval unless it has been referred to a House committee, joint select committee, or joint special committee.

H40-80. Rereferral — normal progression. (1) Except as provided in subsection (2), legislation that is in the possession of the House and that has not been finally disposed of may be rereferred to a House committee by House motion approved by not less than three-fifths of the members present and voting.

(2) Legislation that is in the possession of the House and that has been reported from a committee with a do pass or be concurred in recommendation may be rereferred to a House committee by a majority vote.

(3) The normal progress of legislation through the House consists of the following steps in the order listed: introduction; referral to a standing or select committee; a report from the committee; second reading; and third reading.

H40-90. Legislation withdrawn from committee. Legislation may be withdrawn from a House committee by House motion approved by not less than three-fifths of the members present and voting.

H40-100. Standing committee reports. (1) A House standing committee recommendation of "do pass" or "be concurred in" must be announced across the rostrum and, if there is no objection to form, is considered adopted.

(2) A recommendation of "do not pass" or "be not concurred in" must be announced across the rostrum and, on the following legislative day, may be debated and adopted or rejected on Order of Business No. 2. A motion to reject an adverse committee report must be approved by not less than three-fifths of the members voting. Failure to adopt a motion to reject an adverse committee report constitutes adoption of the report.

(3) If the House rejects an adverse committee report, the bill progresses to second reading, as scheduled by the Speaker, with any amendments recommended by the committee.

H40-110. Consent calendar procedure. (1) Noncontroversial bills and simple and joint resolutions may be recommended for the consent calendar by a standing committee and processed according to the following provisions:

(a) To be eligible for the consent calendar, the legislation must receive a unanimous vote by the members of the standing committee in attendance (do pass, do pass as amended). In addition, a motion must be made and passed unanimously to place the legislation on the consent calendar and this action reflected in the committee report. Appropriation or revenue bills may not be recommended for the consent calendar.

(b) The legislation must then be sent to be processed and reproduced as a third reading version and specifically marked as a "consent calendar" item.

(2) Other legislation may be placed on the consent calendar by agreement between the Speaker and the minority leader following a positive recommendation by a standing committee. The legislation must be sent to be processed as a second reading version but must be specifically announced and posted as a "consent calendar" item.

(3) Legislation must be posted immediately (as soon as it is received appropriately printed) on the consent calendar and must remain there for 1 legislative day before consideration under Order of Business No. 11, special orders of the day. At that time, the presiding officer shall announce consideration of the consent calendar and allow "reasonable time" for questions and answers upon request. No debate is allowed.

(4) If any one representative submits a written objection to the placement of legislation on the consent calendar, the legislation must be removed from the consent calendar and added to the regular second reading board.

(5) Consent calendar legislation will be considered on Order of Business No. 8, third reading of bills, following the regular third reading agenda, as separately noted on the agenda.

(6) Legislation on the consent calendar must be considered individually with the roll call vote spread on the journal as the final vote in the House.

(7) Legislation passed on the consent calendar must then be transmitted to the Senate. Legislation must be appropriately printed prior to transmittal.

H40-120. Legislation requiring other than a majority vote. Legislation that requires other than a majority vote for final passage needs only a majority vote for any action that is taken prior to third reading and that normally requires a majority vote.

H40-130. Amending House second and third reading agendas. (1) A majority of representatives present may rearrange or remove legislation from either the second or third reading agenda on that legislative day.

(2) Legislation may be added to the second or third reading agenda on that legislative day on a motion approved by not less than three-fifths of the members present and voting.

H40-140. Second reading. (1) Legislation returned from committee may be placed on second reading unless otherwise ordered by the House.

(2) The House shall form itself into a Committee of the Whole to consider business on second reading. The Committee of the Whole may debate legislation, attach amendments, and recommend approval or disapproval of legislation.

(3) Except on the final legislative day, at least 1 legislative day must elapse between the time legislation is reported from committee and the time it is considered on second reading.

(4) If a motion to recommend that a bill "do pass" or "be concurred in" fails in the Committee of the Whole, the obverse, i.e., a recommendation that the bill "do not pass" or "be not concurred in", is considered to have passed. If a motion to recommend that a bill "do not pass" or "be not concurred in" fails in the Committee of the Whole, the obverse, i.e., a recommendation that the bill "do pass" or "be concurred in", is considered to have passed.

(5) An amendment attached to legislation by the Committee of the Whole remains unless removed by further legislative action.

(6) When the Committee of the Whole reports to the House, the House shall adopt or reject the Committee of the Whole report. If the House rejects the Committee of the Whole report, the legislation remains on second reading, as amended by the Committee of the Whole, unless the House orders otherwise.

(7) A representative may move to segregate legislation from the Committee of the Whole report before the report is adopted. Segregated legislation, as amended by the Committee of the Whole, must be placed on second reading unless the House orders otherwise. Amendments adopted by the Committee of the Whole on segregated legislation remain adopted unless reconsidered or unless the legislation is rereferred to a committee.

H40-150. Amendments in the Committee of the Whole. (1) All Committee of the Whole amendments must be checked by the House amendments coordinator for format, style, clarity, consistency, and other factors, in accordance with the most recent Bill Drafting Manual published by the Legislative Services Division, before the amendment may be accepted at the rostrum. The amendment form must include the date and time the amendment is submitted for that check.

(2) An amendment submitted to the rostrum for consideration by the Committee of the Whole must be marked as checked by the amendments coordinator and signed by a representative. Unless the majority leader, the minority leader, and sponsor agree, amendments must be printed and placed on the members' desks prior to consideration.

(3) An amendment may not be proposed until the sponsor has opened on a bill.

(4) A copy of every amendment rejected by the Committee of the Whole must be kept as part of the official records.

(5) An amendment may not change the original purpose of the bill.

H40-160. Motions in the Committee of the Whole. (1) When the House resolves itself into a Committee of the Whole, the only motions in order are to:

(a) amend;

(b) recommend passage or nonpassage;

(c) recommend concurrence or nonconcurrence;

(d) reconsider;

(e) pass consideration;

(f) call for cloture;

(g) rise, rise and report, or rise and report progress and beg leave to sit again; and

(h) to change the order in which legislation is placed on the agenda.

(2) Subsections (1)(d) through (1)(g) are nondebatable but may be amended. Once a motion under subsection (1)(b) or (1)(c) is made, a contrary motion is not in order.

(3) If a quorum of representatives is not present during second reading, the Committee of the Whole may conduct no 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) A representative may not speak more than once on the motion and may speak for no more than 5 minutes. The representative who makes the motion may speak a second time for 5 minutes in order to close.

(2) After at least two proponents and two opponents have spoken on a question and 30 minutes have elapsed, a motion to call for cloture is in order. Approval by not less than two-thirds of the members present and voting is required to sustain a motion for cloture. Notwithstanding the passage of a motion to end debate, the sponsor of the motion on which debate was ended may close.

(3) By previous agreement of the majority leader and the minority leader:

(a) a lead proponent and a lead opponent may be granted additional time to speak on a bill;

(b) a bill or resolution may be allocated a predetermined amount of time for debate and number of speakers.

H40-180. Special provisions for debate on the general appropriations bill. (1) The Appropriations Committee chairman, in presenting the bill, is not subject to the 5-minute speaking limitation.

(2) Each appropriations subcommittee chairman shall fully present the chairman's portion of the bill. A subcommittee chairman is not subject to the 5-minute speaking limitation.

(3) After the presentation by the subcommittee chairman, the respective section of the bill is open for debate, questions, and amendments. A proposed amendment to the general appropriations act may not be divided.

(4) An amendment that affects more than one section of the bill must be offered when the first section affected is considered.

(5) Following completion of the debate on each section, that section is closed and may not be reopened except by majority vote.

(6) If a member moves to reopen a section for amendment, only the amendment of that member may be entertained. Another member wishing to amend the same section shall make a separate motion to reopen the section.

(7) Debate on the motion to reopen a section is limited to the question of reopening the section. The amendment itself may not be debated at that time. This limitation does not prohibit the member from explaining the amendment to be considered.

(8) A motion for cloture is not in order during debate on the general appropriations bill.

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 may be placed on third reading on the following legislative day. If the bill is not amended, the bill must be sent to printing. 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.

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. A tie vote in a conference committee on the question of a recommendation to the whole House on a matter referred for a conference results in the matter passing out to the whole House for consideration without recommendation.

(2) The House may debate and adopt or reject the conference committee report on second reading on any legislative day. The House may reconsider its action in rejecting a conference committee report under rules for reconsideration, H50-160.

(3) If both the House and the Senate adopt the same conference committee report on legislation requiring more than a majority vote for final passage, the House, following approval of the conference committee report on third reading, shall place the final form of the legislation on third reading to determine if the required vote is obtained.

(4) If the House rejects a conference committee report, the committee continues to exist unless dissolved by the Speaker or by motion. The committee may file a subsequent report.

(5) A House conference committee may confer regarding matters assigned to it with any Senate conference committee with like jurisdiction and submit recommendations for consideration of the House.

H40-240. Enrolling. (1) When House legislation has passed both houses, it must be enrolled within 48 hours under the direction of the Speaker. The Speaker may grant additional time for enrolling.

(2) The chief sponsor of the legislation shall examine the enrolled legislation and, if it has no enrolling errors, shall, within 1 legislative day, certify the legislation as correctly enrolled.

(3) The correctly enrolled legislation must be delivered to the Speaker, who shall sign the legislation.

(4) After the legislation has been reported correctly enrolled but before it is signed, any representative may examine the legislation.

H40-250. Governor's amendments. (1) When the Governor returns a bill with recommended amendments, the House shall announce the amendments under Order of Business No. 5.

(2) The House may debate and adopt or reject the Governor's recommended amendments on second reading on any legislative day.

(3) If both the House and the Senate accept the Governor's recommended amendments on a bill that requires more than a majority vote for final passage, the House shall place the final form of the legislation on third reading to determine if the required vote is obtained.

H40-260. Governor's veto. (1) When the Governor returns a bill with a veto, the House shall announce the veto under Order of Business No. 5.

(2) On any legislative day, a representative may move to override the Governor's veto by a two-thirds vote under Order of Business No. 9.

CHAPTER 5

Floor Actions

H50-10. Attendance. (1) A representative, unless excused, is required to be present at every sitting of the House.

(2) A representative may request in writing to be excused for a specified cause by the representative's party leader. This excused absence is not a leave with cause from a call of the House.

H50-20. Quorum. (1) A quorum of the House is fifty-one representatives (Montana Constitution, Art. V, Sec. 10).

(2) Any representative may question the lack of a quorum at any time a vote is not being taken. The question is nondebatable, may not be amended, and is resolved by a roll call.

(3) The House may conduct no business without a quorum, except that representatives present may convene, compel the attendance of absent representatives, or adjourn.

H50-30. Call of the House without a quorum. (1) In the absence of a quorum, a majority of the representatives present may compel the attendance of absent representatives through a call of the House without a quorum. The motion for the call is nondebatable, may not be amended, and is in order at any time it has been established that a quorum is not present.

(2) During a call of the House, all business is suspended. No motion is in order except a motion to adjourn or to remove the call.

(3) When a quorum has been achieved under the call, the call is automatically lifted. The call may also be lifted by adjournment or by two-thirds of the representatives present and voting.

H50-40. Call of the House with a quorum. (1) If a quorum is present but at least one representative is excused or absent, one-third of the representatives present and voting may order a call of the House with a quorum.

(2) The motion for a call is nondebatable, may not be amended, and is in order at any time a vote is not being taken, except that a call of the House with a quorum is not allowed in the Committee of the Whole.

(3) During a call of the House, all business is suspended. No motion is in order except a motion to adjourn or to remove the call.

(4) When all representatives are present, except those on leave with cause, the call is automatically lifted. The call may also be lifted by adjournment or by two-thirds of the representatives present and voting.

H50-50. Leave with cause. (1) During a call of the House, a representative with an overriding medical or personal reason may request a leave with cause.

(2) If the representative is present at the time of the call, the Speaker may approve a request for a leave with cause.

(3) If the representative is not present at the time of the call, two-thirds of the representatives present and voting may approve a request for leave with cause.

(4) During a call of the House, a representative on leave with cause may not cast an absentee vote.

H50-60. 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.

H50-70. 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.

H50-80. Nondebatable motions. (1) A representative has the right to understand any question before the House and, usually under the administration of the presiding officer, may ask questions to exercise this right.

(2) The following motions are nondebatable:

(a) to adjourn;

(b) for a call of the House;

(c) to recess or rise;

(d) for parliamentary inquiry;

(e) to table or take from the table;

(f) to call for the previous question or cloture;

(g) to amend a nondebatable motion;

(h) to divide a question;

(i) to postpone consideration to a day certain;

(j) to suspend the rules;

(k) all incidental motions, such as motions relating to voting or of a general procedural nature; and

(l) to appeal a call to order.

H50-90. 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.

H50-100. 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.

H50-110. Substitute motions. (1) When a question is before the House, no substitute motion may be made except the following, which have precedence in the order listed:

(a) to adjourn;

(b) for a call of the House;

(c) to recess or rise;

(d) for a question of privilege;

(e) to table;

(f) to call for the previous question or cloture;

(g) to postpone consideration to a day certain;

(h) to refer to a committee; and

(i) to propose amendments.

(2) Nothing in this section allows a motion that would not otherwise be allowed under a particular order of business.

(3) (a) Except as provided in subsection (3)(b), no more than one substitute motion is in order at any one time.

(b) A motion for cloture is in order on a substitute motion to amend.

H50-120. Withdrawing motions. A representative who proposes a motion may withdraw it before it is voted on or amended.

H50-130. Dividing a question. Except as provided in H40-180, a representative may request to divide a question as a matter of right if it includes two or more propositions so distinct that they can be separated and if at least one substantive question remains after one substantive question is removed.

H50-140. Previous question. (1) If a majority of representatives present and voting adopts a motion for the previous question, debate is closed on the question and it must be brought to a vote. The Speaker may not entertain a motion to end debate unless at least one proponent and one opponent have spoken on the question.

(2) Notwithstanding the passage of a motion to end debate, the sponsor of the motion on which debate was ended may close.

H50-150. 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 (two-thirds);

(2) a motion to approve a bill to appropriate the principal of the coal severance tax trust fund (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 (two-thirds);

(5) a motion to temporarily suspend a joint rule governing the procedure for handling bills (two-thirds).

Members Present and Voting

(1) a motion to override the Governor's veto (two-thirds);

(2) a call of the House with a quorum (one-third);

(3) a motion to lift a call of the House (two-thirds);

(4) a motion to rerefer a bill from one committee to another pursuant to Rule 40-80(1) (three-fifths);

(5) a motion to withdraw a bill from a committee (three-fifths);

(6) a motion to add legislation to the second or third reading agenda (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 (unanimous);

(9) a motion to call for cloture (two-thirds);

(10) a motion to take from the table in Committee of the Whole (three-fifths).

Members Voting

(1) a motion to amend or suspend rules (two-thirds);

(2) a motion to overturn an adverse committee report (three-fifths);

(3) a motion to record a vote (one representative);

(4) a motion to spread a vote on the journal (two representatives);

(5) an appeal of the ruling of the presiding officer (three representatives);

(6) a motion to speak more than once on a debatable motion (unanimous vote);

(7) a motion to appeal the presiding officer's interpretation of the rules to the House Rules Committee (15 representatives).

Entire Legislature

(1) a motion to approve a bill proposing to amend the Montana Constitution (two-thirds of the entire Legislature).

H50-160. Reconsideration. (1) Any representative may, within 1 legislative day of a vote, move to reconsider the House vote on any matter still within the control of the House.

(2) A motion for reconsideration, unless tabled or replaced by a substitute motion, must be disposed of when made.

(3) When a motion for reconsideration fails, the question is finally settled. A motion for reconsideration may not be renewed or reconsidered.

(4) A motion to recall legislation from the Senate constitutes a motion to reconsider and is subject to the same rules.

(5) A motion for reconsideration is not in order on a vote to postpone to a day certain or to table legislation.

(6) There may be only one reconsideration vote on a specific issue on a legislative day.

H50-170. Renewing procedural motions. The House may renew a procedural motion if further House business has intervened.

H50-180. 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.

H50-190. Voting. (1) The representatives shall vote to decide any motion or question properly before the House. Each representative has one vote.

(2) The House may, without objection, use a voice vote on procedural motions that are not required to be recorded in the journal. If a representative rises and objects, the House shall record the vote.

(3) The House shall record the vote on all substantive questions. If the voting system is inoperable, the Chief Clerk shall record the representatives' votes by other means.

(4) A member who is present shall vote unless the member has disclosed a conflict of interest to the House. A member may be present for a vote by electronic means.

H50-200. Changing a vote. (1) A representative may move to change the representative's vote within 1 legislative day of the vote. The motion is nondebatable. The motion must be made on Order of Business No. 9, motions. All of the members present and voting are required to consent to the change in order for it to be effective.

(2) The representative making the motion shall first specify the bill number, the question, and the original vote tally. A vote may not be changed if it would affect the outcome of legislation.

(3) A vote change must be entered into the journal as a notation that the member's vote was changed. The original printed vote will not be reprinted to reflect the change.

(4) An error caused by a malfunction of the voting system may be corrected without a vote.

H50-210. Absentee votes. (1) An excused representative may file an absentee vote authorization form to vote during the excused absence on any vote for which absentee voting is allowed.

(2) An excused representative shall sign an absentee vote authorization form that specifies the motion and the desired vote.

(3) The absentee vote authorization form must be handed in at the rostrum by the party whip or designated representative before voting on the motion has commenced.

(4) The absentee vote authorization may be revoked before the vote by the member who signed the authorization.

(5) Absentee voting is not allowed on third reading.

H50-220. 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.

H50-230. 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.

H50-240. Adjournment sine die. A representative may move that the House adjourn for the session. The motion is nondebatable and may be made under any order of business except Order of Business No. 7.

CHAPTER 6

Motions

H60-10. Proposal for consideration. (1) Every question presented to the House or a committee must be submitted as a definite proposition.

(2) A representative has the right to understand any question before the House and, under the authority of the presiding officer, may ask questions to exercise this right.

H60-20. Nondebatable motions. The following motions, in addition to any other motion specifically designated, must be decided without debate:

(1) to adjourn;

(2) for a call of the House;

(3) to recess or rise;

(4) for parliamentary inquiry;

(5) to table or to take from the table;

(6) to call for the previous question or for cloture;

(7) to amend a nondebatable motion;

(8) to divide a question;

(9) to postpone consideration to a day certain;

(10) to suspend the rules; and

(11) all incidental motions, such as motions relating to voting or of a general procedural nature.

H60-30. Motions allowed during debate. (1) When a question is under debate, only the following motions are in order. The motions have precedence in the following order:

(a) to adjourn;

(b) for a call of the House;

(c) to recess or rise;

(d) for a question of privilege;

(e) to table or take from the table;

(f) to call for the previous question or cloture;

(g) to postpone consideration to a day certain;

(h) to refer or rerefer; and

(i) to propose amendments.

(2) This section does not allow a motion that would not otherwise be allowed under a particular order of business.

(3) Only one substitute motion is in order at any time.

H60-40. Motions to adjourn or recess. (1) A motion to adjourn or recess is always in order, except:

(a) when the House is voting on another motion;

(b) when the previous question has been ordered and before the final vote;

(c) when a member entitled to the floor has not yielded for that purpose; or

(d) when business has not been transacted after the defeat of a motion to adjourn or recess.

(2) The vote by which a motion to adjourn or recess is carried or fails is not subject to a motion to reconsider.

H60-50. Motion to table. (1) A motion to table, if carried, has the effect of postponing action on the proposition to which it was applied until superseded by a motion to take from the table.

(2) The vote by which a motion to table is carried or fails cannot be reconsidered.

(3) A motion to table is not in order after the previous question has been ordered.

H60-60. Motion to postpone. A motion to postpone to a day certain may be amended and is debatable within narrow limits. The merits of the proposition that is the subject of the motion to postpone may not be debated.

H60-70. Motion to refer. When a motion is made to refer a subject to a standing committee or select committee, the question on the referral to a standing committee must be put first.

H60-80. Terms of debate on motion to refer or rerefer. (1) A motion to refer or rerefer is debatable within narrow limits. The merits of the proposition that is the subject of the motion may not be debated.

(2) A motion to refer or rerefer with instructions is fully debatable.

H60-100. Moving the previous question after a motion to table. (1) If a motion to table is made directly to a main motion, a motion for the previous question is not in order.

(2) If an amendment to a main motion is pending and a motion to table is made, the previous question may be called on the main motion, the pending amendment, and the motion to table the amendment.

H60-110. Standard motions. The following are standard motions:

(1) moving House bills or resolutions on second reading, "Mister/Madam Chairman, I move that when this committee does rise and report after having under consideration House Bill ___, that it recommend the same (do pass)/(do pass as amended)/(do not pass)."

(2) moving Senate bills and Senate amendments to House bills, "Mister/Madam Chairman, I move that when this committee does rise and report after having under consideration Senate Bill ___/Senate amendments to House Bill ___, that it recommend the same (be concurred in)/(be not concurred in)."

(3) Committee of the Whole floor amendments, "Mister/Madam Chairman, I move that House Bill ___/Senate Bill ___ be amended and request that the amendment be posted and deemed read."

(4) introducing visitors, "Mister/Madam Speaker/Chairman, I request that we be off the record and out of the journal."

(5) changing a vote, "Mister Speaker, I would like my vote changed on House Bill ___/Senate Bill ___ from (yes/no) to (yes/no). The question on the bill was ( ) with a vote tally of ____ for and ____ against."

(6) question another representative, "Mister/Madam Speaker/Chairman, would Representative ___ yield to a question?"

CHAPTER 7

Rules

H70-10. House rules. (1) The House may adopt, through a House resolution passed by a majority of its members, rules to govern its proceedings.

(2) After adoption of the House rules, two-thirds of the representatives voting must vote in favor of the question to amend the rules.

(3) The Speaker shall refer to the House Rules Committee all resolutions for House rules.

(4) The House Rules Committee shall report all resolutions for House rules within 1 legislative day of referral.

H70-20. Tenure of rules. Rules adopted by the House remain in effect until removed by House resolution or until a new House is elected and takes office.

H70-30. Suspension of rules. The House may suspend a House rule on a motion approved by not less than two-thirds of the members voting.

H70-40. Supplementary rules. Mason's Manual of Legislative Procedure (2000) governs House proceedings in all cases not covered by House rules.

H70-50. Interpreting rules. The Speaker shall interpret all questions on House rules, subject to appeal by any 15 representatives to the House Rules Committee. Unless the delay would cause legislation to fail to meet a scheduled deadline, the House Rules Committee may consider and report on the appeal on the next legislative day. The decision of the House Rules Committee may be appealed to the House by any representative.

H70-60. Joint rules superseded. A House rule, insofar as it relates to the internal proceedings of the House, supersedes a joint rule.

Appendix

(1) Except as provided in subsections (2) through (4), legislation dealing with an enumerated subject must be referred to a standing committee as follows:

Agriculture: Agriculture; country of origin labeling for products; crops; crop insurance; farm subsidies; fuel produced from grain; grazing (other than state land leases); irrigation; livestock; poultry; and weed control.

Appropriations: Appropriations for the Legislature, general government, and bonding, including supplemental appropriations and the coal severance tax.

Business and Labor: Alcohol regulation other than taxation; associations; corporations; credit transactions; employment; financial institutions; gambling; insurance; labor unions; partnerships; private sector pensions and pension plans; professions and occupations other than the practice of law; salaries and wages; sales; secured transactions; securities regulation other than criminal provisions; sports other than hunting, fishing, and competition water sports; trade regulation; unemployment insurance; the Uniform Commercial Code; and workers' compensation.

Education: Higher education; home schools; K-12 education; religion in schools; school buildings and other structures; school libraries and university system libraries; school safety; school sports; school staff other than teachers;

school transportation; students; teachers; and vocational education and training.

Ethics: Ethical standards applicable to members, officers, and employees of the House and ethical standards for lobbyists.

Federal Relations, Energy, and Telecommunications: Energy generation and transmission; Indian reservations; international relations; interstate cooperation and compacts, except those relating to law enforcement and water compacts; relations with the federal government; relations with sovereign Indian tribes; telecommunications; and utilities other than municipal utilities.

Fish, Wildlife, and Parks: Fish; fishing; hunting; outdoor recreation; parks other than those owned by local governments; relations with federal and state governments concerning fish and wildlife; Virginia City and Nevada City; water sports; and wildlife.

Human Services: Developmentally disabled persons; disabled persons; health; health and disability insurance; housing; human services; mental illness or incapacity; retirement other than pensions and pension plans; senior citizens; tobacco regulation other than taxation; and welfare.

Judiciary: Abortion; arbitration and mediation; civil procedure; constitutional amendments; consumer protection; contracts; corrections; courts; criminal law; criminal procedure; discrimination; evidence; family law; fees imposed by or relating to the court system; guaranty; human rights; impeachment; indemnity; judicial system; landlord and tenant; law enforcement; liability and immunity from liability; minors; practice of law; privacy; property law; religion other than in schools; state law library; surety; torts; and trusts and estates.

Legislative Administration: Interim committees and subjects assigned by H10-50.

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 12, 2007

HOUSE RESOLUTION NO. 3

A RESOLUTION OF THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA ENCOURAGING FULL FEDERAL FUNDING IN THE CONSTRUCTION AND MAINTENANCE OF FEDERAL HIGHWAYS.

WHEREAS, it is the duty of the United States Congress to ensure fairness among all 50 states in matters of governance, commerce, and security; and

WHEREAS, the national highway system is a critical part of the country's system of national defense, and any one part thus provides security to the citizenry as a whole; and

WHEREAS, the national highway system is necessary for interstate commerce, which benefits the national economy; and

WHEREAS, Montana is a large geographic state with a relatively low population of only 6.2 inhabitants per square mile and with a subsequent correlating greater share of individual financial contribution in matters of state public obligation.

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the members of the Montana Delegation of the U.S. Congress pursue legislative efforts in coordination with their colleagues from other states to ensure that all federal highways in Montana are constructed and maintained in a manner that promotes safe and efficient travel conditions.

BE IT FURTHER RESOLVED, that the federal government authorize and appropriate adequate funding to ensure all construction projects are awarded and completed on a timely basis.

Adopted February 2, 2007

Senate Joint Resolutions

SENATE JOINT RESOLUTION NO. 1

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REVISING AND ADOPTING THE JOINT LEGISLATIVE RULES.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the following Joint Rules be adopted:

JOINT RULES OF THE MONTANA
SENATE AND HOUSE OF REPRESENTATIVES
CHAPTER 10
Administration

10-10. Time of meeting. Each house may order its time of meeting.

10-20. Legislative day — duration. (1) If either house is in session on a given day, that day constitutes a legislative day.

(2) A legislative day for a house ends either 24 hours after that house convenes for the day or at the time the house convenes for the following legislative day, whichever is earlier.

10-30. Schedules. The presiding officer of each house shall coordinate its schedule to accommodate the workload of the other house.

10-40. Adjournment — recess — meeting place. A house may not, without the consent of the other, adjourn or recess for more than 3 days or to any place other than that in which the two houses are sitting (Montana Constitution, Art. V, Sec. 10(5)).

10-50. Access of press. Subject to the presiding officer's discretion on issues of decorum and order, an accredited press representative may not be prohibited from photographing, televising, or recording a legislative meeting or hearing.

10-60. Conflict of interest. A member who has a personal or private interest in any measure or bill proposed or pending before the Legislature shall disclose the fact to the house to which the member belongs. (section 2-2-112, MCA)

10-70. Telephone calls and internet access. (1) Long-distance telephone calls made by a member while the Legislature is in session or while the member is in travel status are considered official legislative business. These include but are not limited to calls made to constituencies, places of business, and family members. A member's access to the internet through a permissible server is a proper use of the state communication system if the use is for

legislative business or is within the scope of permissible use of long-distance telephone calls.

(2) Session staff, including aides and interns, may use telephones for long-distance calls only if specifically authorized to do so by their legislative sponsor or supervisor. Sponsoring members and supervisors are accountable for use of state telephones and internet access by their staff, including aides and interns, and may not authorize others to use state phones or state servers to access the internet.

(3) Permanent staff of the Legislature shall comply with executive branch rules applying to the use of state telephones.

10-80. Joint employees. The presiding officers of each house, acting together, shall:

(1) hire joint employees; and

(2) review a dispute or complaint involving the competency or decorum of a joint employee, and dismiss, suspend, or retain the employee.

10-85. Harassment prohibited. (1) Legislators and legislative employees have the right to work free of harassment on account of race, color, sex, culture, social origin or condition, or religious ideas when performing services in furtherance of legislative responsibilities, whether the offender is an employer, employee, legislator, lobbyist, or member of the public.

(2) A violation of this policy must be reported to the party leader in the appropriate house if the offended party is a legislator or to the presiding officer if the offended party is the party leader. The presiding officer may refer the matter to the rules committee of the applicable house, and the offender is subject to discipline or censure, as appropriate.

(3) If the offended party is an employee of the house of representatives or the senate, the violation must be reported to the employee's supervisor or, if the offender is the supervisor for the house of representatives or the senate, the report should be made to the chief clerk of the house of representatives or to the secretary of the senate, as appropriate. If the offended party is a permanent legislative employee, the report should be made to the employee's supervisor or, if the offender is the supervisor, to the appropriate division director. If the offender is a division director, the report should be made to the presiding officer of the appropriate statutory committee.

(4) If the offended party is a supervisor for the house of representatives or the senate, the violation must be reported to the chief clerk of the house of representatives or to the secretary of the senate, as appropriate. If the offended party is a supervisor of permanent legislative employees, the violation must be reported to the appropriate division director. If the offender is a division director, the report should be made to the presiding officer of the appropriate statutory committee.

(5) The chief clerk or the secretary shall report the violation to the presiding officer. The presiding officer may refer the matter to the rules committee. If the offender is an employee or supervisor, the employee or supervisor is subject to discipline or discharge.

10-90. Legislative interns. Qualifications for legislative interns are specified in Title 5, chapter 6, MCA.

10-100. Legislative Services Division. (1) The staff of the Legislative Services Division shall serve both houses as required.

(2) Staff members shall:

(a) maintain personnel files for legislative employees; and

(b) prepare payrolls for certification and signature by the presiding officer and prepare a monthly financial report.

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 and to the sponsor of the bill or amendment. The sponsor shall sign the clerical form to acknowledge notification of the clerical correction. The signed 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 within 24 hours after receipt of the notice.

(4) If a committee is the sponsor of a bill or resolution, any committee member designated by the chair may be the principal sponsor for the purpose of this section. If a committee has proposed an amendment, the chair is the principal sponsor for the purpose of this section.

(5) For the purposes of this rule, "engrossing" means placing amendments in a bill.

10-130. Bills. (1) A bill draft request 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) covered with a cover page of substantial material; and

(d) introduced.

(3) In a section amending an existing statute, matter to be stricken out must be indicated with a line through the words or part to be deleted, and new matter must be underlined.

(4) Sections of the Montana Code Annotated repealed or amended in a bill must be stated in the title.

(5) Introduced bills must be reproduced on white paper and distributed to members.

(6) An introduced bill may not be withdrawn.

10-140. Voting. (1) A bill may not become a law except by vote of the constitutionally required majority of all the members present and voting in each house (Montana Constitution, Art. V, Sec. 11(1)). On final passage, the vote must be taken by ayes and noes and the names of those voting entered on the journal (Montana Constitution, Art. V, Sec. 11(2)).

(2) Any vote in one house on a bill proposing an amendment to The Constitution of the State of Montana under circumstances in which there exists the mathematical possibility of obtaining the necessary two-thirds vote of the Legislature will cause the bill to progress as though it had received the majority vote.

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 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 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) distribute a daily journal 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 by the signature of the Speaker.

(2) The Legislative Services Division shall make the completed journals available to the public (sections 5-11-201 through 5-11-203, MCA).

CHAPTER 30

Committees

30-10. Committee chair. Except as provided in Joint Rule 30-50, the chair of the Senate committee is the chair of all joint committees.

30-20. Voting in joint committees. (1) Except for Rules Committees and conference committees, a member of a joint committee votes individually and not by the house to which the committee member belongs.

(2) Because the Rules Committees and conference committees are joint meetings of separate committees, in those committees the committees from each house vote separately. A majority of each committee shall agree before any action may be taken, unless otherwise specified by individual house rules.

30-30. Conference committees. (1) If either house requests a conference 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 above. A free conference committee may discuss a bill in its entirety and is not confined to a particular amendment.

30-40. Conference committee — enrolling. A conference committee report must give clerical instructions for a corrected reference bill and for enrolling by referring to the reference bill version.

30-50. Committee consideration of appropriation bills. (1) All bills providing for an appropriation of public money may first be considered by a joint committee composed of the members of the Senate Finance and Claims Committee and the House Appropriations Committee, and then by each separately.

(2) Meetings of the joint committee must be held upon call of the chair of the House Appropriations Committee, who is chair of the joint committee.

(3) The committee chair of the Senate Finance and Claims Committee or of the House Appropriations Committee may be a voting member in the joint subcommittees if:

(a) either house has fewer members on the joint subcommittees;

(b) the chair represents the house with fewer members on the subcommittees; and

(c) the chair is present for the vote at the time that a question is called. A vote may not be held open to facilitate voting by a chair.

30-60. Estimation of revenue. The Revenue and Transportation Interim Committee shall introduce a House joint resolution for the purpose of estimating revenue that may be available for appropriation by the Legislature.

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 Natural Resources and Energy Committee;

(b) House Federal Relations, Energy, and Telecommunications Committee;

(c) House Appropriations Committee; and

(d) Senate Finance and Claims Committee.

CHAPTER 40

Legislation

40-10. Amendment to state constitution. A bill must be used to propose an amendment to The Constitution of the State of Montana. The bill is not subject to the veto of the Governor (Montana Constitution, Art. VI, Sec. 10(1)).

40-20. Appropriation bills. (1) All appropriation bills must originate in the House of Representatives.

(2) Appropriation bills for the operation of the Legislature must be introduced by the chair of the House Appropriations Committee.

40-30. Effective dates. (1) Except as provided in subsections (2) through (4), a statute takes effect on October 1 following its passage and approval unless a different time is prescribed in the enacting legislation.

(2) A law appropriating public funds for a public purpose takes effect on July 1 following its passage and approval unless a different time is prescribed in the enacting legislation.

(3) A statute providing for the taxation or imposition of a fee on motor vehicles takes effect on the first day of January following its passage and approval unless a different time is prescribed in the enacting legislation.

(4) A joint resolution takes effect on its passage unless a different time is prescribed therein (sections 1-2-201 and 1-2-202, MCA).

40-40. Bill requests and introduction — limits and procedures. (1) Prior to a regular session, a person entitled to serve in that session, hereafter referred to as a "member", is entitled to request bill drafting services from the Legislative Services Division, subject to the following limits:

(a) Prior to 5 p.m. on December 5 preceding a regular session of the Legislature, a member may request an unlimited number of bills and resolutions to be prepared by the Legislative Services Division for introduction in the regular session.

(b) After 5 p.m. on December 5, a member may request no more than seven bills or resolutions to be prepared by the Legislative Services Division. At least five of the seven bills or resolutions must be requested before the regular session convenes.

(c) After December 5, a member, in the member's discretion, may grant to any other member any of the remaining bill or resolution requests the granting member has not used. A bill requested by an individual may not be transferred to another legislator but may be introduced by another legislator.

(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) The staff of the Legislative Services Division shall work on bill draft requests in the order received. After a member has requested the drafting of five bills, the sixth bill request and all subsequent bill requests of that member must receive a lower drafting priority than all other bills of members not in excess of five per member. The Speaker of the House, the minority leader of the House, the President of the Senate, and the minority leader of the Senate may each direct the staff of the Legislative Services Division to assign a higher priority to 10 draft requests. The staff of the Legislative Services Division shall assign a higher priority to any bill draft request when jointly directed by:

(a) the President of the Senate, the minority leader of the Senate, the Speaker of the House, and the minority leader of the House; or

(b) the House and the Senate.

(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 cover 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. Except as provided in subsection (4)(b), in each session of the Legislature, bills, joint resolutions, and simple resolutions must be numbered consecutively in separate series in the order of their receipt.

(b) The first 15 House bills may be reserved for preintroduced bills.

(5) (a) Any bill proposed by an interim or statutory legislative committee or introduced by request of an administrative or executive agency or department must be so indicated by placing after the names of the sponsors the phrase "By Request of the..... (Name of committee or agency)". The phrase may not be added to an introduced bill and may not be placed on a bill whose subject matter was requested by an agency or statutory or interim committee prior to the convening of the session. Unless requested by an individual member, a bill draft request submitted at the request of an agency must be submitted to, reviewed

by, and requested by the appropriate interim or statutory committee. Except as provided in subsection (5)(b), an agency or committee bill request must be preintroduced or the request is canceled. Preintroduction must occur no later than 5 p.m. on the fifth working day prior to the convening of a legislative session. Preintroduction is accomplished when the Legislative Services Division receives a signed preintroduction form.

(b) The preintroduction requirement does not apply to an office held by an elected official during the official's first year in that office or to bills requested by a joint select or joint special committee appointed prior to the convening of the legislative session to address a specific issue.

(6) Bills may be preintroduced, numbered, and reproduced prior to a legislative session by the staff of the Legislative Services Division. Actual signatures of persons entitled to serve as members in the ensuing session may be obtained on a consent form from the Legislative Services Division and the sponsor's name printed on the bill. Additional sponsors may be added on motion of the chief sponsor at any time prior to a standing committee report on the bill. These names will be forwarded to the Legislative Services Division to be included on the face of the bill following standing committee approval.

40-50. Schedules for drafting requests and bill introduction. (1) The following schedule must be followed for submission of drafting requests.

	Request Deadline 5:00 P.M. Legislative Day
• General Bills and Resolutions	10
• Revenue Bills	17
• Committee Bills and Resolutions	36
• Committee Revenue Bills	62
• Committee Bills implementing provisions of a general appropriation act	75
• Interim study resolutions	75
• Appropriation Bills	No Deadline
• Resolutions to express confirmation of appointments	No Deadline
• Bills repealing or directing the amendment or adoption of administrative rules and joint resolutions advising or requesting the repeal, amendment, or adoption of administrative rules	No Deadline

(2) Bills and resolutions must be introduced within 2 legislative days after delivery.

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) request, but not require, a legislative entity to conduct an interim study;

(c) adopt, amend, or repeal the joint rules;

(d) approve construction of a state building under section 18-2-102 or 20-25-302, MCA;

(e) 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;

(f) submit a negotiated settlement under section 39-31-305(3), MCA;

(g) declare or terminate an energy emergency under section 90-4-310, MCA;

(h) ratify or propose amendments to the United States Constitution; or

(i) advise or request the repeal, amendment, or adoption of a rule in the Administrative Rules of Montana.

(2) A joint resolution may not be used for purposes of congratulating or recognizing an individual or group achievement. Recognition of individual or group achievements is handled on special orders of the day.

(3) Except as otherwise provided in these rules or The Constitution of the State of Montana, a joint resolution is treated in all respects as a bill.

(4) A copy of every joint resolution must be transmitted after adoption to the Secretary of State by the Secretary of the Senate or the Chief Clerk of the House.

40-65. Appropriation required for bills requesting interim studies. A bill including a request for an interim study may not be transmitted to the Governor unless the bill contains an appropriation sufficient to conduct the study. A fiscal note may be requested for a bill requesting an interim study if the appropriation does not appear to be sufficient.

40-70. Bills with same purpose — vetoes. (1) A bill may not be introduced or received in a house after that house, during that session, has finally rejected a bill designed to accomplish the same purpose, except with the approval of the Rules Committee of the house in which the bill is offered for introduction or reception.

(2) Failure to override a veto does not constitute final rejection.

40-80. Reproduction of full statute required. A statute may not be amended or its provisions extended by reference to its title only, but the statute section that is amended or extended must be reproduced or published at length.

40-90. Bills — original purpose. A law may not be passed except by bill. A bill may not be so altered or amended on its passage through either house as to change its original purpose (Montana Constitution, Art. V, Sec. 11(1)).

40-100. Fiscal notes. (1) As provided in Title 5, chapter 4, part 2, MCA, all bills reported out of a committee of the Legislature having a potential effect on the revenues, expenditures, or fiscal liability of the state, local governments, or public schools, except appropriation measures carrying specific dollar amounts, must include a fiscal note incorporating an estimate of the fiscal effect. The Legislative Services Division staff shall indicate at the top of each bill prepared for introduction that a fiscal note may be necessary under this rule. Fiscal notes must be requested by the presiding officer of either house, who, at the time of introduction or after adoption of substantive amendments to an introduced bill, shall determine the need for the note, based on the Legislative Services Division staff recommendation.

(2) The Legislative Services Division shall make available an electronic copy of any bill for which it has been determined a fiscal note may be necessary to the Budget Director immediately after the bill has been prepared for introduction and delivered to the requesting member. The Budget Director may proceed with the preparation of a fiscal note in anticipation of a subsequent formal request. A bill with financial implications for a local government or school district must comply with subsection (4).

(3) The Budget Director, in cooperation with the governmental entity or entities affected by the bill, is responsible for the preparation of the fiscal note. Except as provided in subsection (4), the Budget Director shall return the fiscal note within 6 days unless further time is granted by the presiding officer or committee making the request, based upon a written statement from the Budget Director that additional time is necessary to properly prepare the note.

(4) (a) A bill that may require a local government or school district to perform an activity or provide a service or facility that requires the direct expenditure of additional funds without a specific means to finance the activity, service, or facility in violation of section 1-2-112 or 1-2-113, MCA, must be accompanied, at the time that the bill is presented for introduction, by an estimate of all direct and indirect fiscal impacts on the local government or school district. The estimate of the fiscal impacts must be prepared by the Budget Director in cooperation with a local government or school district affected by the bill.

(b) The Budget Director has 10 days to prepare the estimate. Upon completion of the estimate, the Budget Director shall submit it to the presiding officer and the chief sponsor of the bill.

(5) A completed fiscal note must be submitted by the Budget Director to the presiding officer who requested it. The presiding officer shall notify the bill's chief sponsor of the completed fiscal note and request the chief sponsor's signature. The chief sponsor has 1 legislative day after delivery to review the fiscal note and to discuss the findings with the Budget Director, if necessary. After the legislative day has elapsed, all fiscal notes must be reproduced and placed on the members' desks, either with or without the chief sponsor's signature.

(6) A fiscal note must, if possible, show in dollar amounts:

(a) the estimated increase or decrease in revenues or expenditures;

(b) costs that may be absorbed without additional funds; and

(c) long-range financial implications.

(7) The fiscal note may not include any comment or opinion relative to merits of the bill. However, technical or mechanical defects in the bill may be noted.

(8) A fiscal note also may be requested, through the presiding officer, on a bill and on an amended bill by:

(a) a committee considering the bill;

(b) a majority of the members of the house in which the bill is to be considered, at the time of second reading; or

(c) the chief sponsor.

(9) The Budget Director shall make available on request to any member of the Legislature all background information used in developing a fiscal note.

(10) If a bill requires a fiscal note, the bill may not be reported from a committee for second reading unless the bill is accompanied by the fiscal note.

40-110. Sponsor's fiscal note. (1) If a sponsor elects to request the preparation of a sponsor's fiscal note pursuant to section 5-4-204, MCA, the sponsor shall make the election as provided and return the completed sponsor's fiscal note to the presiding officer within 4 days of the election.

(2) The presiding officer may grant additional time to the sponsor for preparation of the sponsor's fiscal note.

(3) Upon receipt of the completed sponsor's fiscal note, the presiding officer shall refer it to the committee hearing the bill. If the bill is printed, the note must be identified as a sponsor's fiscal note, reproduced, and placed on the members' desks.

(4) The Legislative Services Division shall provide forms for preparation of sponsors' fiscal notes and shall print the completed sponsors' fiscal notes on a different color paper than the fiscal notes prepared by the Budget Director.

40-120. Substitute bills. (1) A committee may recommend that every clause in a bill be changed and that entirely new material be substituted so long as the new material is relevant to the title and subject of the original bill. The substitute bill is considered an amendment and not a new bill.

(2) The proper form of reporting a substitute bill by a committee is to propose amendments to strike out all of the material following the enacting clause, to substitute the new material, and to recommend any necessary changes in the title of the bill.

(3) If a committee report is adopted that recommends a substitute for a bill originating in the other house, the substitute bill must be printed and reproduced.

40-130. Reading of bills. Prior to passage, a bill, other than a bill requested by a joint select or joint special committee as provided in 40-40(5)(b), must be read three times in the house in which it is under consideration. It may be read either by title or by summary of title.

40-140. Second reading — bill reproduction. (1) If the majority of a house adopts a recommendation for the passage of a bill originating in that house after the bill has been returned from a committee with amendments, the bill must be reproduced on yellow paper with all amendments incorporated into the copies.

(2) If a bill has been returned from a committee without amendments, only the first sheet must be reproduced on yellow paper, and the remainder of the text may be incorporated by reference to the preceding version of the entire bill.

(3) A bill requested by and heard by a joint select or joint special committee, as provided in 40-40(5)(b), may be referred directly to second reading. If the bill is passed by the house of origin, the bill must be transmitted to the other house, and if the bill was not amended, it may be placed on second reading without the need for referral to a committee.

40-150. Engrossing. (1) When a bill has been reported favorably by Committee of the Whole of the house in which it originated and the report has been adopted, the bill must be engrossed if the bill is amended. Committee of the Whole amendments must be included in the engrossed bill. If the bill is not amended, the bill must be sent to printing. The bill must be placed on the calendar for third reading on the legislative day after receipt.

(2) Copies of the engrossed bill to be distributed to members are reproduced on blue paper. If a bill is unamended by the Committee of the Whole and

contains no clerical errors, it is not required to be reprinted. Only the first sheet must be reproduced on blue paper, with the remainder of the text incorporated by reference to the preceding version of the entire bill.

(3) If a bill is amended by a standing committee in the second house, the amendments must be included in a tan-colored bill and distributed in the second house for second reading consideration. If the bill is amended in Committee of the Whole, the amendments must be included in a salmon-colored reference bill and distributed in the second house for third reading. If the bill passes on third reading, copies of the reference bill must be distributed in the original house. The original house may request from the second house a specified number of copies of the amendments to be printed.

40-160. Enrolling. (1) When a bill has passed both houses, it must be enrolled. An original and two duplicate printed copies of the bill must be enrolled, free from all errors, with a margin of two inches at the top and one inch on each side. In sections amending existing statutes, new matter must be underlined and deleted matter must be shown as stricken.

(2) When the enrolling is completed, the bill must be examined by the sponsor.

(3) The correctly enrolled bill must be delivered to the presiding officer of the house in which the bill originated. The presiding officer shall sign the original and two copies of each bill not later than the next legislative day after it has been reported correctly enrolled, unless the bill is delivered on the last legislative day, in which case the presiding officer shall sign it that day. The fact of signing must be announced by the presiding officer and entered upon the journal no later than the next legislative day. At any time after the report of a bill correctly enrolled and before the signing, if a member signifies a desire to examine the bill, the member must be permitted to do so. The bill then must be transmitted to the other house where the same procedure must be followed.

(4) A bill that has passed both houses of the Legislature by the 90th day may be:

(a) enrolled;

(b) clerically corrected by the presiding officers, if necessary;

(c) signed by the presiding officers; and

(d) delivered to the Governor or, in the case of a bill proposing a referendum, to the Secretary of State, not later than 5 working days after the 90th legislative day.

(5) All journal entries authorized under this rule must be entered on the journal for the 90th day.

(6) The original and two copies signed by the presiding officer of each house must be presented to the Governor or the Secretary of State, as applicable, in return for a receipt. A report then must be made to the house of the day of the presentation, which must be entered on the journal.

(7) The original must be filed with the Secretary of State. Signed copies with chapter numbers assigned pursuant to section 5-11-204, MCA, must be filed with the Clerk of the Supreme Court and the Legislative Services Division.

40-170. Amendment by second house. (1) Amendments to a bill by the second house may not be further amended by the house in which the bill originated, but must be either accepted or rejected. A bill amended by the second

house when the effect of the combined amendments is to return the bill to the form that the bill passed the house in which the bill originated is not considered to have been amended and need not be returned to the house of origin for acceptance or rejection of the amendments. If the amendments are rejected, a conference committee may be requested by the house in which the bill originated. If the amendments are accepted and the bill is of a type requiring more than a majority vote for passage, the bill again must be placed on third reading in the house of origin.

(2) The vote on third reading after concurrence in amendments is the vote of the house of origin that must be used to determine if the required number of votes has been cast.

40-180. Final action on a bill. (1) When a bill being heard by the second house has received its third reading or has been rejected, the second house shall transmit it as soon as possible to the original house with notice of the second house's action.

(2) A bill that reduces revenue and that contains a contingent voidness provision may not be transmitted to the Governor unless there is an identified corresponding reduction in an appropriation contained in the general appropriations act.

40-190. Transmittal of bills between houses. (1) Each house shall transmit to the other with any bill all relevant papers.

(2) When a House bill is transmitted to the Senate, the Secretary of the Senate shall give a dated receipt for the bill to the Chief Clerk of the House. When a Senate bill is transmitted to the House of Representatives, the Chief Clerk of the House shall give a dated receipt to the Secretary of the Senate.

40-200. Transmittal deadlines. (1) (a) A bill or amendment transmitted after the deadline established in this subsection (1) may be considered by the receiving house only upon approval of two-thirds of its members present and voting. If the receiving house does not so vote, the bill or amendment must be held pending in the house to which it was transmitted.

(b) (i) A bill, except for an appropriation bill, a revenue bill, an interim study resolution, or amendments considered by joint committee, must be transmitted from one house to the other on or before the 45th legislative day.

(ii) Amendments, except to appropriation bills, bills implementing the general appropriations bill, the revenue estimating resolution, interim study resolutions, and revenue bills, must be transmitted from one house to the other on or before the 73rd legislative day.

(c) (i) Revenue bills must be transmitted to the other house on or before the 71st legislative day.

(ii) Amendments to revenue bills, received from the other house, must be transmitted to the house of origin on or before the 82nd legislative day.

(iii) A revenue bill is one that either increases or decreases revenue.

(d) (i) Appropriation bills and any bill implementing provisions of a general appropriation bill must be transmitted to the Senate on or before the 67th legislative day.

(ii) Senate amendments to appropriation bills must be transmitted by the Senate to the House on or before the 80th legislative day.

(2) (a) A joint resolution introduced for the purpose of estimating revenue available for appropriation by the Legislature must be transmitted to the Senate no later than the 60th legislative day.

(b) Amendments to the revenue estimating resolution must be transmitted to the House no later than the 82nd legislative day.

(3) Bills repealing or directing the amendment or adoption of administrative rules and joint resolutions advising or requesting the repeal, amendment, or adoption of administrative rules may be transmitted at any time during a session.

(4) Interim study resolutions must be transmitted from one house to the other on or before the 85th legislative day.

40-210. Governor's veto. (1) Except as provided in 40-65 and 40-180, each bill passed by the Legislature must be submitted to the Governor for the Governor's signature. This does not apply to:

(a) bills proposing amendments to The Constitution of the State of Montana;

(b) bills ratifying proposed amendments to the United States Constitution;

(c) resolutions; and

(d) referendum measures of the Legislature.

(2) If the Governor does not sign or veto the bill within 10 days after its delivery, the bill becomes law.

(3) The Governor shall return a vetoed bill to the Legislature with a statement of reasons for the veto.

(4) If after receipt of a veto message, two-thirds of the members of each house present approve the bill, it becomes law.

(5) If the Legislature is not in session when the Governor vetoes a bill, the Governor shall return the bill with reasons for the veto to the Legislature as provided by law. The Legislature may be polled on a bill that it approved by two-thirds of the members present or it may be reconvened to reconsider any bill so vetoed (Montana Constitution, Art. VI, Sec. 10).

(6) The Governor may veto items in appropriation bills, and in these instances the procedure must be the same as upon veto of an entire bill (Montana Constitution, Art. VI, Sec. 10).

40-220. Response to Governor's veto. (1) When the presiding officer receives a veto message, the presiding officer shall read it to the members over the rostrum. After the reading, a member may move that the Governor's veto be overridden.

(2) A vote on the motion is determined by roll call. If two-thirds of the members present vote "aye", the veto is overridden. If two-thirds of the members present do not vote "aye", the veto is sustained.

40-230. Governor's recommendations for amendment. (1) The Governor may return any bill to the Legislature with recommendations for amendment. The Governor's recommendations for amendment must be considered first by the house in which the bill originated.

(2) If the Legislature passes the bill in accordance with the Governor's recommendations, it shall return the bill to the Governor for reconsideration. The Governor may not return a bill to the Legislature a second time for amendment.

(3) If the Governor returns a bill to the originating house with recommendations for amendment, the house shall reconsider the bill under its rules relating to amendments offered in Committee of the Whole.

(4) The bill then is subject to the following procedures:

(a) The originating house shall transmit to the second house, for consideration under its rules relating to amendments in Committee of the Whole, the bill and the originating house's approval or disapproval of the Governor's recommendations.

(b) If both houses approve the Governor's recommendations, the bill must be returned to the Governor for reconsideration.

(c) If both houses disapprove the Governor's recommendations, the bill must be returned to the Governor for reconsideration.

(d) If one house disapproves the Governor's recommendations and the other house approves, then either house may request a conference committee, which may be a free conference committee.

(i) If both houses adopt a conference committee report, the bill in accordance with the report must be returned to the Governor for reconsideration.

(ii) If a conference committee fails to reach agreement or if its report is not adopted by both houses, the Governor's recommendations must be considered not approved and the bill must be returned to the Governor for further consideration.

CHAPTER 60

Rules

60-10. Suspension of joint rule — change in rules. (1) A joint rule may be repealed or amended only with the concurrence of both houses, under the procedures adopted by each house for the repeal or amendment of its own rules.

(2) A joint rule governing the procedure for handling bills may be temporarily suspended by the consent of two-thirds of the members of either house, insofar as it applies to the house suspending it.

(3) Any Rules Committee report recommending a change in the joint rules must be referred to the other house. Any new rule or any change in the rules of either house must be transmitted to the other house for informational purposes.

(4) Upon adoption of any change, the Secretary of the Senate and the Chief Clerk of the House of Representatives shall provide the office of the Legislative Services Division:

(a) one copy of all motions or resolutions amending Senate, House, or joint rules; and

(b) copies of all minutes and reports of the Rules Committees.

60-20. Reference to Mason's Manual. Mason's Manual of Legislative Procedure (2000) governs the proceedings of the Senate and the House of Representatives in all cases not covered by these rules.

60-30. Publication and distribution of joint rules. (1) The Legislative Services Division shall codify and publish in one volume:

(a) the rules of the Senate;

(b) the rules of the House of Representatives; and

(c) the joint rules of the Senate and the House of Representatives.

(2) After the rules have been published, the Legislative Services Division shall distribute copies as directed by the Senate and the House of Representatives.

60-40. Tenure of joint rules. The joint rules remain in effect until removed by a joint resolution or until a new Legislature is elected and takes office.

Adopted January 30, 2007

SENATE JOINT RESOLUTION NO. 2

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN INTERIM LEGISLATIVE STUDY OF DRIVING UNDER THE INFLUENCE IN MONTANA.

WHEREAS, Montana law prohibits individuals from driving under the influence of drugs or alcohol; and

WHEREAS, it is the duty of the Legislature to protect the safety of the public on public highways; and

WHEREAS, although section 61-8-460, MCA, disallowing open containers of alcohol, may have some impact on the number of alcohol-related accidents and deaths, Montana continues to see a high number of alcohol-related fatalities.

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:

(1) to study the issue of driving under the influence generally to determine any legislation that might augment current law in reducing the incidence of driving while intoxicated or under the influence of drugs; and

(2) to identify improvements, where applicable, that can be made to current laws related to driving under the influence.

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, 2008.

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 61st Legislature.

Adopted April 14, 2007

SENATE JOINT RESOLUTION NO. 3

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA RECOGNIZING THE

SIZEABLE CULTURAL, NATURAL, AND ECONOMIC CONTRIBUTIONS THAT NATIONAL PARKS, BATTLEFIELDS, AND MONUMENTS MAKE TO THE STATE AND RECOGNIZING THAT DOCUMENTED AND SUBSTANTIAL MAINTENANCE BACKLOGS AND ANNUAL OPERATIONS BUDGET SHORTFALLS AT NATIONAL PARKS, BATTLEFIELDS, AND MONUMENTS PUT THE PARKS AND BUSINESSES THAT DEPEND ON HEALTHY PARKS AT RISK; AND URGING MONTANA'S CONGRESSIONAL DELEGATION TO INITIATE APPROPRIATIONS ACTIONS TO RESTORE NATIONAL PARKS, BATTLEFIELDS, AND MONUMENTS TO THEIR FORMER STATURE BY THE CENTENNIAL OF THE NATIONAL PARK SYSTEM IN 2016.

WHEREAS, Montana's citizens, communities, children, and travel industry have a great interest in ensuring that health, public and economic benefits, and welfare of the state's national parks, battlefields, and monuments are well maintained and protected for present and future generations; and

WHEREAS, an estimated 69% of Montana's nonresident summer vacationers visit Yellowstone or Glacier National Park, which generates substantial economic benefit for Montana through employment, tax revenue, visitor spending, business expenditures to service visitors, and National Park Service expenditures for park employee salaries, supplies, services, construction and maintenance programs, and other benefits; and

WHEREAS, a Government Accountability Office (GAO) report released in 2006 documented that National Park System operating budgets, when adjusted for inflation, are declining and that the accommodation of newly mandated responsibilities, including rising energy prices, homeland security requirements, congressionally approved pay raises, and other mandates, has resulted in substantial park operations cutbacks; and

WHEREAS, the National Park Service has identified a backlog of between $4.9 billion and $7 billion for overdue maintenance, road repair, and other infrastructure repair resulting from decades of annual shortfalls in parks' operating budgets; and

WHEREAS, a series of business plan analyses conducted by business and policy experts in conjunction with the National Park Service indicate that the parks' annual operations budget shortfall is in excess of $800 million, at least 32% short of what is needed to operate all national parks, an estimated 35% short of the amount needed to operate Yellowstone National Park, and a 36% shortfall for Glacier National Park; and

WHEREAS, improving conservation and stewardship of our national parks' diverse natural resources is fundamental to sustaining visitor experience and maintaining and enhancing visitation levels; and

WHEREAS, chronic underfunding of national parks, battlefields, and monuments puts Montana's communities, economies, and businesses at risk and thwarts the National Park Service mandate to provide for the enjoyment of the parks in a manner and means that will leave them unimpaired for the enjoyment of future generations.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

(1) That deterioration of the infrastructure, visitor services, and natural resources of the national parks, monuments, and battlefields in the state

resulting from chronic underfunding is an issue of great concern to the citizens, communities, businesses, and travel industry in Montana.

(2) That Montana's Congressional Delegation be urged to initiate actions that result in full funding of the National Park Service annual operations budgets and in elimination of maintenance and road repair backlogs for all park, battlefield, and monument units by the National Park System centennial in 2016.

(3) That the Secretary of State send copies of this resolution to the members of the Montana Congressional Delegation, the U.S. Secretary of the Interior, and the Director of the National Park Service.

Adopted April 21, 2007

SENATE JOINT RESOLUTION NO. 4

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA URGING THE U.S. CONGRESS TO REAUTHORIZE THE SECURE RURAL SCHOOLS AND COMMUNITY SELF-DETERMINATION ACT AND WORK TOWARD A PERMANENT SOLUTION TO COMPENSATE STATES AND LOCAL GOVERNMENTS FOR LOST TAX REVENUE ON FEDERAL LAND WITHIN MONTANA.

WHEREAS, the stability of Montana's economy has historically been dependent on use of our abundant natural resources; and

WHEREAS, the natural resource harvest has historically contributed billions of dollars to Montana's economy by providing employment opportunities to members of our communities, supporting our business communities, and contributing to the health of our schools; and

WHEREAS, revenue from industries related to the natural resource harvest has produced taxes for the support of local and state governments; and

WHEREAS, the amount of money generated by national forests has dropped more than 85% between 1986 and 2005, creating a financial crisis for rural forest communities in Montana and around the country; and

WHEREAS, Congress passed the Secure Rural Schools and Community Self-Determination Act of 2000 to provide a safety net for these communities, and the purpose of the Act was to stabilize payments to states and counties to help support roads and schools, provide projects that enhance forest ecosystem health, provide employment opportunities, and improve cooperative relationships among federal land management agencies and those who use and care about the lands that the agencies manage; and

WHEREAS, counties in Montana received more than $14 million in the last year to maintain schools and roads; and

WHEREAS, the Secure Rural Schools and Community Self-Determination Act has expired; and

WHEREAS, if the Act is not reauthorized, many counties will suffer severe financial impacts resulting in significant reduction in services, including but not limited to public safety and education.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

(1) That the Legislature of the State of Montana urge the U.S. Congress to reauthorize the Secure Rural Schools and Community Self-Determination Act of 2000 and work toward a permanent solution to compensate states and local governments for lost tax revenue on federal land within Montana.

(2) That the Secretary of State send copies of this resolution to the President of the United States, the Secretary of State of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, the Western Governors' Association, and the Montana Congressional Delegation.

Adopted April 4, 2007

SENATE JOINT RESOLUTION NO. 5

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN INTERIM STUDY TO IDENTIFY THE ISSUES AND CHALLENGES INVOLVED IN PROVIDING EMERGENCY CARE AND TO REPORT ON STRATEGIES THAT CAN STRENGTHEN MONTANA'S EMERGENCY MEDICAL SERVICES SYSTEM.

WHEREAS, the Montana Legislature recognizes the need for quality emergency medical services and an effective emergency care system that provides quality care and treatment for victims of sudden and serious injury or illness from first response through initial stabilization and subsequent emergency treatment; and

WHEREAS, emergency medical services are an integral part of the emergency care system and are particularly important in less densely populated areas where access to health care services is often limited; and

WHEREAS, many volunteer emergency medical personnel work full time in other, unrelated jobs within the community, donate their personal time to provide prehospital care, and are usually expected to be available 24 hours a day and on weekends and holidays; and

WHEREAS, the vital nature of emergency medical services and the state of constant readiness required to maintain adequate emergency services pose special challenges for rural communities, including but not limited to adequate funding; recruitment, retention, and training of volunteers and other personnel; physician leadership; and modern communications and medical services equipment.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to designate an appropriate interim committee, pursuant to section 5-5-217, MCA, or direct sufficient staff resources to study the availability and viability of acute care and emergency medical services across the state.

BE IT FURTHER RESOLVED, that the committee:

(1) gather information from stakeholders and customers of the state's emergency care system, including but not limited to local emergency services providers, emergency medical services systems, hospitals, physicians and other

health care providers, elected county and local officials, organizations representing emergency medical services providers, and state agencies;

(2) conduct a statewide assessment of issues that communities face relating to emergency medical services;

(3) identify challenges to the continued viability of the state's emergency care system; and

(4) identify objectives and strategies that will help ensure the continued viability of the system.

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, 2008.

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 61st Legislature.

Adopted April 14, 2007

SENATE JOINT RESOLUTION NO. 6

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING A STUDY OF THE JUVENILE JUSTICE SYSTEM IN ORDER TO IDENTIFY ANY GAPS IN THE LAW OR RESOURCES OR BETWEEN THE EXISTING AGENCIES WITH VARIOUS RESPONSIBILITIES WITHIN THE SYSTEM.

WHEREAS, our state should work to balance youth accountability for delinquent behavior with the best and most appropriate services to help youth contribute to our state and our society; and

WHEREAS, our state should coordinate youth services in order to provide the best services in the most fiscally responsible manner in order to enhance rehabilitation and restore the communities affected by juvenile offenders; and

WHEREAS, a comprehensive study of juvenile justice programs and data is necessary to determine the most objective and fair treatment of youth; and

WHEREAS, the Montana Constitution provides that the rights of persons under 18 years of age include but are not limited to all the fundamental rights unless specifically precluded by laws that enhance their protection; and

WHEREAS, a review of the juvenile justice system is needed because of its complexities that involve many entities in government and because of the effects on the youth, families, and communities 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 study the various entities of the Montana system of juvenile justice, its governing statutes, and its resources.

BE IT FURTHER RESOLVED, that the committee prioritize areas for study based on the review and the areas of need brought to its attention by the public and the stakeholders and determine those that could be effectively addressed during the interim.

BE IT FURTHER RESOLVED, that the committee:

(1) identify gaps or overlap and consistency in services by examining the roles of the specific entities involved, including juvenile probation, juvenile parole, detention centers, secure care, foster care, schools, and mental health professionals in state, local, and tribal governments;

(2) determine what statutory changes to the Montana Youth Court Act or other laws may be required to facilitate a more seamless delivery of services among and between the various agencies that are involved with youth in the juvenile justice system;

(3) identify the existence and quality of any tools used for assessment, evaluation, and treatment of youth and the extent to which the tools need to be developed or updated to reflect research-based best practices and to measure outcomes;

(4) identify any inconsistencies statewide in the handling of graduated sanctions and probation violations;

(5) research how to improve the transition of the population of youth that is between 18 and 24 years of age to the adult correctional system; and

(6) analyze existing data to determine areas of greatest success in prevention of and early intervention in juvenile delinquency and related areas that need improvement.

BE IT FURTHER RESOLVED, that the committee develop methods, such as public hearings, panel discussions, or working groups, to solicit concerns and information from the public and representatives from the Office of Court Administrator, juvenile probation, juvenile detention, the Department of Corrections, juvenile parole, the Board of Crime Control, the Youth Justice Council, school districts, tribal and local governments, County Attorneys, the public defender system, law enforcement, the mental health profession, addictive and mental disorders and child and family services in the Department of Public Health and Human Services, and youth and parents either currently involved or previously involved in aspects of the juvenile justice system relevant to this study.

BE IT FURTHER RESOLVED, that if the study is assigned to staff, any findings or conclusions be presented to and reviewed by an appropriate committee designated by the Legislative Council.

BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review requirements, be concluded prior to September 15, 2008.

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 61st Legislature.

Adopted April 14, 2007

SENATE JOINT RESOLUTION NO. 7

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES AND THE DEPARTMENT OF JUSTICE TO EXAMINE REQUIRING CRIMINAL BACKGROUND CHECKS FOR DIRECT-CARE WORKERS AND TO PROVIDE A PROPOSAL TO THE 61ST LEGISLATURE.

WHEREAS, many places of employment require criminal background checks as a condition of employment in programs and services that serve the most vulnerable people in society; and

WHEREAS, a criminal background check using fingerprints is the only way to screen an applicant who is from out-of state or may have changed the applicant's name and many other states have laws requiring criminal background checks for workers providing direct care to vulnerable persons;

WHEREAS, requiring criminal background checks for those who work directly with vulnerable persons is a complex situation that requires information from and cooperation with multiple agencies; and

WHEREAS, a study of this nature is best accomplished with the assistance of parties that will be involved in regulating or licensing direct-care workers and performing the background checks and with the assistance of service providers, consumers, and advocacy groups who hold vital information.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Department of Public Health and Human Services work with the Department of Justice and other stakeholders to develop a proposal to present to the 2009 Legislature that would require an applicant seeking employment as a direct-care staff person in a program or service that is provided, funded, or regulated by the Department of Public Health and Human Services to undergo a criminal background check, using fingerprints, through the Federal Bureau of Investigation as a condition of employment.

BE IT FURTHER RESOLVED, that the proposal should:

(1) identify the programs and services for which criminal background checks should be required;

(2) specify the direct-care staff positions for which criminal background checks should be required;

(3) provide a detailed process and timeline for collecting an applicant's fingerprints, submitting them to the Federal Bureau of Investigation, and distributing appropriate information to employers;

(4) establish a specific list of relevant crimes that would exclude a convicted applicant from employment as a direct-care staff person;

(5) establish an appeals process for applicants who are denied employment because of the results of a background check; and

(6) determine the estimated cost and sources of funding for implementing the system of criminal background checks outlined in the proposal.

BE IT FURTHER RESOLVED, that the Department of Public Health and Human Services and the Department of Justice identify and include affected

parties and stakeholders in the development of any proposal and report at least quarterly to an appropriate legislative interim committee.

BE IT FURTHER RESOLVED, that the final proposal resulting from the study, including any findings, conclusions, comments, or recommendations be reported to the 61st Legislature.

Adopted April 11, 2007

SENATE JOINT RESOLUTION NO. 12

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA ENCOURAGING INTERNATIONAL EDUCATION IN THE ADVANCEMENT OF THE GLOBAL SOCIETY.

WHEREAS, advances in communication and transportation technology over the past half-century have made today's world increasingly interconnected; and

WHEREAS, successful businesses, universities, and governments depend on a global perspective; and

WHEREAS, this era of global exchange has created a marketplace of ideas in which citizens of the world from distinct social, cultural, religious, and linguistic backgrounds cooperate and compete on a daily basis; and

WHEREAS, evidence of the growing connection between Montana and the rest of the world can be found in the Institute of International Education's Open Doors Report 2005; and

WHEREAS, 966 students studying abroad were enrolled through Montana institutions in 2004, a 10% increase from 2003, and these foreign students and their families contributed over $21 million to the Montana economy in 2004 and 2005; and

WHEREAS, international education is critical to promoting a broadened world view that prepares Montanans for life and work in the global economy; and

WHEREAS, creating a diverse academic environment by exchanging scholars and students between countries builds the foundation for future international business success; and

WHEREAS, with foreign trade projected to be a key factor of Montana's economy and with the economy of Montana inextricably intertwined to the rest of the world, our state's economic development depends upon a deliberate strategic development plan that includes recognition of the role of international education in all its facets; and

WHEREAS, the United States' national security and economic competitiveness depend significantly on the country's ability to provide future leaders with the education that will best prepare them to respond to the demands of the 21st century.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Montana Legislature finds that international education is an essential component of the bright future of the great State of Montana.

BE IT FURTHER RESOLVED, that the Montana Legislature encourage international education to ensure that students and future leaders are prepared to meet the challenges of a global society.

BE IT FURTHER RESOLVED, that a copy of this resolution be transmitted to the Board of Regents and the Commissioner of Higher Education.

Adopted April 21, 2007

SENATE JOINT RESOLUTION NO. 13

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN INTERIM STUDY TO EVALUATE METHODS AND RECOMMEND WAYS TO ADD VALUE TO MONTANA AGRICULTURAL PRODUCTS THROUGH REDEVELOPMENT OF A FOOD PROCESSING INDUSTRY; AND REQUIRING THAT THE FINAL RESULTS OF THE STUDY BE REPORTED TO THE 61ST LEGISLATURE.

WHEREAS, most of the $3 billion that Montanans spend on food each year goes to out-of-state companies; and

WHEREAS, the lack of a food processing infrastructure is a primary barrier inhibiting the ability of farmers and ranchers to serve in-state markets; and

WHEREAS, Montana's neighboring states add as much as eight to nine times more value to their agricultural products than Montana; and

WHEREAS, the food processing industry was Montana's number one employer through the 1940s, but today the Montana food processing industry is negligible; and

WHEREAS, Montana farmers, ranchers, small business entrepreneurs, and community economies would benefit from redevelopment of a food processing industry; and

WHEREAS, Montana's climate and soils can support production of a much greater diversity of agricultural and food products than are currently produced; and

WHEREAS, value-added enterprises owned by Montanans retain more of the value that is added to agricultural products in Montana communities; and

WHEREAS, producing food for local markets can reconnect Montana's rural and urban economies; and

WHEREAS, dependence on bulk raw commodity export markets diminishes the viability of Montana's rural economies and family farms and ranches; and

WHEREAS, food production on a family or community scale can enhance stewardship of Montana's natural and human resources; and

WHEREAS, value-added food production can contribute to the economic development goals of many communities.

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 study committee or statutory committee, pursuant to section 5-5-217, MCA, or direct sufficient staff resources to:

(1) identify and compile statistics on model programs and policies that have been effective in supporting the development of value-added food enterprises and a strong entrepreneurial culture within the food and agriculture sectors;

(2) when possible, include a summary of the economic, social, and environmental impacts of each of these model programs and policies;

(3) identify the barriers to value-added food production in Montana;

(4) using the findings, recommend public and private programs and policies appropriate to Montana that:

(a) support value-added food production that keeps money circulating in Montana's communities;

(b) sustain the state's natural resources; and

(c) encourage fair treatment of participants at each step in the food value chain, from field to table; and

(5) determine methods used by other states with geography similar to Montana to add more value to raw agricultural products.

BE IT FURTHER RESOLVED, that the study consider input from:

(1) producers of livestock and crops;

(2) value-added meat processors;

(3) value-added nonmeat food processors;

(4) public and private economic developers;

(5) nonprofit, community-based food system advocates;

(6) Montana State University-Bozeman agriculture extension agents;

(7) Montana State University-Bozeman extension nutritionists;

(8) University of Montana-Missoula food system researchers;

(9) Agriculture Development Division staff at the Department of Agriculture;

(10) Business Resources Division staff at the Department of Commerce;

(11) food distributors and wholesalers;

(12) state legislators;

(13) the Governor's Office of Economic Development;

(14) the food and consumer safety section staff of the Department of Public Health and Human Services; and

(15) the Department of Livestock.

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, 2008.

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 61st Legislature.

Adopted April 14, 2007

SENATE JOINT RESOLUTION NO. 15

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN APPROPRIATE INTERIM COMMITTEE TO STUDY THE IMPACT OF MONTANA'S HEALTH CARE DELIVERY SYSTEM, INCLUDING PHYSICIAN-OWNED HEALTH CARE FACILITIES AND SPECIALTY HOSPITALS, ON HEALTH CARE SERVICES IN MONTANA.

WHEREAS, physicians, hospitals, and other health care providers have a long history of working in concert to provide access to high-quality medical care for Montanans; and

WHEREAS, changes in the health care delivery system, such as the development of physician ownership of health care facilities and services and of specialty hospitals, have challenged cooperation and collaboration between these groups of providers; and

WHEREAS, concerns about these changes raise serious public policy issues that may affect the future and financial viability of Montana's health care delivery system, including the cost of health care and providers' ability to guarantee access to affordable, high-quality health care; and

WHEREAS, the Montana Legislature in 2005 approved a moratorium on licensure of new specialty hospitals for the purpose of giving the United States Congress time to address nationwide concern about the impact of specialty hospitals; and

WHEREAS, some members of Congress, as well as some members of the Montana Legislature, have indicated an interest in further examination and study of these issues during the biennium.

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) study and analyze the impacts of various models for the delivery of health care services on the cost of health care, the quality of care, and access to health care services, including but not limited to:

(a) the percentage of Medicare, Medicaid, private pay, and charity and uncompensated care that these health care facilities, as defined in 50-5-101, provide compared to the percentage provided by nonprofit, community-based hospitals;

(b) the range of services provided by physician-owned and privately owned health care facilities and specialty hospitals and the benefits and impacts of those services compared to the services provided by nonprofit, community-based hospitals;

(c) the comparative cost of services rendered by the private facilities and specialty hospitals compared to the nonprofit, community-based hospitals; and

(d) the comparative impact on a community's health care safety net of the operations of health care providers in each of the categories in subsection (1)(c);

(2) identify the number and operating characteristics of nonprofit, community-based hospitals; physician-owned hospitals and physician-owned

health care facilities; and nonhospital, for-profit facilities that perform surgical, imaging, and diagnostic procedures, including those owned jointly with hospitals; and

(3) analyze and develop public policy recommendations associated with Montana's health care delivery system and Montana's health care consumers for consideration by the 61st Legislature, including but not limited to:

(a) physician self-referral, which means referral for medical treatment by a physician to a facility in which the referring physician has an ownership interest;

(b) the increase in hospital-employed physicians;

(c) physician credentialing, or the process that hospitals use for granting privileges to physicians to practice in their facilities, including use of hospitals by physicians who may be in competition with that hospital;

(d) whether a need exists to impose or continue moratoriums on specialty hospitals;

(e) quality of care for patients;

(f) quality improvement and cost containment initiatives;

(g) health information technology;

(h) health care costs and ways to reduce those costs; and

(i) how to empower Montanans to take a more active role in their health care and to be better health care consumers.

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, 2008.

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 61st Legislature.

Adopted April 21, 2007

SENATE JOINT RESOLUTION NO. 16

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA URGING THE OFFICE OF PUBLIC INSTRUCTION TO CIRCULATE SPECIFIED MATERIAL TO ALL PUBLIC AND PRIVATE SCHOOLS IN MONTANA AND TO ENCOURAGE THOSE SCHOOLS TO DELIVER THE "BE SAFE" FIREARMS SAFETY PROGRAM TO ALL STUDENTS IN GRADES 1 THROUGH 3 EACH SCHOOL YEAR.

WHEREAS, the right of Montana citizens to keep and bear arms is guaranteed under both the Constitution of the State of Montana and the United States Constitution; and

WHEREAS, as many as 90% of Montana households are estimated to contain firearms and it is expected that Montana citizens will continue to have a high level of firearm ownership; and

WHEREAS, Montana has the highest percentage in the country of residents purchasing hunting licenses; and

WHEREAS, improper or unsupervised use of firearms results in a small but tragic number of firearm injuries to children in Montana; and

WHEREAS, safety training for other life-hazard or injury-hazard topics, such as fire escape, is currently conducted in Montana's elementary schools; and

WHEREAS, firearm safety training for school-age children, as is urged in section 20-7-132, MCA, could significantly reduce the number of firearm-related injuries and deaths among Montana children; and

WHEREAS, the "Be Safe" program has been made available by the Superintendent of Public Instruction for children in first through third grade throughout Montana for over a decade to teach firearm safety and is cost-effective.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Office of Public Instruction be urged to encourage all public and private schools in Montana to deliver the "Be Safe" program to all students in grades 1 through 3 each school year.

BE IT FURTHER RESOLVED, that the Office of Public Instruction circulate this resolution, a copy of section 20-7-132, MCA, and "Be Safe" program materials to all public and private schools in Montana.

Adopted April 23, 2007

SENATE JOINT RESOLUTION NO. 18

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA URGING CONGRESS TO ALLOCATE A PORTION OF FEDERAL EXCISE TAXES FOR TRIBAL WILDLIFE AND FISH MANAGEMENT PROGRAMS.

WHEREAS, tribal and nontribal recreationists of Montana, whether on or off of reservations, pay federal excise taxes on sporting goods; and

WHEREAS, a portion of these federal excise taxes is apportioned to the state to be administered by the Department of Fish, Wildlife, and Parks and is earmarked for purposes of wildlife and fish management in Montana; and

WHEREAS, the distribution of funds from the total apportionment is based on a formulated percentage, factoring in licensed resource users, demographic population, land base, and water area, including tribal populations, lands, and waters, yet none of these funds are currently apportioned to tribal governments; and

WHEREAS, the various tribal governments of Montana also maintain programs of wildlife and fish management that benefit the state wildlife and fish resources, and wildlife and fish management on reservations could be enhanced if Montana tribes were to receive part of the tax revenue for tribal management programs; and

WHEREAS, as a matter of equity, Montana tribes are entitled to a portion of the federal excise tax revenue on sporting goods for tribal wildlife and fish management programs.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

(1) That the United States Congress pass legislation that would allocate a portion of federal excise taxes for tribal wildlife and fish management programs in the same manner that the taxes are allocated to the states.

(2) That the Secretary of State send copies of this resolution to the Montana Congressional Delegation, the Secretary of the U.S. Department of the Interior, and to each tribal government located on the seven Montana reservations and to the Little Shell Chippewa tribe.

Adopted April 16, 2007

SENATE JOINT RESOLUTION NO. 19

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA SUPPORTING THE DEVELOPMENT OF SECURE AND CONFIDENTIAL HEALTH INFORMATION TECHNOLOGY AND EXCHANGE IN LOCAL COMMUNITIES.

WHEREAS, the rising cost of health care is the significant factor accounting for the decline in insurance coverage rates, and 60% of Americans are worried about the rising cost of health insurance; and

WHEREAS, the average cost of health care for each individual in 2004 was $6,280, and the United States spent almost $1.9 trillion dollars, or 16% of its gross domestic product, on health care; and

WHEREAS, according to a 2006 survey by the Kaiser Family Foundation, 80% of Americans are dissatisfied with "the total cost of health care in this country" and 54% of Americans are dissatisfied with "the quality of health care in this country"; and

WHEREAS, health information technology is the network infrastructure and health information exchange is the comprehensive management of medical information and its secure exchange between health care consumers and providers; and

WHEREAS, health information technology and health information exchange may slow the rising cost of health care by eliminating unnecessary or duplicate procedures, decreasing paperwork, and increasing administrative efficiencies; and

WHEREAS, health information technology and health information exchange will allow health care providers to access relevant information about patients in a timely manner, thereby reducing medical errors, allowing for more accurate diagnoses, and bettering patient care; and

WHEREAS, with health information technology and health information exchange capabilities, communities will be able to communicate and respond to local health emergencies more quickly and more efficiently; and

WHEREAS, states that have used this technology report beneficial results that include but are not limited to a reduction in the number of patients who

stopped taking medication prematurely, access to useful information in emergency room situations, increased adherence to guideline or protocol-based care, and increased ability to measure and improve performance.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

(1) That the State of Montana support the development of secure and confidential health information technology and health information exchange for the safety and well-being of its residents.

(2) That the State of Montana support the funding of a demonstration project in specific communities throughout the state as developed by the health information task force.

(3) That the State of Montana recognize the critical and ongoing efforts of the health information task force and its steering committee.

Adopted April 18, 2007

SENATE JOINT RESOLUTION NO. 21

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING THAT THE LEWISTOWN, MONTANA, NATIONAL GUARD ARMORY BE NAMED IN HONOR OF MASTER SERGEANT ROBBIE D. MCNARY.

WHEREAS, Master Sergeant Robbie D. McNary was a life-long resident of the Lewistown, Montana, area, served in the U.S. Marine Corps before joining the Montana Army National Guard, and was deployed in support of Operation Joint Forge to Bosnia with Alpha Company of the 1-163rd Infantry Battalion during the 2001-02 timeframe; and

WHEREAS, MSG McNary was deployed in support of Operation Iraqi Freedom with the 1-163rd Infantry Battalion in the 2004-05 timeframe and, as the platoon sergeant for 3rd Platoon Charlie Company, led his soldiers in daily combat patrols, on civil affairs, humanitarian, and training missions with the Iraqi army and the Iraqi police, and in offensive operations against the enemy; and

WHEREAS, on March 31, 2005, while MSG McNary and his platoon conducted a mission to clear improvised explosive devices in the city of Hawijah, Iraq, with the scout platoon, a U.S. Air Force explosive ordinance disposal team, and an attached Iraqi army infantry platoon, coalition forces received fire from a sniper located in the top of a nearby building; and

WHEREAS, MSG McNary led the team that assaulted the building to clear the sniper and, during the breach of the building, was killed instantly when crushed by a Humvee, becoming the first combat loss suffered by the 1-163rd Infantry Battalion since World War II; and

WHEREAS, MSG McNary was posthumously awarded the Combat Infantryman Badge, the Purple Heart, and the Bronze Star Medal for distinguished service in combat operations.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Montana Department of Military Affairs be requested to name the Lewistown National Guard Armory, currently known as the S.H. Mitchell

Armory, the McNary-Mitchell Armory to honor the memory of MSG Robbie D. McNary.

BE IT FURTHER RESOLVED, that the Secretary of State send a copy of this resolution to the Montana Department of Military Affairs and that it be displayed in a prominent location at the Lewistown National Guard Armory.

Adopted March 24, 2007

SENATE JOINT RESOLUTION NO. 22

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING CONGRESS TO ADOPT LEGISLATION TO MODIFY THE LIMITS ON THE LENGTH AND WEIGHT OF LONG-HAUL TRUCKS.

WHEREAS, the national highway system is not adequate to meet the nation's needs, both today and in the future, because there is a predicted growth of commercial vehicles of 70% from 1998 to 2018, and yet there has been an increase in highway lanes of only 3.4% from 1994 to 2004; and

WHEREAS, the western states have pioneered in the development of productive vehicle systems, in cooperation with the western departments of transportation, to meet the demands of large geographic distances to market, safety, air quality, and congestion mitigation; and

WHEREAS, the truck size and weight limits, from state to state, are frozen by the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), which prohibits the states from allowing any vehicles longer or greater in weight than those in operation on June 1, 1991; and

WHEREAS, a coalition is being established to seek to gain passage of federal legislation that allows western states to harmonize certain truck sizes, weights, and routes for long combination vehicle types; and

WHEREAS, the uniform sizes and weights sought by the Multistate Highway Transportation Agreement (MHTA) will bring safe options to the transportation industry and encourage economic development.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the members of the Montana Legislature agree with the Multistate Highway Transportation Agreement and hereby encourage the Congress of the United States to act in an expeditious manner to enact federal legislation that lifts the freeze and allows western states to harmonize certain truck sizes, weights, and routes for long combination vehicle types.

BE IT FURTHER RESOLVED, that Montana and other western states seek to pass state legislation to harmonize the truck size and weights set out on this resolution when they are successful in seeking passage of federal legislation to do so.

Adopted April 2, 2007

SENATE JOINT RESOLUTION NO. 23

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA STRONGLY URGING THAT TAIWAN BE PERMITTED APPROPRIATE AND MEANINGFUL PARTICIPATION IN ACTIVITIES OF THE WORLD HEALTH ORGANIZATION.

WHEREAS, direct and unobstructed participation in international health cooperation forums and programs is crucial for all parts of the world, especially with today's greater potential for the cross-border spread of various infectious diseases; and

WHEREAS, Taiwan's achievements in the field of health are substantial, including one of the highest life expectancy levels in Asia, maternal and infant mortality rates comparable to those of western countries, the eradication of the infectious diseases of cholera, smallpox, and plague, and being the first Asian nation to eradicate polio and the first country in the world to provide children with free hepatitis B vaccinations; and

WHEREAS, the United States Centers for Disease Control and Prevention and its Taiwanese counterpart have enjoyed close collaboration on a wide range of public health issues; and

WHEREAS, in recent years, Taiwan has expressed a willingness to financially and technically assist the international aid and health activities supported by the World Health Organization; and

WHEREAS, Taiwan's population of 23 million people is larger than that of 75% of the World Health Organization member states; and

WHEREAS, the United States, in the 1994 Taiwan Policy Review, declared its intention to support Taiwan's participation in appropriate international organizations; and

WHEREAS, Taiwan's participation in the activities of the World Health Organization could bring many benefits to the state of health not only in Taiwan but also regionally and globally.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Montana Legislature strongly urge that Taiwan be permitted appropriate and meaningful participation in the activities of the World Health Organization.

BE IT FURTHER RESOLVED, that the Montana Secretary of State send copies of this resolution to the President of the United States, the Montana Congressional Delegation, the Director General of the Taipei Economic and Cultural Office in Seattle, and the World Health Organization.

Adopted April 26, 2007

SENATE JOINT RESOLUTION NO. 24

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN INTERIM STUDY TO ASSESS PRISON POPULATION GROWTH AND

NONPRISON TREATMENT ALTERNATIVES FOR CERTAIN NONVIOLENT OFFENDERS.

WHEREAS, Montana experienced a growth of 920% in its incarceration rate from 1970 to 2003, the largest rate of growth in incarceration of any state for that period; and

WHEREAS, Montana's adult correctional population grew by an estimated 10.2% in 2005, the second highest increase nationally, and 5.7% faster than the national average; and

WHEREAS, the Executive Budget for the 2009 biennium proposes a spending increase of 38% for the Montana Department of Corrections; and

WHEREAS, the 60th Legislature may be the first Legislature in Montana history to appropriate more general fund dollars to corrections than to higher education; and

WHEREAS, a recent report of the University of Montana School of Social Work found that 92.4% of offenders assigned to prerelease facilities have been diagnosed with chemical dependency or substance abuse issues, mental illness, or both; and

WHEREAS, treatment is an effective and necessary tool for the successful rehabilitation of offenders with drug and alcohol addictions; and

WHEREAS, other states have found treatment for certain convicted nonviolent offenders with substance abuse addictions to be a cost-effective alternative to secure care, while reducing prison population overcrowding and providing an overall cost savings to the taxpayers.

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 5-5-217, MCA, to study secure care diversion alternatives for certain nonviolent offenders.

BE IT FURTHER RESOLVED, that the committee make recommendations to the criminal justice and corrections systems and the judiciary to alleviate Montana's prison population growth.

BE IT FURTHER RESOLVED, that the study:

(1) examine the impacts of diversion and treatment alternatives for certain nonviolent offenders on Montana's current and future corrections population;

(2) estimate the overall effects to the state budget provided by nonsecure care treatment alternatives for certain nonviolent offenders;

(3) propose revisions to laws related to secure care placement guidelines and treatment availability; and

(4) work collaboratively with the Corrections Advisory Council established by Executive Order No. 20-2005;

BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review requirements, be concluded prior to September 15, 2008.

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 61st Montana Legislature, to each tribal

government located on the seven Montana reservations and to the Little Shell Chippewa tribe, and to the Governor.

Adopted April 14, 2007

SENATE JOINT RESOLUTION NO. 25

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA EXPRESSING GRATITUDE FOR THE MILITARY PERSONNEL KILLED IN IRAQ AND AFGHANISTAN AND EXPRESSING SYMPATHY FOR THE FAMILIES OF THOSE MILITARY PERSONNEL; AND REQUESTING THE DEPARTMENT OF MILITARY AFFAIRS TO CONSIDER, AND MAKE RECOMMENDATIONS TO THE LEGISLATURE ABOUT, CREATING AN APPROPRIATE MEDAL HONORING MONTANA MILITARY PERSONNEL KILLED IN ACTION.

WHEREAS, more than a dozen Montana military personnel have been killed in the war in Iraq and Afghanistan; and

WHEREAS, the Montana Legislature recognizes and honors these heroic military personnel and the ultimate sacrifice they made on behalf of the United States of America and the freedom its citizens enjoy; and

WHEREAS, the Montana Legislature expresses its sympathy and gratitude to the families of the military personnel.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That an individual certificate of recognition and honor signed by members of the 60th Legislature be prepared, signed, and delivered to the next of kin of all Montana military personnel killed in the war in Iraq and Afghanistan before the adjournment of the 60th Legislature.

BE IT FURTHER RESOLVED, that the Department of Military Affairs be requested to consider, and make recommendations to the Legislature about, creating an appropriate medal honoring Montana military personnel killed in action.

Adopted April 21, 2007

SENATE JOINT RESOLUTION NO. 31

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN INTERIM STUDY TO EXAMINE THE FUTURE VIABILITY OF THE USE OF PROPERTY TAXES TO FUND EDUCATION, EXAMINE EQUALIZATION THROUGH A STATEWIDE EQUALIZATION DISTRICT THAT COULD LEVY AGAINST SPECIFIC CLASSES OF PROPERTY, AND INQUIRE INTO THE USE OF A STATEWIDE SALES TAX AND USE TAX TO PROVIDE EDUCATION FUNDING THAT WOULD INCLUDE PROPERTY TAX RELIEF IN A PERMANENT MANNER; AND REQUIRING THAT THE FINAL RESULTS OF THE STUDY BE REPORTED TO THE 61ST LEGISLATURE.

WHEREAS, the State of Montana will be undergoing a profound demographic shift in the near future with the percentage of its population over the age of 65 increasing from 14% in 2007 to over 20% in 2019; and

WHEREAS, that aging demographic shows itself in the number of counties with more than 20% of their population over the age of 65 rising from 4 of 56 counties in 2000 to 45 of 56 counties in 2025; and

WHEREAS, during that same time period, the percentage of the state's population represented by children of elementary school attendance age will continue to decline; and

WHEREAS, the current system of school funding and equalization of school funding has resulted in 60 to 65% of the typical homeowner's property tax bill consisting of property taxes for the funding of education; and

WHEREAS, a steadily increasing demographic of Montana residents who are retired and living largely on fixed incomes will be faced with difficult and painful decisions when voting on property tax levies for funding education; and

WHEREAS, it is in the best long-term interest of the aging population of Montana, the generations of children yet to be educated, and the state as a whole to examine if there may be a better way to equalize education funding in Montana that is not reliant on property taxes as its primary means; and

WHEREAS, a study entitled "Disparities in School Mill Levies" and a study entitled "Property Tax Information Related to K-12" presented to the Quality Schools Interim Committee on July 21, 2005, collectively demonstrated that wide variations exist in the distribution of the industrial and business equipment classes of property among the 400 plus school districts in the state and thereby contribute to the difficulty of equalizing school funding through a property tax mechanism; and

WHEREAS, the concept of creating a single, statewide school equalization district to levy a uniform tax on the industrial and business classes of property while leaving the classes of property composed of agricultural lands, forest lands, and residential and commercial property to serve as the tax base for the local school districts deserves further study and analysis; and

WHEREAS, equalizing school funding by means of a statewide school equalization district would permit focusing property tax relief on the classes of property composed of agricultural lands, forest lands, and residential and commercial property; and

WHEREAS, a school funding equalization plan that uses a general statewide sales tax on goods and recreational services to grant property tax relief to owners of homes, commercial properties, and agricultural and forest lands should be put before the voters for review and approval only if there is a companion constitutional amendment guaranteeing that the statewide levies being eliminated by the referendum would be forever prohibited.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to designate an appropriate interim or statutory committee, pursuant to section 5-5-217, MCA, or direct sufficient staff resources to:

(1) (a) examine future demographics of property taxpayers, school age children, retirees, and other factors relating to the viability of property taxes to fund education; and

(b) examine the distribution or maldistribution of classes of taxable property in counties and school districts;

(2) study the feasibility of a statewide school equalization district with property tax levies against particular classes of property and other sources of statewide revenue; and

(3) study the use of a sales tax and use tax for funding to replace property taxes and provide tax relief for homes, commercial properties, and agricultural and forest lands.

BE IT FURTHER RESOLVED, that:

(1) all aspects of the study be concluded prior to September 15, 2008; and

(2) the final results of the study, including any findings, conclusions, comments, or recommendations of the appropriate committee, be reported to the 61st Legislature.

Adopted April 25, 2007

Senate Resolutions

SENATE RESOLUTION NO. 1

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA REVISING AND ADOPTING THE SENATE RULES.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the following rules be adopted:

RULES OF THE MONTANA

SENATE

CHAPTER 1

Administration

S10-10. Officers of the Senate. The officers of the Senate are the officers listed and elected in accordance with Title 5, chapter 2, part 2, MCA.

S10-20. Term of office. The term of office for the officers and employees of the Senate established by law is until the succeeding Legislature is organized. This rule may not be construed to mean the staff will be full-time employees during an interim.

S10-30. President 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 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 chair when the President pro tempore is not present in the Senate chamber. The Senator who is named is vested during that time with all the powers of the President.

(4) The President has general control over the assignment of rooms for the Senate and shall preserve order and decorum. The President may order the galleries and lobbies cleared in case of disturbance or disorderly conduct.

(5) The President shall issue cards to the media to allow floor access, and reporters holding the cards are subject to placement on the floor by the President. The President may administer this rule through the office of the Secretary of the Senate.

(6) The President shall sign all necessary certifications of the Senate, including enrolled bills and resolutions, journals, subpoenas, and payrolls. The President's signature must be attested by the Secretary of the Senate.

(7) The President shall approve the calendar for each legislative day.

(8) The President is the chief administrative officer of the Senate, with authority for the general supervision of all Senate employees. The President may seek the advice and counsel of the Legislative Administration Committee.

(9) The President of the Senate is the authorized approving authority of the Senate during the term of election to that office.

(10) The President shall refer bills to committee upon introduction or reception in the office of the Secretary of the Senate.

S10-60. Succession. (1) In case of the absence or disqualification of the President, the President pro tempore of the Senate shall perform the duties of the President until the vacancy is filled or the disability removed.

(2) Whenever the President pro tempore of the Senate is of the opposite political party from that of the President, the following procedure applies:

(a) If the President dies while in office, the members of the President's political party 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 but able and desirous of appointing an acting President to act when the President is absent, the President may do so, or the members of the President's political party have the right to immediately nominate and elect an acting President of the same party.

(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. 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) A standing committee chair shall designate a secretary to take and transcribe minutes of committee meetings. 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) (a) The President and floor leaders may each appoint a private secretary.

(b) The whips may each appoint a private secretary whose duties will include assisting other staff on an assigned basis when authorized by the secretary's respective whip.

S10-100. 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.

S10-110. 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.

S10-120. 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.

S10-130. 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 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 distributed.

(5) Any Senator may examine the daily journal and propose corrections. Without objection by the Senate, the President may direct the correction to be made.

(6) The President shall authenticate the original daily journal, from time to time, and the Secretary of the Senate shall, as appropriate, deliver it to the Legislative Services Division to be prepared for publication and distribution in accordance with law.

CHAPTER 2

Decorum

S20-10. Questions of order. The President of the Senate shall decide all questions of order, subject to an appeal by any Senator seconded by two other Senators. A Senator may not speak more than once on an appeal without the consent of a majority of the Senate.

S20-20. Questions of privilege. (1) Questions of privilege in order of precedence are those:

(a) affecting the collective rights, safety, dignity, or integrity of the proceedings of the Senate; and

(b) affecting the rights, reputation, or conduct of individual Senators in their capacity as Senators.

(2) A Senator may not address the Senate on a question of privilege between the time:

(a) an undebatable motion is offered and the vote is taken on the motion;

(b) the previous question is ordered and the vote is taken on the proposition included under the previous question; or

(c) a motion to lay on the table is offered and the vote is taken on the motion.

S20-30. 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.

S20-40. Senators called to order. When a Senator has been called to order, the Senator shall sit down until the presiding officer determines whether the Senator is in order or not. If the Senator is called to order for words spoken in debate, the language excepted to must be taken down in writing by the Secretary of the Senate.

S20-50. 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.

S20-60. Floor privileges. (1) When the Senate is in session no person is permitted in the chambers except:

(a) legislators;

(b) legislative officers and employees whose presence is necessary for the conduct of business of the session;

(c) accredited members of the news media; and

(d) former legislators (not currently registered as lobbyists).

(2) The President may make exceptions for visiting dignitaries.

(3) Beginning 1 hour before and ending one-half hour after adjournment, no person is permitted in the chambers except those authorized as exceptions under subsection (1).

S20-70. Distribution of materials on floor. Materials 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.

S20-80. Violation of rules. (1) If a Senator, in speaking or otherwise, violates the rules of the Senate, the President shall, or the majority or minority floor leader may, call the Senator to order, in which case the Senator called to order must be seated immediately.

(2) The Senator called to order may move for an appeal to the Senate, and if the motion is seconded by two Senators, the matter must be submitted to the Senate for determination by majority vote. The motion is nondebatable.

(3) If the decision of the Senate is in favor of the Senator called to order, the Senator may proceed. If the decision is against the Senator, the Senator may not proceed.

(4) If a Senator is called to order, the matter may be referred to the Rules Committee by the minority or majority leader. The Committee may recommend

to the Senate that the Senator be censured or be subject to other action. The Senate shall act upon the recommendation of the Committee.

CHAPTER 3

Committees

S30-10. Committee appointments. (1) The Senate shall elect 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 each 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.

(3) The President of the Senate shall appoint all conference committees and special committees, with the advice of the floor leaders.

(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) Agriculture, Livestock, and Irrigation;

(ii) Education and Cultural Resources;

(iii) Natural Resources and Energy;

(iv) Public Health, Welfare, and Safety; and

(v) State Administration;

(c) class three committees:

(i) Fish and Game;

(ii) Highways and Transportation; and

(iii) Local Government; 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 presession 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) Each floor leader is an ex officio member 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 and minutes by signing them and submitting them promptly to the Secretary of the Senate. The minutes must be printed on archival paper.

(2) The Secretary of the Senate shall arrange to have the minutes copied in an electronic format. An electronic copy will be provided to the Legislative Services Division and the State Law Library of Montana. The archival paper copy must be delivered to the Montana Historical Society.

S30-60. Meetings. (1) All meetings of committees must be open to the public at all times, subject always to the power and authority of the chair to maintain safety, order, and decorum. The date, time, and place of committee meetings must be announced.

(2) 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 chair or upon the request of a majority of the members of the committee.

(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, subject to S30-120, a meeting may be held upon notice appropriate to the circumstances.

(5) 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.

(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; and

(f) all testimony and exhibits.

(7) 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 may report the bill to the committee of the whole.

S30-70. Procedures. (1) The chair shall notify the sponsor of any bill pending before the committee of the time and place it will be considered.

(2) A standing or select committee may not hear legislation unless the sponsor or one of the cosponsors is present or unless the sponsor has given written consent.

(3) (a) Subject to subsection (3)(b), the committee shall act on each bill in its possession:

(i) by reporting the bill out of the committee:

(A) with the recommendation that it be referred to another committee;

(B) favorably as to passage; or

(C) unfavorably; or

(ii) by tabling the measure in committee.

(b) At the written request of the sponsor, a committee may finally dispose of a bill without a hearing. Except as provided in S30-60(7), a bill may not be reported from a committee without a hearing.

(4) The committee may not report a bill to the Senate without recommendation.

(5) In reporting a measure out of committee, a committee shall include in its report:

(a) the measure in the form reported out;

(b) the recommendation of the committee;

(c) an identification of all substantive 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.

(7) A second to any motion offered in a committee is not required in order for the motion to be considered by the committee.

(8) The vote of each member on all committee actions must be recorded and reported in the committee minutes. All motions may be adopted only on the affirmative vote of a majority of the members voting.

(9) A motion to take a bill from the table may be adopted by the affirmative vote of a majority of the members present at any meeting of the committee.

(10) An action formally taken by a committee may not be altered in the committee except by reconsideration and further formal action of the committee.

(11) A committee may reconsider any action as long as the matter remains in the possession of the committee. A bill is in the possession of the committee until a report on the bill is made to the committee of the whole. A committee member need not have voted with the prevailing side in order to move reconsideration.

(12) The chair shall decide points of order.

(13) The privileges of committee members include the following:

(a) to participate freely in committee discussions and debate;

(b) to offer motions;

(c) to assert points of order and privilege;

(d) to question witnesses upon recognition by the chair;

(e) to offer any amendment to any bill; and

(f) to vote, either by being present or by proxy, using a standard form.

(14) Any meeting of a committee held through the use of telephone or other electronic communication must be conducted in accordance with Chapter 3 of the Senate Rules.

(15) A committee may consolidate into one bill any two or more related bills referred to it whenever legislation may be simplified by the consolidation.

(16) Committee procedure must be informal, but when any questions arise on committee procedure, the rules or practices of the Senate are applicable except as stated in the Senate Rules.

S30-80. Public testimony. (1) Testimony from proponents, opponents, and informational witnesses must be allowed on every bill or resolution before a standing or select committee. All persons, other than the sponsor, offering testimony shall complete a "Witness Form" and submit it to the committee secretary.

(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.

S30-90. Committee reports to Senate. (1) Reports of standing committees must be read on Order of Business No. 2, and, subject to subsection (4), debate may not be had on any report unless a minority report has been submitted. A minority report is submitted after a majority report.

(2) Any Senator seeking a reconsideration of the Senate's action on the adoption of a committee report shall do so on Order of Business No. 6 by motion to reconsider. Any Senator may make the reconsideration motion and need not have voted on the prevailing side. This rule applies notwithstanding any joint rule to the contrary. The reconsideration motion must be made within 1 legislative day of the adoption of the committee report.

(3) The Rules Committee and conference committees may report at any time, except during a call of the Senate or when a vote is being taken.

(4) On an adverse committee report, the sponsor may respond to the chair of the committee making the report.

S30-100. Pairs. Pairs in standing committee are prohibited. Standing and select committees may by a majority vote of the committee authorize Senators to vote in absentia while engaged in other legislative business. Authorization for absentee or proxy voting must be reflected in the committee minutes.

S30-110. Committee hearings. (1) A bill or resolution may not be considered or become a law unless referred to a committee and returned from a committee.

(2) A bill may be rereferred at any time before its passage.

S30-120. Notice of committee hearings — exceptions. (1) 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 3rd legislative day;

(b) less than 10 legislative days before the transmittal deadline applicable to the subject of the hearing; or

(c) to consider confirmation of a gubernatorial appointment received less than 10 legislative days before the last scheduled day of a legislative session.

(2) 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.

(3) Notice of conference committee hearings must be given as provided in Joint Rule 30-30.

S30-130. Majority/minority reports. If the members of a committee cannot agree on a report, the majority and minority of the committee present at a committee meeting may submit separate reports. Only one minority report may be submitted. The reports must be entered at length on the journal, unless otherwise ordered by the Senate.

S30-140. Reconsideration in committee. Except for the Committee of the Whole, 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 introduction of legislation.

(b) The Finance and Claims Committee may request the 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.

(3) When a committee has proposed an amendment, the chair is the principal sponsor.

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. The types of legislation allowed include:

(1) bills of any subject, except appropriations;

(2) joint resolutions, which may:

(a) express desire, opinion, sympathy, or request of the Legislature;

(b) request an interim study by a legislative subcommittee;

(c) adopt or amend the joint rules;

(d) set salaries and other terms of employment for legislative employees; and

(e) accomplish other legislative duties required by law; 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;

(d) make recommendations concerning the districting and apportionment plan as provided by Article V, section 14(4), of the Montana Constitution.

S40-20. Introduction. (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.

(2) Bills and resolutions may be preintroduced, 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.

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.

S40-50. Rules for questions requiring other than a majority vote. (1) When a question requires more than a majority vote for final passage, a majority vote is sufficient to decide any question relating to the question prior to third reading.

(2) Any vote in the Senate on a bill proposing an amendment to the Montana Constitution under circumstances in which there exists the mathematical possibility of obtaining the necessary two-thirds vote of the Legislature will cause the bill to progress as though it had received the majority vote. This rule does not prevent a committee from indefinitely postponing or tabling a bill proposing an amendment to the Montana Constitution.

(3) If a bill has been amended in the House of Representatives and the amendments are accepted by the Senate, the bill must again be placed on third reading in the Senate to determine if the required number of votes has been cast.

S40-60. Scheduling for second reading. (1) All bills and resolutions that have been reported by a committee, 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.

(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. Unless excused, Senators must be present at every sitting of the Senate and shall vote on questions put before the Senate.

S50-20. Orders of business. After prayer, roll call, and report on the journal, the order of business of the Senate is as follows:

(1) communications and petitions;

(2) reports of standing committees;

(3) reports of select committees;

(4) messages from the Governor;

(5) messages from the House of Representatives;

(6) motions;

(7) first reading and commitment of bills;

(8) second reading of bills (Committee of the Whole);

(9) third reading of bills;

(10) unfinished business;

(11) special orders of the day; and

(12) announcement of committee meetings.

To revert to or pass to a new order of business requires only a majority vote. Unless otherwise specified in the motion to recess, the Senate shall revert to Order of Business No. 1 when reconvening after a recess.

S50-30. Limitations on debate. A Senator may not speak more than twice on any one motion or question without unanimous consent of the Senate, unless the Senator has introduced or proposed the motion or question under debate, in which case the Senator may speak twice and also close the debate. However, a Senator who has spoken may not speak again on the same motion or question to the exclusion of a Senator who has not spoken.

S50-40. Procedure upon offering a motion. (1) When a motion is offered it must be restated by the presiding officer. If requested by the presiding officer or a Senator, it must be reduced to writing, presented at the rostrum, and read aloud by the Secretary.

(2) A motion may be withdrawn by the Senator offering it at any time before it is amended or voted upon.

S50-50. Precedence of motions. (1) When a question is under debate only the following privileged and subsidiary motions may be made:

(a) to adjourn;

(b) for a call of the Senate;

(c) to recess;

(d) question of privilege;

(e) to lay on the table;

(f) for the previous question;

(g) to postpone to a certain day;

(h) to refer or commit;

(i) to amend; and

(j) to postpone indefinitely.

(2) The motions listed in subsection (1) have precedence in the order listed.

(3) A question may be indefinitely postponed by a majority roll call of all Senators present and voting. When a bill or resolution is postponed indefinitely, it is finally rejected and may not be acted upon again except upon a motion of reconsideration.

(4) A motion or proposition on a subject different from that under consideration may not be admitted under color of amendment or substitute.

S50-60. Nondebatable motions. The following motions are not debatable:

(1) to adjourn;

(2) for a call of the Senate;

(3) to recess or rise;

(4) for parliamentary inquiry;

(5) for suspension of the rules;

(6) to lay on the table;

(7) for the previous question;

(8) to limit, extend the limits of, or to close debate;

(9) to amend an undebatable motion;

(10) to divide a question;

(11) to pass business in Committee of the Whole;

(12) to take from the table;

(13) a decision of the presiding officer, unless appealed or unless the presiding officer submits the question to the Senate for advice or decision; and

(14) all incidental motions, such as motions relating to voting or other questions of a general procedural nature.

S50-70. Amending motions. (1) Subject to subsection (2), no more than one amendment and no more than one substitute motion may be made to a motion. This rule permits the main motion and two modifying motions.

(2) A motion for a call of the Senate, for the previous question, to table, or to take from the table may not be amended.

S50-80. Previous question. (1) Except as provided in subsection (2), the effect of calling for the previous question, if adopted, is to close debate immediately, to prevent the offering of amendments or other subsidiary

motions, and to bring to vote promptly the immediately pending main question and the adhering subsidiary motions, whether on appeal or otherwise.

(2) When the previous question is ordered on any debatable question on which there has been no debate, the question may be debated for one-half hour, one-half of that time to be given to the proponents and one-half to the opponents. The sponsor of the main motion on which the previous question is adopted may close on the motion.

(3) A call of the Senate is not in order after the previous question is ordered unless it appears upon an actual count by the presiding officer that a quorum is not present.

S50-90. Reconsideration. (1) Any Senator may, on the day the vote was taken or on the next day the Senate is in session, move to reconsider the question. A motion to reconsider is a debatable motion, but the debate is limited to the motion. The debate on a motion to reconsider may not address the substance of the matter for which reconsideration is sought.

(2) A motion to reconsider may not be withdrawn after the next legislative day without the unanimous consent of the Senate, and thereafter any Senator may call it up for consideration. However, a motion to reconsider made after the 54th day of the session must be disposed of when made.

(3) A motion to recall a bill from the House of Representatives constitutes notice to reconsider and must be acted on as a motion to reconsider. A motion to reconsider or to recall a bill from the House of Representatives may be made only under Order of Business No. 6 and, under that order of business, takes precedence over all motions except motions to recess or adjourn.

(4) When a motion to reconsider is laid on the table, a two-thirds majority is required to take it from the table. When a motion to reconsider fails, the question is finally and conclusively settled.

(5) If a motion to reconsider third reading action is carried, there may not be further action until the succeeding legislative day.

S50-100. Dividing a question. A Senator may move to divide a question if it includes two or more propositions so distinct in substance that if one thing is taken away a substantive question will remain.

S50-110. 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.

S50-120. Second reading. (1) The Senate may resolve itself into a Committee of the Whole for consideration of business on second reading, by approval of a motion for that purpose.

(2) After a Committee of the Whole has been formed, the President shall appoint a chair to preside.

(3) All legislation considered in the Committee of the Whole must be read by a summary of its title. Unless the sponsor requests an opening statement beforehand, 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.

S50-130. Committee of the Whole amendments. (1) All Committee of the Whole amendments must be prepared, stipulating the date and time of preparation and staff approval, and delivered to the Secretary of the Senate for reading before the amendment is voted on.

(2) Each amendment, rejected or adopted, must be printed in the journal, along with the name of the sponsor and the vote on each.

S50-140. Motions in Committee of the Whole. (1) All proper motions on second reading are debatable.

(2) The only motions in order during Committee of the Whole are to:

(a) amend;

(b) recommend passage or nonpassage;

(c) recommend concurrence or nonconcurrence;

(d) indefinitely postpone;

(e) pass consideration;

(f) rise;

(g) rise and report;

(h) rise and report progress and ask leave to sit again; or

(i) change the order in which legislation is placed on the agenda.

S50-150. 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.

S50-160. Voting on second reading. (1) On Order of Business No. 8, in addition to other methods, a recorded vote may be made in the following manner: the chair may call for a voice vote to accept or reject a question. If the vote is other than unanimous, the chair may ask that the lesser number on the question indicate their vote by standing. The Secretary will then record the vote of those standing. The chair may then rule that unless excused those not standing and present have voted on the prevailing side of the question and that their vote be recorded as voting on the prevailing side. If there was a unanimous 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.

S50-170. Third reading procedure. (1) 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."

S50-180. Senate voting — changing a vote. (1) A roll call vote must be taken on the request of two Senators, if the request occurs before the vote is taken.

(2) On a roll call vote the names of the Senators must be called alphabetically, unless an electronic voting system is used. A Senator may not vote after the decision is announced from the chair. A Senator may not explain a vote until after the decision is announced from the chair.

(3) A Senator may move to change the Senator's vote, on any recorded vote, within 1 legislative day of the vote. The Senator making the motion shall first specify the bill number, the date of the vote, and the original vote tally. A vote may not be changed if it would affect the outcome of legislation. The motion is nondebatable. If none of the Senators present object, the change must be entered into the journal.

(4) If any Senator objects to the request in subsection (3), the Senator making the request may move to suspend the rules to allow the Senator to change the Senator's vote.

(5) An error caused by a malfunction of the voting system may be corrected without a vote within 10 minutes of the malfunction.

S50-190. Pairs. (1) Two Senators may pair on a question that will be determined by a majority vote. On a question requiring a two-thirds vote for adoption, three Senators may pair, with two Senators for the question and one Senator against. Pairing is permitted only when one of the paired Senators is excused when the vote is taken.

(2) An agreement to pair must be in writing and dated and signed by the Senators agreeing to be bound and must specify the duration of the pair. When an agreement to pair is filed with the Secretary of the Senate, it binds the Senators signing until the expiration of time for which it was signed, unless the paired Senators sooner appear and ask that the agreement be canceled.

(3) Pairs in Committee of the Whole are prohibited.

S50-200. 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.

S50-210. 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.

S50-220. 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.

S50-230. Governor's veto. (1) When the Governor returns a bill with a veto, the Senate shall announce the veto under Order of Business No. 4.

(2) On any legislative day, a Senator may move to override the Governor's veto by a two-thirds vote under Order of Business No. 6.

CHAPTER 6

Rules

S60-10. Senate rules. (1) A motion to amend or adopt a rule of the Senate must be referred to the Rules Committee without debate. A rule of the Senate may be amended or adopted only with the concurrence of a majority of the Senate and after 1 day's notice.

(2) A rule may be suspended temporarily by a two-thirds vote.

S60-20. Mason's Manual of Legislative Procedure. Mason's Manual of Legislative Procedure (2000) governs the proceedings of the Senate in all cases not covered by these rules.

S60-30. Quorum. 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)).

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 are:

(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.

(2) The procedure in subsection (1) constitutes introduction and first reading of the nominations.

(3) The Secretary shall distribute a copy of the list of nominations to each Senator.

S70-30. Committee process. (1) (a) The committee shall research each nominee and may request biographical information from the Governor for each nominee if none has been provided.

(b) The committee chair shall submit a bill draft request for a simple resolution to include the nominees specified by the committee chair. These bill draft requests will not count against any bill draft request limit imposed on members. When the resolution has been prepared and introduced, the committee shall hold a hearing on the resolution after appropriate public notice has been made.

(2) Following the hearings, the committee shall issue preliminary standing committee reports to be distributed to each Senator, stating the committee's recommendations concerning the nominees.

(3) (a) If a Senator wishes to have an individual nominee, or group of nominees, considered by the Senate separately from the group of nominees recommended by the committee, the Senator may request of the chair of the committee that the nominee or nominees be considered by a separate resolution.

(b) A Senator shall request separate consideration of a nominee within 3 days of receipt of the preliminary standing committee report. The committee chair shall honor this request.

(4) After waiting 3 days from the day of distribution of the preliminary standing committee report, the committee chair shall issue a final standing committee report and deliver the report to the Secretary of the Senate.

(a) If a nominee is to be separated from the resolution, the final standing committee report must include an amendment deleting that nominee.

(b) When a nominee has been separated at the request of a Senator, the committee chair shall submit a bill draft request for a simple resolution to include only the nominee so separated. When the resolution has been prepared

and introduced, the committee shall take executive action on the resolution. When a hearing on the separated nomination was held prior to the committee's preliminary standing committee report, an additional hearing is not required to be held before the committee takes action on the separate resolution. After the committee's executive action, the committee chair shall issue a standing committee report.

(5) If a resolution contains only one nominee, the committee shall dispense with the preliminary standing committee report and shall issue a final standing committee report to be distributed to each Senator stating the committee's recommendation concerning the nominee.

(6) The Secretary will read the reports under Order of Business No. 2, reports of standing committees.

(7) After the report has been read, the resolution must be placed on Order of Business No. 11 the next legislative day for consideration by the Senate. Motions to approve or disapprove of the resolution are in order and may be debated.

Appendix A

List of Questions Requiring Other Than a Majority Vote

The following questions require the vote specified:

(1) a call of the Senate with a quorum (five Senators);

(2) a motion to lift a call of the Senate (two-thirds of the members present and voting);

(3) a motion to amend or suspend rules (two-thirds);

(4) a motion to override the Governor's veto (two-thirds);

(5) a motion to approve a bill to appropriate the principal of the coal trust fund (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 therein described (three-fifths of each house);

(7) a motion to approve a bill proposing to amend the Montana Constitution (two-thirds of the entire Legislature);

(8) an appeal of the ruling of the presiding officer (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); and

(10) a motion to approve a bill to appropriate the principal of the tobacco settlement trust fund (two-thirds).

Adopted January 12, 2007

SENATE RESOLUTION NO. 3

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 JANUARY 15, 2007, 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 Political Practices, in accordance with sections 13-37-102 and 13-37-104, MCA:

Dennis Unsworth, Helena, Montana, appointed pursuant to section 13-37-104, MCA, for the remainder of a term ending January 1, 2011.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 60th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointment and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted February 21, 2007

SENATE RESOLUTION NO. 4

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 15, 2007, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

(1) As members of the Board of Aeronautics, in accordance with section 2-15-2506, MCA:

Mr. Alexander C. Edwards, Billings, Montana, appointed for a term ending January 1, 2011.

Mr. Fred Lark, Lewistown, Montana, appointed for a term ending January 1, 2011.

Mr. Robert Buckles, Bozeman, Montana, for a term ending January 1, 2011.

Mr. Charles Manning, Lakeside, Montana, appointed for a term ending January 1, 2011.

(2) As members of the Air Pollution Control Advisory Council, in accordance with section 2-15-2106, MCA:

Mr. Chad Doheny, Dutton, Montana, appointed to serve at the pleasure of the Governor.

Ms. Mary Jane McGarity, Big Sky, Montana, appointed to serve a term at the pleasure of the Governor.

Mr. Mat Millenbach, Billings, Montana, appointed to serve a term at the pleasure of the Governor.

Mr. Richard Southwick, Townsend, Montana, appointed to serve a term at the pleasure of the Governor.

Ms. Felicity McFerrin, Helena, Montana, appointed to serve a term at the pleasure of the Governor.

Mr. Neil Turnbull, Brockton, Montana, appointed to serve a term at the pleasure of the Governor.

Mr. Mike Machler, Billings, Montana, appointed to serve a term at the pleasure of the Governor.

Dr. Leonard Bauer, Ashland, Montana, appointed to serve a term at the pleasure of the Governor.

Mr. Mike Barton, Missoula, Montana, appointed to serve a term at the pleasure of the Governor.

Dr. Linda Dworak, Hamilton, Montana, appointed to serve a term at the pleasure of the Governor.

(3) As members of the Alternative Health Care Board, in accordance with section 2-15-1730, MCA:

Ms. Molly Danison, Missoula, Montana, appointed to a term ending September 1, 2007.

Ms. Mary Anne Brown, Great Falls, Montana, appointed to a term ending September 1, 2010.

Mr. Tom Mensing, Red Lodge, Montana, appointed to a term ending September 1, 2010.

(4) As members of the Board of Architects, in accordance with section 2-15-1761, MCA:

Mr. Bayliss Ward, Bozeman, Montana, appointed to a term ending March 27, 2008.

Mr. James G. Shepard, Billings, Montana, appointed to a term ending March 27, 2009.

(5) As members of the Board of Athletics, in accordance with section 2-15-1772, MCA:

Ms. Jana Smith-Streitz, Butte, Montana, appointed to a term ending April 25, 2008.

Mr. John Paul Noyes, Kalispell, Montana, appointed to a term ending April 25, 2008.

Mr. Don Vegge, Billings, Montana, appointed to a term ending April 25, 2009.

Ms. Jamie Jones, Great Falls, Montana, appointed to a term ending April 25, 2007.

(6) As members of the State Banking Board, in accordance with section 2-15-1025, MCA:

Mr. John King, Kalispell, Montana, appointed to a term ending July 1, 2008.

Ms. Carolyn Colman, West Yellowstone, Montana, appointed to a term ending July 1, 2008.

Mr. Jon Redlin, Lambert, Montana, appointed to a term ending July 1, 2009.

Mr. Russ Ritter, Helena, Montana, appointed to a term ending July 1, 2009.

(7) As members of the Board of Barbers and Cosmetologists, in accordance with section 2-15-1747, MCA:

Ms. Maxine Collins, Helena, Montana, appointed to a term ending October 1, 2008.

Ms. Delores Lund, Plentywood, Montana, appointed to a term ending October 1, 2008.

Ms. Maggie Burton-Blize, Missoula, Montana, appointed to a term ending October 1, 2007.

Ms. Karan Charles, Miles City, Montana, appointed to a term ending October 1, 2011.

Ms. Juanita Mace, Billings, Montana, appointed to a term ending October 1, 2011.

(8) As members of the Board of Chiropractors, in accordance with section 2-15-1737, MCA:

Dr. John Sando, Butte, Montana, appointed to a term ending January 1, 2009.

Ms. Lucy Heger, Livingston, Montana, appointed to a term ending January 1, 2009.

(9) As members of the Board of Clinical Laboratory Science Practitioners, in accordance with section 2-15-1753, MCA:

Dr. Thomas Bennett, Billings, Montana, appointed to a term ending April 16, 2009.

Ms. Wendy Palmer, Raynesford, Montana, appointed to a term ending April 16, 2009.

(10) As members of the Board of Dentistry, in accordance with section 2-15-1732, MCA:

Dr. Mark Colonna, Whitefish, Montana, appointed to a term ending March 29, 2011.

Ms. Jennifer Porter, Bozeman, Montana, appointed to a term ending March 29, 2009.

Ms. Laura Germann, Glendive, Montana, appointed to a term ending March 29, 2011.

(11) As members of the Fish, Wildlife, and Parks Commission, in accordance with section 2-15-3402, MCA:

Mr. Dan Vermillion, Livingston, Montana, appointed to a term ending January 1, 2011.

Mr. Willie Doll, Malta, Montana, appointed to a term ending January 1, 2011.

(12) As a member of the Board of Funeral Service, in accordance with section 2-15-1743, MCA:

Mr. Thomas Meeks, Great Falls, Montana, appointed to a term ending July 1, 2010.

(13) As a member of the Board of Hail Insurance, in accordance with section 2-15-3003, MCA:

Ms. Trudy Laas Skari, Chester, Montana, appointed to a term ending April 18, 2009.

(14) As members of the Hard-Rock Mining Impact Board, in accordance with section 2-15-1822, MCA:

Ms. Marianne Roose, Eureka, Montana, appointed to a term ending January 1, 2011.

Mr. Shain Wolstein, Butte, Montana, appointed to a term ending January 1, 2011.

(15) As members of the Board of Hearing Aid Dispensers, in accordance with section 2-15-1740, MCA:

Dr. Stephen Kramer, Billings, Montana, appointed to a term ending July 10, 2007.

Ms. Lee Frantz Oines, Missoula, Montana, appointed to a term ending July 1, 2008.

Mr. Herbert Winsor, Helena, Montana, appointed to a term ending July 1, 2008.

Mr. Steve Wilson, Helena, Montana, appointed to a term ending July 1, 2009.

Mr. Brian Bolenbaugh, Missoula, Montana, appointed to a term ending July 1, 2009.

Ms. Jill Davis, Great Falls, Montana, appointed to a term ending July 1, 2009.

(16) As members of the Montana Historical Society Board of Trustees, in accordance with section 22-3-104, MCA:

Mr. James W. Murry, Clancy, Montana, appointed to a term ending July 1, 2010.

Ms. Shirley Groff, Butte, Montana, appointed to a term ending July 1, 2010.

Mr. Steve Lozar, Polson, Montana, appointed to a term ending July 1, 2007.

Mr. John G. Lepley, Fort Benton, Montana, appointed to a term ending July 1, 2010.

Ms. Katherine Lee, Glendive, Montana, appointed to a term ending July 1, 2007.

Mr. Jim Court, Billings, Montana, appointed to a term ending July 1, 2009.

Mr. Kent Kleinkopf, Missoula, Montana, appointed to a term ending July 1, 2007.

Mr. Thomas Nygard, Bozeman, Montana, appointed to a term ending July 1, 2011.

Ms. Crystal Wong Shors, Helena, Montana, appointed to a term ending July 1, 2011.

Mr. George Horse Capture, Great Falls, Montana, appointed to a term ending July 1, 2011.

(17) As members of the Board of Horseracing, in accordance with section 2-15-3106, MCA:

Mr. Robert G. Brastrup, Townsend, Montana, appointed to a term ending January 20, 2008.

Mr. Mike Tatsey, Valier, Montana, appointed to a term ending January 20, 2009.

Ms. Mary Ogdahl, Miles City, Montana, appointed to a term ending January 20, 2009.

(18) As members of the Commission for Human Rights, in accordance with section 2-15-1706, MCA:

Ms. Maria Beltran, Worden, Montana, appointed to a term ending January 1, 2009.

Ms. Emorie Davis-Bird, East Glacier Park, Montana, appointed to a term ending January 1, 2009.

Mr. Steve Fenter, Billings, Montana, appointed to a term ending January 1, 2011.

Mr. Ryan Rusche, Wolf Point, Montana, appointed to a term ending January 1, 2011.

(19) As a member of the Board of Labor Appeals, in accordance with section 2-15-1704, MCA:

Mr. Jack Calhoun, Helena, Montana, appointed to a term ending January 1, 2011.

(20) As members of the Board of Medical Examiners, in accordance with section 2-15-1731, MCA:

Dr. Kris Spanjian, Billings, Montana, appointed to a term ending September 1, 2009.

Mr. Dwight Thompson, Harlowton, Montana, appointed to a term ending September 1, 2009.

Ms. Pat Bollinger, Helena, Montana, appointed to a term ending September 1, 2009.

Ms. Carole Erickson, Missoula, Montana, appointed to a term ending September 1, 2009.

Ms. Sonia Gomez, Billings, Montana, appointed to a term ending September 1, 2009.

Dr. Anna Earl, Chester, Montana, appointed to a term ending September 1, 2010.

Dr. Michael LaPan, Sidney, Montana, appointed to a term ending September 1, 2010.

Dr. Arthur Fink, Glendive, Montana, appointed to a term ending September 1, 2010.

(21) As members of the Board of Nursing, in accordance with section 2-15-1734, MCA:

Ms. Sharon Dschaak, Wolf Point, Montana, appointed for a term ending July 1, 2007.

Ms. Connie Reichelt, Big Sandy, Montana, appointed for a term ending July 1, 2009.

Ms. Karen Pollington, Havre, Montana, appointed for a term ending July 1, 2010.

Ms. Kathleen Sprattler, Billings, Montana, appointed for a term ending July 1, 2010.

Ms. Deborah Hanson, Miles City, Montana, appointed for a term ending July 1, 2010.

(22) As members of the Board of Nursing Home Administrators, in accordance with section 2-15-1735, MCA:

Ms. Linda Sandman, Helena, Montana, appointed for a term ending May 28, 2010.

Ms. Polly Nikolaisen, Kalispell, Montana, appointed for a term ending May 28, 2011.

(23) As members of the Board of Occupational Therapy Practice, in accordance with section 2-15-1749, MCA:

Ms. Sue Furey, Missoula, Montana, appointed for a term ending December 31, 2008.

Ms. Cindy Stergar, Butte, Montana, appointed for a term ending December 31, 2010.

Mr. Tim Tracy, Kalispell, Montana, appointed for a term ending December 31, 2010.

(24) As members of the Board of Pardons and Parole, in accordance with section 2-15-2302, MCA:

Mr. John Rex, Miles City, Montana, appointed for a term ending January 1, 2007.

Mr. Darryl Dupuis, Polson, Montana, appointed for a term ending January 1, 2010.

Ms. Margaret Hall-Bowman, Pablo, Montana, appointed for a term ending January 1, 2010.

(25) As a member of the Board of Personnel Appeals, in accordance with section 2-15-1705, MCA:

Ms. Alice Whiteman, Bonner, Montana, appointed for a term ending January 1, 2009.

(26) As members of the Board of Pharmacy, in accordance with section 2-15-1733, MCA:

Mr. Jim MacKenzie, Whitefish, Montana, appointed for a term ending July 1, 2010.

Mr. William Burton, Clancy, Montana, appointed for a term ending July 1, 2011.

(27) As a member of the Board of Physical Therapy Examiners, in accordance with section 2-15-1748, MCA:

Mr. Richard Smith, Missoula, Montana, appointed for a term ending July 1, 2008.

(28) As members of the Board of Plumbers, in accordance with section 2-15-1765, MCA:

Ms. Marlene Jackson, Glasgow, Montana, appointed for a term ending May 4, 2009.

Mr. Olaf Stimac, Great Falls, Montana, appointed for a term ending May 4, 2010.

Mr. Tim Regan, Miles City, Montana, appointed for a term ending May 4, 2010.

Ms. Debi Friede, Havre, Montana, appointed for a term ending May 4, 2007.

(29) As members of the Board of Private Alternative Adolescent Residential or Outdoor Programs, in accordance with section 2-15-1745, MCA:

Mrs. Michele Manning, Thompson Falls, Montana, appointed for a term ending April 19, 2008.

Ms. Mary Alexine, Eureka, Montana, appointed for a term ending April 19, 2008.

Mr. Paul Clark, Trout Creek, Montana, appointed for a term ending April 19, 2008.

Ms. Carol Brooker, Plains, Montana, appointed for a term ending April 19, 2008.

Mr. Daniel Bidegaray, Bozeman, Montana, appointed for a term ending April 19, 2008.

(30) As members of the Board of Private Security Patrol Officers and Investigators, in accordance with section 2-15-1781, MCA:

Ms. Holly Dershem-Bruce, Glendive, Montana, appointed for a term ending August 1, 2008.

Mr. Raymond Murray, Missoula, Montana, appointed for a term ending August 1, 2008.

Mr. Shad K. Foster, Butte, Montana, appointed for a term ending August 1, 2009.

Mr. Leo C. Dutton, Helena, Montana, appointed for a term ending August 1, 2009.

Ms. Linda Sanem, Bozeman, Montana, appointed for a term ending August 1, 2009.

(31) As members of the Board of Professional Engineers and Land Surveyors, in accordance with section 2-15-1763, MCA:

Mr. John Neil, Great Falls, Montana, appointed for a term ending July 1, 2009.

Mr. Tom Heinecke, Kalispell, Montana, appointed for a term ending July 1, 2009.

Mr. Casey E. Johnston, Butte, Montana, appointed for a term ending July 1, 2007.

Ms. Liz Blair, Whitefish, Montana, appointed for a term ending July 1, 2010.

Mr. David Elias, Anaconda, Montana, appointed for a term ending July 1, 2010.

Mr. Steve Wright, Columbia Falls, Montana, appointed for a term ending July 1, 2010.

(32) As a member of the Board of Psychologists, in accordance with section 2-15-1741, MCA:

Ms. Bonnie Hyatt-Murphy, Livingston, Montana, appointed for a term ending September 1, 2010.

(33) As a member of the Board of Public Education, in accordance with section 2-15-1508, MCA:

Ms. Angela McLean, Anaconda, Montana, appointed for a term ending February 1, 2013.

(34) As members of the Board of Radiologic Technologists, in accordance with section 2-15-1738, MCA:

Ms. Anna L. Hazen, Fort Benton, Montana, appointed for a term ending July 1, 2008.

Ms. Charlotte Kelley, Clancy, Montana, appointed for a term ending July 1, 2008.

Mr. Charles McCubbins, Columbia Falls, Montana, appointed for a term ending July 1, 2008.

Dr. Ronald Darby, Billings, Montana, appointed for a term ending July 1, 2008.

Dr. Hugh Cecil, Kalispell, Montana, appointed for a term ending July 1, 2008.

Ms. Kelli Bush, Butte, Montana, appointed for a term ending July 1, 2009.

(35) As members of the Board of Real Estate Appraisers, in accordance with section 2-15-1758, MCA:

Mr. Peter Fontana, Great Falls, Montana, appointed for a term ending May 1, 2008.

Mr. Kraig P. Kosena, Missoula, Montana, appointed for a term ending May 1, 2008.

Ms. Kathleen Susan Gallaher, Bozeman, Montana, appointed for a term ending May 1, 2009.

Mr. Darwin Ernst, Hamilton, Montana, appointed for a term ending May 1, 2009.

(36) As members of the Board of Realty Regulation, in accordance with section 2-15-1757, MCA:

Ms. Lucinda Willis, Polson, Montana, appointed for a term ending May 9, 2009.

Ms. Judith Peasley, Seeley Lake, Montana, appointed for a term ending May 9, 2010.

(37) As members of the Board of Regents, in accordance with section 2-15-1508, MCA:

Ms. Heather O'Loughlin, Missoula, Montana, appointed for a term ending June 30, 2007.

Ms. Lynn Hamilton, Havre, Montana, appointed for a term ending February 1, 2013.

Mr. Clayton Christian, Missoula, Montana, appointed for a term ending February 1, 2008.

Dr. Janine Pease, Billings, Montana, appointed for a term ending February 1, 2011.

(38) As members of the Board of Research and Commercialization Technology, in accordance with section 2-15-1819, MCA:

Mr. Jim Davison, Anaconda, Montana, appointed for a term ending July 1, 2007.

Mr. Michael Dolson, Plains, Montana, appointed for a term ending July 1, 2008.

(39) As members of the Board of Sanitarians, in accordance with section 2-15-1751, MCA:

Ms. Kathleen Driscoll, Hamilton, Montana, appointed for a term ending July 1, 2008.

Mr. Gene Townsend, Three Forks, Montana, appointed for a term ending July 1, 2008.

Mr. Gerald Cormier, Billings, Montana, appointed for a term ending July 1, 2008.

Ms. Denise Moldroski, East Helena, Montana, appointed for a term ending July 1, 2009.

(40) As a member of the Board of Directors of the State Compensation Insurance Fund, in accordance with section 2-15-1019, MCA:

Mr. Joe Dwyer, Billings, Montana, appointed for a term ending April 28, 2007.

(41) As members of the Speech-Language Pathologists and Audiologists, in accordance with section 2-15-1739, MCA:

Ms. Tina Hoagland, Billings, Montana, appointed for a term ending December 31, 2008.

Ms. Lynn Harris, Missoula, Montana, appointed for a term ending December 31, 2008.

(42) As a member of the State Tax Appeal Board, in accordance with section 2-15-1015, MCA:

Ms. Karen E. Powell, Helena, Montana, appointed for a term ending January 1, 2009.

(43) As members of the Transportation Commission, in accordance with section 2-15-2502, MCA:

Mr. Kevin Howlett, Arlee, Montana, appointed for a term ending January 1, 2011.

Ms. Diann Seymour-Winterburn, Helena, Montana, appointed for a term ending January 1, 2011.

Ms. Nancy Espy, Broadus, Montana, appointed for a term ending January 1, 2011.

(44) As members of the Board of Veterans' Affairs, in accordance with section 2-15-1205, MCA:

Mr. Keith Heavyrunner, Browning, Montana, appointed for a term ending August 1, 2009.

Mr. Harry LaFriniere, Florence, Montana, appointed for a term ending August 1, 2010.

Ms. Mary Creech, Butte, Montana, appointed for a term ending August 1, 2010.

Ms. Sylvia Beals, Forsyth, Montana, appointed for a term ending August 1, 2010.

Mr. Thomas Huddleston, Helena, Montana, appointed for a term ending August 1, 2010.

(45) As members of the Board of Veterinary Medicine, in accordance with section 2-15-1742, MCA:

Dr. Joan Marshall, Ekalaka, Montana, appointed for a term ending July 31, 2010.

Mr. Tony Belcourt, Box Elder, Montana, appointed for a term ending July 31, 2010.

Dr. Bob Sager, Wilsall, Montana, appointed for a term ending July 31, 2011.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 60th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted February 23, 2007

SENATE RESOLUTION NO. 5

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO AN APPOINTMENT MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 13, 2007, 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 Nursing, in accordance with section 2-15-1734, MCA:

Ms. Brenda Schye, Fort Peck, Montana, appointed for a term ending July 1, 2010.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 60th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointment and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted February 21, 2007

SENATE RESOLUTION NO. 6

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 3, 2007, 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 Corrections, in accordance with sections 2-15-111 and 2-15-2301, MCA:

Mr. Mike Ferriter, 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 60th 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 February 19, 2007

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 MARCH 13, 2007, 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 Chiropractors, in accordance with section 2-15-1737, MCA:

Dr. Thomas Fullerton, Kalispell, Montana, appointed for a term ending January 1, 2010.

(2) As members of the Coal Board, in accordance with section 2-15-1821, MCA:

Mr. Thomas Kalakay, Billings, Montana, appointed for a term ending January 1, 2011.

Ms. Julie Foley, Missoula, Montana, appointed for a term ending January 1, 2011.

Ms. Marcia Brown, Butte, Montana, appointed for a term ending January 1, 2011.

(3) As members of the Board of Crime Control, in accordance with section 2-15-2006, MCA:

Mr. Mike Ferriter, Helena, Montana, appointed for a term ending January 1, 2011.

Mr. Richard Kirn, Poplar, Montana, appointed for a term ending January 1, 2011.

Mr. Godfrey Saunders, Bozeman, Montana, appointed for a term ending January 1, 2011.

Mr. Jim Oppedahl, Helena, Montana, appointed for a term ending January 1, 2011.

Ms. Lois Menzies, Helena, Montana, appointed for a term ending January 1, 2011.

Mr. Nickolas C. Murnion, Jordan, Montana, appointed for a term ending January 1, 2009.

Ms. Pamela B. Kennedy, Kalispell, Montana, appointed for a term ending January 1, 2009.

Ms. Brenda Desmond, Missoula, Montana, appointed for a term ending January 1, 2011.

Ms. Sherrie Matteucci, Billings, Montana, appointed for a term ending January 1, 2011.

Ms. Tracie Small, Crow Agency, Montana, appointed for a term ending January 1, 2011.

Mr. Steve McArthur, Butte, Montana, appointed for a term ending January 1, 2009.

(4) As a member of the State Electrical Board, in accordance with section 2-15-1764, MCA:

Ms. Dawn Achten, Billings, Montana, appointed for a term ending July 1, 2011.

(5) As members of the Board of Environmental Review, in accordance with section 2-15-3502, MCA:

Ms. Heidi Kaiser, Park City, Montana, appointed for a term ending January 1, 2011.

Mr. Joseph Russell, Kalispell, Montana, appointed for a term ending January 1, 2011.

Mr. Larry Mires, Glasgow, Montana, appointed for a term ending January 1, 2011.

(6) As members of the Montana Facility Finance Authority, in accordance with section 2-15-1815, MCA:

Ms. Kim Greco, Helena, Montana, appointed for a term ending January 1, 2011.

Mr. Joe Quilici, Butte, Montana, appointed for a term ending January 1, 2011.

Mr. David Dietrich, Billings, Montana, appointed for a term ending January 1, 2011.

(7) As members of the Board of Investments, in accordance with section 2-15-1808, MCA:

Mr. James Turcotte, Helena, Montana, appointed for a term ending January 1, 2009.

Mr. Terrill Moore, Billings, Montana, appointed for a term ending January 1, 2011.

Ms. Maureen Fleming, Missoula, Montana, appointed for a term ending January 1, 2011.

Mr. Karl Englund, Missoula, Montana, appointed for a term ending January 1, 2011.

Mr. Jon Satre, Helena, Montana, appointed for a term ending January 1, 2011.

(8) As members of the Board of Housing, in accordance with section 2-15-1814, MCA:

Ms. Susan Moyer, Kalispell, Montana, appointed for a term ending January 1, 2011.

Mr. Bob Gauthier, Ronan, Montana, appointed for a term ending January 1, 2011.

Ms. Jeanette McKee, Hamilton, Montana, appointed for a term ending January 1, 2011.

(9) As a member of the Board of Livestock, in accordance with section 2-15-3102, MCA:

Ms. Rebecca Weed, Belgrade, Montana, appointed for a term ending March 1, 2013.

(10) As members of the Board of Milk Control, in accordance with section 2-15-3105, MCA:

Mr. Clyde Greer, Bozeman, Montana, appointed for a term ending January 1, 2011.

Mr. Michael Kleese, Stevensville, Montana, appointed for a term ending January 1, 2011.

(11) As members of the Board of Personnel Appeals, in accordance with section 2-15-1705, MCA:

Mr. Patrick Dudley, Butte, Montana, appointed for a term ending January 1, 2011.

Mr. Steve Johnson, Missoula, Montana, appointed for a term ending January 1, 2011.

Ms. Robyn Rowe, Deer Lodge, Montana, appointed for a term ending January 1, 2011.

(12) As a member of the Board of Plumbers, in accordance with section 2-15-1765, MCA:

Mr. Steve Carey, Frenchtown, Montana, appointed for a term ending May 4, 2007.

(13) As members of the Board of Public Accountants, in accordance with section 2-15-1756, MCA:

Mr. Michael Johns, Deer Lodge, Montana, appointed for a term ending July 1, 2010.

Ms. Pamela K. Lynch, Plains, Montana, appointed for a term ending July 1, 2010.

Ms. Irma Paul, Helena, Montana, appointed for a term ending July 1, 2010.

Mr. Gary Kasper, Fairfield, Montana, appointed for a term ending July 1, 2007.

(14) As members of the Board of Public Education, in accordance with section 2-15-1508, MCA:

Ms. Patty Myers, Great Falls, Montana, appointed for a term ending February 1, 2014.

Ms. Sharon Carroll, Ekalaka, Montana, appointed for a term ending February 1, 2012.

(15) As a member of the Board of Regents, in accordance with section 2-15-1508, MCA:

Mr. Todd Buchanan, Billings, Montana, appointed for a term ending February 1, 2014.

(16) As members of the Board of Social Work Examiners and Professional Counselors, in accordance with section 2-15-1744, MCA:

Ms. Sherry Meador, Clancy, Montana, appointed for a term ending January 1, 2011.

Mr. Peter Degel, Helena, Montana, appointed for a term ending January 1, 2011.

Ms. Jill Thorngren, Bozeman, Montana, appointed for a term ending January 1, 2011.

(17) As a member of the State Tax Appeal Board, in accordance with sections 2-15-1015, 15-2-101, and 15-2-102, MCA:

Mr. Doug Kaercher, Havre, Montana, appointed for a term ending January 1, 2013.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 60th 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 10, 2007

SENATE RESOLUTION NO. 9

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO AN APPOINTMENT MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED MARCH 13, 2007, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointment, below designated, that has been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As a member of the Board of Livestock, in accordance with section 2-15-3102, MCA:

Mr. Stan Boone, Ingomar, Montana, appointed for a term ending March 1, 2013.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 60th 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 2, 2007

SENATE RESOLUTION NO. 10

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED APRIL 12, 2007, 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 Architects, in accordance with section 2-15-1761, MCA:

Ms. Maire O'Neill, Bozeman, Montana, appointed for a term ending March 27, 2010.

(2) As members of the Board of Dentistry, in accordance with section 2-15-1732, MCA:

Mr. James Madison, Jefferson City, Montana, for a term ending March 29, 2012.

Ms. Carol Price, Clancy, Montana, for a term ending March 29, 2012.

Mr. Cliff Christenot, Libby, Montana, for a term ending March 29, 2012.

Dr. David Johnson, Great Falls, Montana, for a term ending March 29, 2012.

(3) As a member of the Board of Hail Insurance, in accordance with section 2-15-3003, MCA:

Mr. Jim Schillinger, Baker, Montana, for a term ending April 18, 2010.

(4) As members of the Montana Arts Council, in accordance with section 22-2-102, MCA:

Ms. Cindy Andrus, Bozeman, Montana, for a term ending February 1, 2012.

Ms. Judy Ulrich, Dillon, Montana, for a term ending February 1, 2012.

Mr. Rick Newby, Helena, Montana, for a term ending February 1, 2012.

Ms. Ellen Ornitz, Manhattan, Montana, for a term ending February 1, 2012.

Mr. Marshall Friedman, Whitefish, Montana, for a term ending February 1, 2012.

(5) As members of the Board of Oil and Gas Conservation, in accordance with section 2-15-3303, MCA:

Mr. Ronald Efta, Wibaux, Montana, for a term ending January 1, 2011.

Mr. Jack King, Billings, Montana, for a term ending January 1, 2011.

Mr. Bret Smelser, Sidney, Montana, for a term ending January 1, 2011.

(6) As members of the Board of Pardons and Parole, in accordance with section 2-15-2302, MCA:

Mr. Michael McKee, Helena, Montana, for a term ending January 1, 2011.

Mr. John Rex, Miles City, Montana, for a term ending January 1, 2011.

(7) As members of the Board of Physical Therapy Examiners, in accordance with section 2-15-1748, MCA:

Ms. Kim Miller, Virginia City, Montana, for a term ending July 1, 2009.

Ms. Patti Jo Lane, Great Falls, Montana, for a term ending July 1, 2009.

(8) As a member of the Board of Private Security Patrol Officers and Investigators, in accordance with section 2-15-1781, MCA:

Lt. Bryan Lockerby, Great Falls, Montana, for a term ending August 1, 2009.

(9) As a member of the Board of Public Assistance, in accordance with section 2-15-2203, MCA:

Ms. Helen Barta Schmitt, Sidney, Montana, for a term ending January 1, 2011.

(10) As a member of the Public Employees' Retirement Board, in accordance with section 2-15-1009, MCA:

Mr. John Nielsen, Glendive, Montana, for a term ending April 1, 2012.

(11) As a member of the Board of Regents, in accordance with section 2-15-1508, MCA:

Ms. Kerra Melvin, Butte, Montana, for a term ending June 30, 2008.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 60th 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, 2007

2006 BALLOT ISSUES

Approved by Voters in the
November 2006 General Election

INITIATIVE NO. 151

A LAW PROPOSED BY INITIATIVE PETITION

This measure raises the state minimum wage to the greater of either $6.15 an hour or the federal minimum wage. This measure also adds an annual cost-of-living adjustment to the state minimum wage. Under existing law, the state minimum wage is equal to the federal minimum wage, which is $5.15 an hour with no cost of-living adjustment. This measure does not change the $4.00 an hour minimum wage for a business whose annual gross sales are $110,000 or less. This measure would take effect January 1, 2007.

This measure would have no significant impact on the revenues, expenditures, or the fiscal liability of the state.

The text of the initiative follows:

Section 1. Section 39-3-409 MCA is amended to read:

"39-3-409. Adoption of minimum wage rates — exception.

(1) The ~~commissioner shall adopt rules to establish a~~ minimum wage ~~that~~, except as provided in subsection ~~(2)~~ (3), must be the ~~same~~ greater of either:

(a) the minimum hourly wage rate as provided under the federal Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)), excluding the value of tips received by the employee and the special provisions for a training wage~~.~~; or

(b) $6.15 an hour, excluding the value of tips received by the employee and the special provisions for a training wage.

(2) (a) The minimum wage is subject to a cost-of-living adjustment, as provided in subsection (2)(b).

(b) No later than September 30 of each year, an adjustment of the wage amount specified in subsection (1) of this section shall be made based upon the increase, if any, from August of the preceding year to August of the year in which the calculation is made in the consumer price index, U.S. city average, all urban consumers, for all items, as published by the bureau of labor statistics of the United States department of labor.

(c) The wage amount established under this subsection (2):

(i) must be rounded to the nearest five cents; and

(ii) becomes effective as the new minimum wage, replacing the dollar figure specified in subsection (1), on January 1 of the following year.

~~(2)~~(3) The minimum wage rate for a business whose annual gross sales are $110,000 or less is $4 an hour."

Section 2. Effective Date. [This act] is effective on January 1, 2007.

Initiative No. 151 was approved by the following vote at the General Election held November 3, 2006:

For:	285,535
Against:	107,294

INITIATIVE NO. 153

A LAW PROPOSED BY INITIATIVE PETITION

This measure prohibits former state legislators, appointed officials, department directors, elected officials and their personal staff, from becoming licensed lobbyists within 24 months after departure from state government.

The text of the initiative follows:

BE IT ENACTED BY THE PEOPLE OF THE STATE OF MONTANA

NEW SECTION. **Section 1. Prohibition of lobbying by former government personnel.** (1) An individual may not be licensed as a lobbyist and a principal may not directly authorize or permit lobbying by an individual, if during the 24 months prior to applying for a license that individual served as a state legislator, elected state official, department director, appointed state official, or a member of a certain personal staff, as defined by 2-18-101, MCA.

(2) The prohibition in subsection (1) does not apply to an individual who seeks a license to serve as a lobbyist as part of the individual's responsibilities as an employee of state or local government.

NEW SECTION. **Section 2. Codification.** Section 1 is intended to be codified as an integral part of Title 5, chapter 7, part 3, and the provisions of Title 5, chapter 7, apply to section 1.

NEW SECTION. **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.

Initiative No. 153 was approved by the following vote at the General Election held November 7, 2006:

For:	288,098
Against:	93,291

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TABLES

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).

Title-Chapter-Section	Action	Chapter	Bill Number
1-1-107	amended	Ch. 61	SB 40
1-1-201	amended	Ch. 61	SB 40
1-1-202	amended	Ch. 61	SB 40
1-1-203	amended	Ch. 61	SB 40
1-1-204	amended	Ch. 61	SB 40
1-1-215	amended	Ch. 442	SB 49
1-1-217	amended	Ch. 61	SB 40
1-1-219	amended	Ch. 61	SB 40
1-1-224	amended	Ch. 61	SB 40
1-1-226	amended	Ch. 61	SB 40
1-1-227	enacted	Ch. 477	SB 538
1-1-512	amended	Ch. 61	SB 40
1-1-515	amended	Ch. 61	SB 40
1-1-516	amended	Ch. 61	SB 40
1-1-530	enacted	Ch. 243	HB 594
1-3-203	amended	Ch. 61	SB 40
1-3-204	amended	Ch. 61	SB 40
1-3-205	amended	Ch. 61	SB 40
1-3-206	amended	Ch. 61	SB 40
1-3-208	amended	Ch. 61	SB 40
1-3-209	amended	Ch. 61	SB 40
1-3-210	amended	Ch. 61	SB 40
1-3-212	amended	Ch. 61	SB 40
1-3-217	amended	Ch. 61	SB 40
1-3-220	amended	Ch. 61	SB 40
1-3-234	amended	Ch. 61	SB 40
1-4-102	amended	Ch. 61	SB 40
1-5-302	amended	Ch. 61	SB 40
1-5-303	amended	Ch. 61	SB 40
1-5-305	amended	Ch. 61	SB 40
1-5-406	amended	Ch. 61	SB 40
1-5-407	amended	Ch. 61	SB 40
1-5-419	amended	Ch. 61	SB 40
1-5-420	amended	Ch. 61	SB 40
1-6-102	amended	Ch. 61	SB 40
1-6-104	amended	Ch. 61	SB 40
1-11-301	amended	Ch. 95	HB 132
2-1-302	amended	Ch. 61	SB 40
2-2-205	amended	Ch. 61	SB 40
2-2-207	amended	Ch. 61	SB 40
2-2-304	amended	Ch. 61	SB 40
2-3-105	amended	Ch. 61	SB 40
2-3-114	amended	Ch. 211	SB 177
2-3-213	amended	Ch. 211	SB 177
2-3-221	amended	Ch. 61	SB 40
2-4-104	amended	Ch. 61	SB 40
2-4-202	amended	Ch. 61	SB 40
	amended	Ch. 88	HB 70
2-4-302	amended	Ch. 88	HB 70
	amended	Ch. 207	SB 47
	amended	Ch. 394	SB 71

2-4-306	amended	Ch.	87	HB	67
	amended	Ch.	337	SB	175
2-4-312	amended	Ch.	88	HB	70
2-4-313	amended	Ch.	88	HB	70
2-4-403	amended	Ch.	87	HB	67
2-4-404	amended	Ch.	87	HB	67
2-4-405	amended	Ch.	189	SB	466
2-4-506	amended	Ch.	61	SB	40
2-4-604	amended	Ch.	61	SB	40
2-4-613	amended	Ch.	61	SB	40
2-4-621	amended	Ch.	61	SB	40
2-6-106	amended	Ch.	61	SB	40
2-6-108	amended	Ch.	61	SB	40
2-6-109	amended	Ch.	149	SB	485
2-6-110	amended	Ch.	81	HB	13
2-6-111	amended	Ch.	61	SB	40
2-6-303	amended	Ch.	61	SB	40
2-6-304	amended	Ch.	61	SB	40
2-7-103	amended	Ch.	61	SB	40
2-7-501	amended	Ch.	449	SB	130
2-7-503	amended	Ch.	272	HB	487
2-7-511	amended	Ch.	61	SB	40
2-8-105	amended	Ch.	61	SB	40
2-8-401	enacted	Ch.	64	SB	53
2-8-402	enacted	Ch.	64	SB	53
2-8-403	enacted	Ch.	64	SB	53
2-8-404	enacted	Ch.	64	SB	53
2-8-405	enacted	Ch.	64	SB	53
2-9-101	amended	Ch.	61	SB	40
2-9-103	amended	Ch.	61	SB	40
2-9-112	amended	Ch.	61	SB	40
2-9-305	amended	Ch.	61	SB	40
2-9-314	amended	Ch.	61	SB	40
2-9-504	amended	Ch.	61	SB	40
2-9-507	amended	Ch.	61	SB	40
2-9-511	amended	Ch.	61	SB	40
2-9-512	amended	Ch.	61	SB	40
2-9-513	amended	Ch.	61	SB	40
2-9-514	amended	Ch.	61	SB	40
2-9-515	amended	Ch.	61	SB	40
2-9-516	amended	Ch.	61	SB	40
2-9-523	amended	Ch.	61	SB	40
2-9-524	amended	Ch.	61	SB	40
2-9-527	amended	Ch.	61	SB	40
2-9-528	amended	Ch.	61	SB	40
2-15-111	amended	Ch.	61	SB	40
2-15-122	amended	Ch.	61	SB	40
	amended	Ch.	66	SB	62
2-15-124	amended	Ch.	61	SB	40
2-15-131	amended	Ch.	61	SB	40
	amended	Ch.	81	HB	13
2-15-132	amended	Ch.	61	SB	40
2-15-143	amended	Ch.	124	HB	105
2-15-201	amended	Ch.	61	SB	40
2-15-221	amended	Ch.	61	SB	40
2-15-246	amended and renumbered 2-15-2511	Ch.	248	HB	26
2-15-302	amended	Ch.	61	SB	40
2-15-502	amended	Ch.	61	SB	40
2-15-602	amended	Ch.	61	SB	40
2-15-1009	amended	Ch.	68	SB	72
2-15-1202	amended	Ch.	61	SB	40
2-15-1203	amended	Ch.	61	SB	40
2-15-1205	amended	Ch.	78	SB	136

2-17-414	amended	Ch. 100	HB 176
2-17-415	enacted	Ch. 470	SB 449
2-17-416	enacted	Ch. 470	SB 449
2-17-417	enacted	Ch. 470	SB 449
2-17-418	enacted	Ch. 470	SB 449
2-17-518	amended	Ch. 72	SB 82
2-17-802	amended	Ch. 215	SB 285
2-17-807	amended	Ch. 216	SB 286
2-17-808	amended	Ch. 13	SB 101
2-17-816	amended	Ch. 61	SB 40
2-18-101	amended	Ch. 81	HB 13
2-18-106	amended	Ch. 61	SB 40
2-18-107	amended	Ch. 61	SB 40
2-18-201	amended	Ch. 81	HB 13
2-18-202	amended	Ch. 81	HB 13
2-18-203	amended	Ch. 81	HB 13
2-18-204	amended	Ch. 81	HB 13
2-18-205	repealed	Ch. 81	HB 13
2-18-206	amended	Ch. 81	HB 13
2-18-207	amended	Ch. 81	HB 13
2-18-301	amended	Ch. 81	HB 13
2-18-303	amended	Ch. 81	HB 13
2-18-304	amended	Ch. 81	HB 13
2-18-312	repealed	Ch. 81	HB 13
2-18-411	amended	Ch. 46	HB 43
2-18-503	amended	Ch. 40	SB 10
2-18-512	amended	Ch. 61	SB 40
2-18-601	amended	Ch. 503	SB 168
2-18-612	amended	Ch. 61	SB 40
2-18-616	amended	Ch. 61	SB 40
2-18-617	amended	Ch. 47	HB 62
	amended	Ch. 503	SB 168
2-18-618	amended	Ch. 47	HB 62
2-18-619	amended	Ch. 61	SB 40
2-18-621	amended	Ch. 61	SB 40
	amended	Ch. 341	SB 219
2-18-701	amended	Ch. 356	SB 419
2-18-703	amended	Ch. 81	HB 13
2-18-704	amended	Ch. 356	SB 419
	amended	Ch. 390	HB 687
	amended	Ch. 463	SB 387
2-18-811	amended	Ch. 127	HB 124
2-18-902	amended	Ch. 61	SB 40
2-18-1001	amended	Ch. 61	SB 40
2-18-1011	amended	Ch. 61	SB 40
	amended	Ch. 81	HB 13
2-18-1204	amended	Ch. 81	HB 13
2-18-1311	amended	Ch. 503	SB 168
2-20-101	repealed	Ch. 130	HB 177
2-20-102	repealed	Ch. 130	HB 177
2-20-103	repealed	Ch. 130	HB 177
2-20-104	repealed	Ch. 130	HB 177
2-20-105	repealed	Ch. 130	HB 177
2-20-106	repealed	Ch. 130	HB 177
2-20-107	repealed	Ch. 130	HB 177
2-20-108	repealed	Ch. 130	HB 177
2-20-109	repealed	Ch. 130	HB 177
2-20-110	repealed	Ch. 130	HB 177
2-20-111	repealed	Ch. 130	HB 177
3-1-102	amended	Ch. 428	SB 523
3-1-402	amended	Ch. 61	SB 40
3-1-404	amended	Ch. 61	SB 40
3-1-405	amended	Ch. 61	SB 40

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7-13-2345 . . . . . amended . . . . . Ch. 61 . . . . . SB 40
7-13-2505 . . . . . amended . . . . . Ch. 61 . . . . . SB 40
7-13-4107 . . . . . amended . . . . . Ch. 61 . . . . . SB 40
7-14-112 . . . . . amended . . . . . Ch. 209 . . . . . SB 160
7-14-205 . . . . . amended . . . . . Ch. 61 . . . . . SB 40
7-14-1103 . . . . . amended . . . . . Ch. 61 . . . . . SB 40
7-14-2101 . . . . . amended . . . . . Ch. 342 . . . . . SB 251
7-14-2121 . . . . . amended . . . . . Ch. 61 . . . . . SB 40
7-14-2122 . . . . . amended . . . . . Ch. 61 . . . . . SB 40
7-14-2135 . . . . . amended . . . . . Ch. 61 . . . . . SB 40
7-14-2137 . . . . . amended . . . . . Ch. 61 . . . . . SB 40
7-14-2201 . . . . . amended . . . . . Ch. 61 . . . . . SB 40
7-14-2205 . . . . . repealed . . . . . Ch. 171 . . . . . HB 253
7-14-2302 . . . . . amended . . . . . Ch. 61 . . . . . SB 40
7-14-2303 . . . . . amended . . . . . Ch. 61 . . . . . SB 40
7-14-2306 . . . . . amended . . . . . Ch. 61 . . . . . SB 40
7-14-2308 . . . . . amended . . . . . Ch. 61 . . . . . SB 40
7-14-2506 . . . . . amended . . . . . Ch. 380 . . . . . HB 426
7-14-2507. . . . . enacted . . . . . Ch. 350 . . . . . SB 308
7-14-2524 . . . . . amended . . . . . Ch. 187 . . . . . SB 245
7-14-2525 . . . . . amended . . . . . Ch. 187 . . . . . SB 245
7-14-2606 . . . . . amended . . . . . Ch. 61 . . . . . SB 40
7-14-2607 . . . . . amended . . . . . Ch. 61 . . . . . SB 40
7-14-2613 . . . . . amended . . . . . Ch. 61 . . . . . SB 40
7-14-2705 . . . . . amended . . . . . Ch. 61 . . . . . SB 40
7-14-2707 . . . . . amended . . . . . Ch. 61 . . . . . SB 40
7-14-2708 . . . . . amended . . . . . Ch. 61 . . . . . SB 40
7-14-2709 . . . . . amended . . . . . Ch. 61 . . . . . SB 40
7-14-2712 . . . . . amended . . . . . Ch. 61 . . . . . SB 40
7-14-2719 . . . . . amended . . . . . Ch. 61 . . . . . SB 40
7-14-2720 . . . . . amended . . . . . Ch. 61 . . . . . SB 40
7-14-2721 . . . . . amended . . . . . Ch. 61 . . . . . SB 40
7-14-2753 . . . . . amended . . . . . Ch. 61 . . . . . SB 40
7-14-2756 . . . . . amended . . . . . Ch. 61 . . . . . SB 40

7-14-2761	amended	Ch.	61	SB	40
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7-14-2805	amended	Ch.	61	SB	40
7-14-2823	amended	Ch.	61	SB	40
7-14-2826	amended	Ch.	61	SB	40
7-14-2827	amended	Ch.	61	SB	40
7-14-2828	amended	Ch.	61	SB	40
7-14-4110	amended	Ch.	159	HB	596
7-14-4201	amended	Ch.	61	SB	40
7-14-4203	amended	Ch.	61	SB	40
7-14-4301	amended	Ch.	61	SB	40
7-14-4612	amended	Ch.	61	SB	40
7-14-4631	amended	Ch.	44	SB	39
7-14-4665	amended	Ch.	61	SB	40
7-14-4717	amended	Ch.	61	SB	40
7-14-4718	amended	Ch.	61	SB	40
7-14-4721	amended	Ch.	61	SB	40
7-15-2107	amended	Ch.	61	SB	40
7-15-2108	amended	Ch.	61	SB	40
7-15-4204	amended	Ch.	441	SB	41
7-15-4206	amended	Ch.	441	SB	41
7-15-4221	amended	Ch.	61	SB	40
7-15-4234	amended	Ch.	61	SB	40
7-15-4239	amended	Ch.	61	SB	40
7-15-4258	amended	Ch.	441	SB	41
7-15-4259	amended	Ch.	441	SB	41
	amended	Ch.	512	SB	363
7-15-4264	amended	Ch.	61	SB	40
7-15-4296	amended	Ch.	44	SB	39
7-15-4299	amended	Ch.	44	SB	39
7-15-4402	amended	Ch.	61	SB	40
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7-15-4439	amended	Ch.	61	SB	40
7-15-4528	amended	Ch.	61	SB	40
7-15-4530	amended	Ch.	61	SB	40
7-16-2201	amended	Ch.	217	SB	299
7-16-2205	amended (voided by sec. 13, Ch. 505)	Ch.	217	SB	299
	amended	Ch.	505	SB	233
7-16-2211	enacted	Ch.	505	SB	233
7-16-2212	enacted	Ch.	505	SB	233
7-16-2213	enacted	Ch.	505	SB	233
7-16-2214	enacted	Ch.	505	SB	233
7-16-2215	enacted	Ch.	505	SB	233
7-16-2216	enacted	Ch.	505	SB	233
7-16-2217	enacted	Ch.	505	SB	233
7-16-2218	enacted	Ch.	505	SB	233
7-16-2219	enacted	Ch.	505	SB	233
7-16-2312	amended	Ch.	61	SB	40
7-16-2325	amended	Ch.	61	SB	40
7-16-2330	amended	Ch.	61	SB	40
7-16-2331	amended	Ch.	61	SB	40
7-21-2102	amended	Ch.	61	SB	40
7-21-2103	amended	Ch.	61	SB	40
7-21-2111	amended	Ch.	61	SB	40
7-21-2115	amended	Ch.	61	SB	40
7-21-2117	amended	Ch.	61	SB	40
7-21-2120	amended	Ch.	61	SB	40
7-21-2305	amended	Ch.	61	SB	40
7-21-2306	amended	Ch.	61	SB	40

7-21-2307	amended	Ch.	61	SB 40
7-21-2308	amended	Ch.	61	SB 40
7-21-2309	amended	Ch.	61	SB 40
7-21-2401	amended	Ch.	61	SB 40
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7-21-2410	amended	Ch.	61	SB 40
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7-21-2505	amended	Ch.	61	SB 40
7-21-2506	amended	Ch.	61	SB 40
7-21-2507	amended	Ch.	61	SB 40
7-21-3104	amended	Ch.	61	SB 40
7-21-3105	amended	Ch.	61	SB 40
7-21-3106	amended	Ch.	61	SB 40
7-21-3107	amended	Ch.	61	SB 40
7-21-3108	amended	Ch.	61	SB 40
7-21-3211	amended	Ch.	61	SB 40
7-21-3212	amended	Ch.	61	SB 40
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7-21-3303	amended	Ch.	61	SB 40
7-21-3307	amended	Ch.	61	SB 40
7-21-3435	amended	Ch.	61	SB 40
7-21-3453	amended	Ch.	61	SB 40
7-22-2116	amended	Ch.	313	HB 269
7-22-2126	amended	Ch.	313	HB 269
7-22-2142	amended	Ch.	313	HB 269
7-22-2149	repealed	Ch.	313	HB 269
7-22-2151	amended	Ch.	313	HB 269
7-22-2214	amended	Ch.	61	SB 40
7-22-2225	amended	Ch.	61	SB 40
7-22-2401	amended	Ch.	61	SB 40
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7-22-2434	amended	Ch.	61	SB 40
7-23-101	amended	Ch.	61	SB 40
7-23-102	amended	Ch.	61	SB 40
7-31-112	amended	Ch.	61	SB 40
7-31-201	amended	Ch.	506	SB 273
7-31-202	amended	Ch.	61	SB 40
	amended	Ch.	506	SB 273
7-31-203	amended	Ch.	506	SB 273
7-31-2101	amended	Ch.	61	SB 40
7-31-4102	amended	Ch.	61	SB 40
7-31-4206	amended	Ch.	61	SB 40
7-32-102	amended	Ch.	61	SB 40
7-32-103	amended	Ch.	244	HB 636
7-32-108	amended	Ch.	61	SB 40
7-32-110	amended	Ch.	61	SB 40
7-32-115	amended	Ch.	61	SB 40
7-32-122	amended	Ch.	61	SB 40
7-32-123	amended	Ch.	61	SB 40
7-32-124	amended	Ch.	61	SB 40
7-32-125	amended	Ch.	61	SB 40
7-32-126	amended	Ch.	61	SB 40
7-32-127	amended	Ch.	61	SB 40
7-32-128	amended	Ch.	61	SB 40
7-32-201	amended	Ch.	506	SB 273
7-32-213	amended	Ch.	61	SB 40
7-32-214	amended	Ch.	506	SB 273
7-32-235	amended	Ch.	186	SB 203
7-32-301	amended	Ch.	61	SB 40
7-32-302	amended	Ch.	61	SB 40
7-32-303	amended	Ch.	506	SB 273

7-32-2101	amended	Ch.	61	SB	40
7-32-2104	amended	Ch.	61	SB	40
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7-32-2108	amended	Ch.	61	SB	40
7-32-2121	amended	Ch.	61	SB	40
7-32-2124	amended	Ch.	61	SB	40
7-32-2125	amended	Ch.	61	SB	40
7-32-2127	amended	Ch.	61	SB	40
7-32-2129	amended	Ch.	61	SB	40
7-32-2130	amended	Ch.	61	SB	40
7-32-2131	amended	Ch.	61	SB	40
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7-32-2202	amended	Ch.	61	SB	40
7-32-2207	amended	Ch.	61	SB	40
7-32-2208	amended	Ch.	61	SB	40
7-32-2211	amended	Ch.	61	SB	40
7-32-2234	amended	Ch.	61	SB	40
7-32-2246	amended	Ch.	61	SB	40
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7-32-4106	amended	Ch.	61	SB	40
7-32-4107	amended	Ch.	61	SB	40
7-32-4108	amended	Ch.	61	SB	40
7-32-4109	amended	Ch.	61	SB	40
7-32-4110	amended	Ch.	61	SB	40
7-32-4111	amended	Ch.	61	SB	40
7-32-4112	amended	Ch.	506	SB	273
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7-32-4136	amended	Ch.	61	SB	40
7-32-4137	amended	Ch.	61	SB	40
7-32-4155	amended	Ch.	61	SB	40
7-32-4159	amended	Ch.	61	SB	40
7-33-2001	enacted	Ch.	167	HB	112
7-33-2101	amended	Ch.	499	SB	103
7-33-2102	amended	Ch.	499	SB	103
7-33-2103	amended	Ch.	499	SB	103
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7-33-2105	amended	Ch.	499	SB	103
7-33-2106	amended	Ch.	499	SB	103
7-33-2107	amended	Ch.	499	SB	103
7-33-2108	amended	Ch.	292	SB	102
7-33-2109	amended	Ch.	485	HB	337
	amended	Ch.	499	SB	103
7-33-2120	amended	Ch.	499	SB	103
7-33-2121	amended and renumbered 7-33-2141	Ch.	499	SB	103
7-33-2122	repealed	Ch.	499	SB	103
7-33-2123	amended and renumbered 7-33-2143	Ch.	499	SB	103
7-33-2124	amended and renumbered 7-33-2144	Ch.	499	SB	103
7-33-2125	amended	Ch.	499	SB	103
7-33-2126	amended	Ch.	499	SB	103
7-33-2127	amended	Ch.	61	SB	40
	amended	Ch.	499	SB	103
7-33-2128	amended	Ch.	499	SB	103
7-33-2141	formerly 7-33-2121	Ch.	499	SB	103
7-33-2142	enacted	Ch.	499	SB	103
7-33-2143	formerly 7-33-2123	Ch.	499	SB	103
7-33-2144	formerly 7-33-2124	Ch.	499	SB	103

7-33-2202	amended	Ch. 292	SB	102
	amended	Ch. 499	SB	103
7-33-2204	repealed	Ch. 499	SB	103
7-33-2205	amended	Ch. 499	SB	103
7-33-2206	amended	Ch. 499	SB	103
7-33-2207	repealed	Ch. 499	SB	103
7-33-2209	amended	Ch. 485	HB	337
7-33-2210	amended	Ch. 499	SB	103
7-33-2212	enacted	Ch. 450	SB	147
7-33-2311	amended	Ch. 499	SB	103
7-33-2312	amended	Ch. 61	SB	40
7-33-2313	repealed	Ch. 167	HB	112
	amended	Ch. 499	SB	103
7-33-2315	amended	Ch. 61	SB	40
7-33-2401	amended	Ch. 499	SB	103
7-33-2403	amended	Ch. 485	HB	337
7-33-2404	amended	Ch. 467	SB	436
7-33-2405	amended	Ch. 292	SB	102
7-33-4104	amended	Ch. 61	SB	40
7-33-4109	amended	Ch. 485	HB	337
7-33-4111	amended	Ch. 485	HB	337
7-33-4112	amended	Ch. 292	SB	102
7-33-4124	amended	Ch. 61	SB	40
	amended	Ch. 281	HB	690
7-33-4125	amended	Ch. 61	SB	40
7-33-4133	amended	Ch. 61	SB	40
7-33-4501	enacted	Ch. 464	SB	404
7-34-2104	amended	Ch. 61	SB	40
7-34-2105	amended	Ch. 61	SB	40
7-34-2106	amended	Ch. 61	SB	40
7-34-2118	amended	Ch. 61	SB	40
7-35-2103	amended	Ch. 61	SB	40
7-35-2133	amended	Ch. 61	SB	40
7-35-2139	amended	Ch. 61	SB	40
7-35-2141	amended	Ch. 61	SB	40
7-35-2144	amended	Ch. 61	SB	40
7-35-2205	enacted	Ch. 112	SB	21
10-1-101	amended	Ch. 347	SB	295
10-1-104	amended	Ch. 26	HB	46
10-1-501	amended	Ch. 176	HB	532
10-1-502	amended	Ch. 176	HB	532
10-1-505	enacted	Ch. 176	HB	532
10-1-1111	enacted	Ch. 373	HB	155
10-1-1112	enacted	Ch. 373	HB	155
10-1-1113	enacted	Ch. 373	HB	155
10-1-1114	enacted	Ch. 373	HB	155
10-1-1201	enacted	Ch. 308	HB	136
10-1-1202	enacted	Ch. 308	HB	136
10-1-1301	enacted	Ch. 311	HB	179
10-1-1302	enacted	Ch. 311	HB	179
10-1-1303	enacted	Ch. 311	HB	179
10-1-1304	enacted	Ch. 311	HB	179
10-1-1305	enacted	Ch. 311	HB	179
10-1-1306	enacted	Ch. 311	HB	179
10-1-1307	enacted	Ch. 311	HB	179
10-1-1308	enacted	Ch. 311	HB	179
10-1-1309	enacted	Ch. 311	HB	179
10-1-1310	enacted	Ch. 311	HB	179
10-1-1401	enacted	Ch. 347	SB	295
10-1-1402	enacted	Ch. 347	SB	295
10-1-1403	enacted	Ch. 347	SB	295
10-2-102	amended	Ch. 181	HB	803
10-2-601	amended	Ch. 370	HB	96

10-3-114	enacted	Ch. 459	SB 309
10-3-202	amended	Ch. 292	SB 102
10-3-209	amended	Ch. 292	SB 102
10-3-312	amended	Ch. 182	SB 60
10-3-406	amended	Ch. 450	SB 147
10-3-801	amended	Ch. 332	HB 759
10-3-903	amended	Ch. 43	SB 35
10-3-1102	amended	Ch. 292	SB 102
10-3-1103	amended	Ch. 292	SB 102
10-3-1204	amended	Ch. 44	SB 39
	amended	Ch. 67	SB 70
10-4-101	amended	Ch. 304	HB 27
10-4-102	amended	Ch. 304	HB 27
10-4-114	amended	Ch. 304	HB 27
10-4-115	enacted	Ch. 304	HB 27
10-4-201	amended	Ch. 304	HB 27
10-4-301	amended	Ch. 304	HB 27
10-4-313	enacted	Ch. 304	HB 27
13-1-101	amended	Ch. 273	HB 520
	amended	Ch. 481	SB 96
13-1-106	amended	Ch. 360	SB 517
13-1-108	amended	Ch. 273	HB 520
13-1-111	amended	Ch. 273	HB 520
13-1-202	amended	Ch. 44	SB 39
	amended	Ch. 273	HB 520
13-2-304	amended	Ch. 273	HB 520
13-3-202	amended	Ch. 228	SB 502
13-3-203	repealed	Ch. 228	SB 502
13-3-204	repealed	Ch. 228	SB 502
13-3-205	amended	Ch. 228	SB 502
13-3-206	amended	Ch. 228	SB 502
13-3-207	amended	Ch. 228	SB 502
13-3-212	amended	Ch. 228	SB 502
13-3-213	amended	Ch. 228	SB 502
13-10-201	amended	Ch. 96	HB 140
13-10-204	amended	Ch. 273	HB 520
13-10-209	amended	Ch. 273	HB 520
13-10-211	amended	Ch. 191	HB 242
	amended	Ch. 273	HB 520
	amended	Ch. 338	SB 181
13-10-301	amended	Ch. 273	HB 520
13-10-311	amended	Ch. 273	HB 520
13-10-326	amended	Ch. 273	HB 520
13-10-503	amended (voided by sec. 2, Ch. 458)	Ch. 273	HB 520
	amended	Ch. 458	SB 270
13-10-601	amended	Ch. 273	HB 520
13-12-205	amended	Ch. 273	HB 520
13-12-207	amended	Ch. 273	HB 520
13-13-117	amended	Ch. 273	HB 520
13-13-201	amended	Ch. 273	HB 520
13-13-203	repealed	Ch. 273	HB 520
13-13-205	amended	Ch. 273	HB 520
13-13-212	amended	Ch. 221	SB 374
	amended	Ch. 358	SB 443
13-13-213	amended	Ch. 273	HB 520
13-13-214	amended	Ch. 273	HB 520
13-13-241	amended	Ch. 273	HB 520
13-15-107	amended	Ch. 273	HB 520
13-15-201	amended	Ch. 273	HB 520
13-15-206	amended	Ch. 273	HB 520
13-15-209	amended	Ch. 273	HB 520
13-15-301	amended	Ch. 273	HB 520
13-16-414	repealed	Ch. 273	HB 520

13-17-103	amended	Ch. 273	HB 520
13-17-206	repealed	Ch. 273	HB 520
13-17-211	amended	Ch. 273	HB 520
13-17-212	amended	Ch. 273	HB 520
13-17-305	repealed	Ch. 273	HB 520
13-21-103	amended	Ch. 157	HB 570
13-21-201	amended	Ch. 157	HB 570
13-21-202	amended	Ch. 157	HB 570
13-21-204	repealed	Ch. 157	HB 570
13-21-205	amended	Ch. 157	HB 570
13-21-206	amended	Ch. 157	HB 570
13-21-210	amended	Ch. 157	HB 570
	amended	Ch. 221	SB 374
13-22-102	amended	Ch. 481	SB 96
13-25-101	amended	Ch. 273	HB 520
13-27-102	amended	Ch. 481	SB 96
13-27-201	amended	Ch. 481	SB 96
13-27-202	amended	Ch. 481	SB 96
13-27-204	amended	Ch. 481	SB 96
13-27-205	amended	Ch. 481	SB 96
13-27-207	amended	Ch. 481	SB 96
13-27-208	amended	Ch. 481	SB 96
13-27-209	enacted	Ch. 481	SB 96
13-27-210	enacted	Ch. 481	SB 96
13-27-302	amended	Ch. 481	SB 96
13-27-310	repealed	Ch. 481	SB 96
13-27-312	amended	Ch. 481	SB 96
13-27-313	repealed	Ch. 481	SB 96
13-27-315	amended	Ch. 481	SB 96
13-27-316	amended	Ch. 481	SB 96
13-27-317	enacted	Ch. 481	SB 96
13-27-401	amended	Ch. 273	HB 520
13-27-402	amended	Ch. 481	SB 96
13-27-403	amended	Ch. 481	SB 96
13-27-409	amended	Ch. 481	SB 96
13-27-501	amended	Ch. 481	SB 96
13-35-207	amended	Ch. 481	SB 96
13-35-240	enacted	Ch. 407	SB 253
13-35-401	enacted	Ch. 508	SB 279
13-35-402	enacted	Ch. 508	SB 279
13-35-403	enacted	Ch. 508	SB 279
13-37-106	amended	Ch. 81	HB 13
13-37-111	amended	Ch. 407	SB 253
13-37-113	amended	Ch. 407	SB 253
13-37-124	amended	Ch. 407	SB 253
13-37-128	amended	Ch. 508	SB 279
13-37-210	amended	Ch. 481	SB 96
13-37-216	amended	Ch. 328	HB 706
13-37-226	amended	Ch. 481	SB 96
13-37-228	amended	Ch. 481	SB 96
13-37-240	amended	Ch. 487	HB 462
13-37-401	enacted	Ch. 487	HB 462
13-37-402	enacted	Ch. 487	HB 462
15-1-106	enacted	Ch. 70	SB 76
15-1-108	enacted	Ch. 447	SB 121
15-1-109	enacted	Ch. 447	SB 121
15-1-110	enacted	Ch. 447	SB 121
15-1-113	repealed	Ch. 121	HB 22
15-1-121	amended	Ch. 210	SB 169
15-1-122	amended	Ch. 329	HB 737
15-1-216	amended	Ch. 319	HB 473
15-1-218	enacted	Ch. 327	HB 680
15-1-222	amended	Ch. 376	HB 257

15-1-223	amended	Ch. 376	HB 257
15-1-232	amended	Ch. 420	SB 413
15-1-501	repealed	Ch. 475	SB 525
15-2-102	amended	Ch. 44	SB 39
	amended	Ch. 81	HB 13
15-6-135	amended	Ch. 100	HB 176
15-6-211	amended	Ch. 418	SB 403
15-7-202	amended	Ch. 478	SB 549
	amended	Ch. 510	SB 316
15-7-308	amended	Ch. 366	HB 39
15-10-420	amended	Ch. 521	SB 550
15-10-425	amended	Ch. 170	HB 206
15-16-101	amended	Ch. 110	HB 623
15-16-701	amended	Ch. 316	HB 362
15-16-702	amended	Ch. 316	HB 362
15-17-121	amended	Ch. 110	HB 623
15-17-122	amended	Ch. 110	HB 623
15-17-124	amended	Ch. 110	HB 623
15-17-131	amended	Ch. 110	HB 623
15-17-211	amended	Ch. 110	HB 623
15-17-212	amended	Ch. 110	HB 623
15-17-213	amended	Ch. 110	HB 623
15-17-214	amended	Ch. 110	HB 623
15-17-317	amended	Ch. 110	HB 623
15-17-321	amended	Ch. 110	HB 623
15-17-323	amended	Ch. 110	HB 623
15-17-324	amended	Ch. 110	HB 623
15-17-325	amended	Ch. 110	HB 623
15-17-326	amended	Ch. 110	HB 623
15-18-111	amended	Ch. 110	HB 623
15-18-113	amended	Ch. 110	HB 623
15-18-114	amended	Ch. 110	HB 623
15-18-211	amended	Ch. 110	HB 623
15-18-212	amended	Ch. 7	HB 470
	amended	Ch. 110	HB 623
15-18-213	amended	Ch. 110	HB 623
15-18-214	amended	Ch. 110	HB 623
15-18-215	amended	Ch. 110	HB 623
15-18-217	amended	Ch. 7	HB 470
	amended	Ch. 110	HB 623
15-18-218	amended	Ch. 110	HB 623
15-30-111	amended	Ch. 509	SB 281
15-30-116	amended	Ch. 308	HB 136
	amended	Ch. 373	HB 155
15-30-165	amended	Ch. 208	SB 150
15-30-188	repealed 12/31/2010	Ch. 361	SB 553
15-30-189	amended	Ch. 361	SB 553
	repealed 12/31/2010	Ch. 361	SB 553
15-30-190	repealed 12/31/2010	Ch. 361	SB 553
15-30-191	repealed 12/31/2010	Ch. 361	SB 553
15-30-193	enacted	Ch. 311	HB 179
15-30-194	enacted	Ch. 320	HB 490
15-30-196	enacted	Ch. 375	HB 240
15-30-261	enacted	Ch. 468	SB 439
15-30-262	enacted	Ch. 468	SB 439
15-30-263	enacted	Ch. 468	SB 439
15-30-264	enacted	Ch. 468	SB 439
15-30-265	enacted	Ch. 468	SB 439
15-30-266	enacted	Ch. 468	SB 439
15-30-267	enacted	Ch. 468	SB 439
15-30-268	enacted	Ch. 468	SB 439
15-30-269	enacted	Ch. 468	SB 439
15-30-270	enacted	Ch. 468	SB 439

15-70-512	amended	Ch. 100	HB 176
15-70-513	amended	Ch. 100	HB 176
15-70-514	amended	Ch. 100	HB 176
15-70-521	amended	Ch. 100	HB 176
15-70-522	amended	Ch. 100	HB 176
15-70-523	amended	Ch. 100	HB 176
15-70-527	amended	Ch. 100	HB 176
15-72-103	amended	Ch. 491	HB 25
15-72-104	amended	Ch. 491	HB 25
15-72-106	amended	Ch. 475	SB 525
16-1-306	amended	Ch. 475	SB 525
16-1-401	amended	Ch. 475	SB 525
16-1-404	amended	Ch. 475	SB 525
16-1-406	amended	Ch. 475	SB 525
16-1-411	amended	Ch. 475	SB 525
16-2-101	amended	Ch. 44	SB 39
16-3-211	amended	Ch. 516	SB 524
16-3-214	amended	Ch. 516	SB 524
16-3-219	amended	Ch. 501	SB 127
16-3-301	amended	Ch. 501	SB 127
	amended	Ch. 516	SB 524
16-3-322	amended	Ch. 44	SB 39
	amended	Ch. 180	HB 789
16-3-324	amended	Ch. 44	SB 39
16-3-401	amended	Ch. 501	SB 127
16-3-402	amended	Ch. 501	SB 127
16-3-404	amended	Ch. 501	SB 127
16-3-411	amended	Ch. 501	SB 127
16-3-418	amended	Ch. 501	SB 127
16-4-107	amended	Ch. 501	SB 127
16-4-204	amended	Ch. 277	HB 633
16-4-401	amended	Ch. 197	HB 113
16-4-402	amended	Ch. 257	HB 300
16-4-420	amended	Ch. 348	SB 296
16-4-501	amended	Ch. 501	SB 127
16-4-906	amended	Ch. 501	SB 127
	amended	Ch. 516	SB 524
16-6-104	amended	Ch. 501	SB 127
	amended	Ch. 516	SB 524
16-6-201	amended	Ch. 49	HB 84
16-6-305	amended	Ch. 180	HB 789
16-6-314	amended	Ch. 501	SB 127
	amended	Ch. 516	SB 524
16-11-114	amended	Ch. 475	SB 525
16-11-119	amended	Ch. 475	SB 525
16-11-149	amended	Ch. 44	SB 39
17-1-132	amended	Ch. 70	SB 76
17-1-508	amended	Ch. 247	HB 19
17-1-511	enacted	Ch. 361	SB 553
17-2-124	enacted	Ch. 475	SB 525
17-3-211	amended	Ch. 74	SB 84
17-3-212	amended	Ch. 74	SB 84
17-5-205	amended	Ch. 3	HB 42
17-5-507	amended	Ch. 44	SB 39
17-5-702	amended	Ch. 432	HB 116
17-5-703	amended	Ch. 14	HB 44
17-5-704	amended	Ch. 14	HB 44
17-5-1604	amended	Ch. 378	HB 330
17-5-1608	amended	Ch. 50	HB 90
	amended	Ch. 378	HB 330
17-5-2001	amended	Ch. 50	HB 90
17-6-105	amended	Ch. 420	SB 413
17-6-201	amended	Ch. 247	HB 19

19-3-1204	amended	Ch. 128	HB 129
19-3-1605	amended	Ch. 371	HB 131
19-3-2111	amended	Ch. 128	HB 129
19-3-2112	amended	Ch. 128	HB 129
19-3-2113	amended	Ch. 128	HB 129
19-3-2117	amended	Ch. 371	HB 131
19-5-404	amended	Ch. 432	HB 116
19-6-707	amended	Ch. 128	HB 129
19-7-101	amended	Ch. 128	HB 129
	amended	Ch. 506	SB 273
19-7-312	amended	Ch. 128	HB 129
19-7-404	amended	Ch. 371	HB 131
19-7-711	amended	Ch. 371	HB 131
19-7-1101	amended	Ch. 128	HB 129
19-8-301	amended	Ch. 128	HB 129
19-8-302	amended	Ch. 128	HB 129
19-8-1105	amended	Ch. 371	HB 131
19-8-1110	repealed	Ch. 128	HB 129
19-9-1202	amended	Ch. 128	HB 129
19-9-1205	amended	Ch. 128	HB 129
19-9-1206	amended	Ch. 128	HB 129
19-13-210	amended	Ch. 299	SB 532
19-13-301	amended	Ch. 299	SB 532
19-17-102	amended	Ch. 128	HB 129
19-17-108	amended	Ch. 128	HB 129
19-17-401	amended	Ch. 128	HB 129
19-17-402	amended	Ch. 128	HB 129
19-17-502	amended	Ch. 128	HB 129
19-20-101	amended	Ch. 90	HB 81
	amended	Ch. 305	HB 63
19-20-102	amended	Ch. 305	HB 63
19-20-104	amended	Ch. 90	HB 81
19-20-201	amended	Ch. 285	HB 771
19-20-202	amended	Ch. 90	HB 81
19-20-215	enacted	Ch. 285	HB 771
19-20-302	amended	Ch. 90	HB 81
19-20-305	amended	Ch. 90	HB 81
19-20-414	amended	Ch. 90	HB 81
19-20-427	amended	Ch. 90	HB 81
19-20-501	amended	Ch. 90	HB 81
	amended	Ch. 305	HB 63
19-20-503	amended	Ch. 90	HB 81
19-20-602	amended	Ch. 90	HB 81
19-20-603	amended	Ch. 90	HB 81
19-20-605	amended	Ch. 90	HB 81
	amended	Ch. 305	HB 63
19-20-607	enacted	Ch. 305	HB 63
19-20-621	amended	Ch. 305	HB 63
19-20-705	amended	Ch. 90	HB 81
19-20-716	amended	Ch. 90	HB 81
	amended	Ch. 305	HB 63
19-20-717	amended	Ch. 90	HB 81
19-20-719	amended	Ch. 285	HB 771
	amended	Ch. 305	HB 63
19-20-731	amended	Ch. 90	HB 81
	amended	Ch. 305	HB 63
19-20-805	amended	Ch. 90	HB 81
19-20-1101	amended	Ch. 90	HB 81
19-21-203	amended	Ch. 306	HB 95
19-21-214	amended	Ch. 371	HB 131
20-3-324	amended	Ch. 44	SB 39
20-3-330	enacted	Ch. 324	HB 609
20-3-332	amended	Ch. 343	SB 266

22-1-219	enacted	Ch. 95	HB 132
22-2-701	enacted	Ch. 289	HB 811
22-3-1003	amended	Ch. 403	SB 184
23-1-105	amended	Ch. 420	SB 413
23-1-301	repealed	Ch. 85	HB 51
23-1-302	repealed	Ch. 85	HB 51
23-1-303	repealed	Ch. 85	HB 51
23-1-311	repealed	Ch. 85	HB 51
23-1-312	repealed	Ch. 85	HB 51
23-1-313	repealed	Ch. 85	HB 51
23-1-314	repealed	Ch. 85	HB 51
23-2-502	amended	Ch. 44	SB 39
	amended	Ch. 329	HB 737
23-2-513	repealed 1/1/2008	Ch. 329	HB 737
23-2-515	amended	Ch. 329	HB 737
23-2-540	repealed 1/1/2008	Ch. 329	HB 737
23-2-601	amended	Ch. 329	HB 737
23-2-614	amended	Ch. 44	SB 39
	amended	Ch. 329	HB 737
23-2-615	amended	Ch. 44	SB 39
	amended	Ch. 199	HB 348
23-2-619	repealed 1/1/2008	Ch. 329	HB 737
23-2-631	amended	Ch. 329	HB 737
23-2-634	amended	Ch. 329	HB 737
23-2-641	amended	Ch. 329	HB 737
23-2-642	amended	Ch. 329	HB 737
23-2-644	amended	Ch. 329	HB 737
23-2-702	amended	Ch. 315	HB 299
23-2-703	amended	Ch. 315	HB 299
23-2-704	amended	Ch. 315	HB 299
23-2-731	amended	Ch. 315	HB 299
23-2-733	amended	Ch. 315	HB 299
23-2-734	amended	Ch. 315	HB 299
23-2-735	amended	Ch. 315	HB 299
23-2-736	amended	Ch. 315	HB 299
23-2-818	repealed 1/1/2008	Ch. 329	HB 737
23-3-301	amended	Ch. 11	SB 54
23-3-401	repealed	Ch. 11	SB 54
23-3-402	amended	Ch. 11	SB 54
23-3-403	repealed	Ch. 11	SB 54
23-3-404	amended	Ch. 11	SB 54
23-3-405	amended	Ch. 11	SB 54
23-3-501	amended	Ch. 11	SB 54
23-3-502	amended	Ch. 11	SB 54
23-3-601	amended	Ch. 11	SB 54
23-3-602	amended	Ch. 11	SB 54
23-3-603	amended	Ch. 11	SB 54
23-4-101	amended	Ch. 9	HB 333
	amended	Ch. 379	HB 390
	amended	Ch. 387	HB 616
23-4-104	amended	Ch. 9	HB 333
	amended	Ch. 387	HB 616
23-4-105	amended	Ch. 9	HB 333
23-4-201	amended	Ch. 9	HB 333
	amended	Ch. 387	HB 616
23-4-202	amended	Ch. 9	HB 333
	amended	Ch. 379	HB 390
	amended	Ch. 387	HB 616
23-4-301	amended	Ch. 379	HB 390
	amended	Ch. 387	HB 616
23-4-302	amended	Ch. 379	HB 390
	amended	Ch. 387	HB 616
23-4-304	amended	Ch. 387	HB 616

23-5-112	amended	Ch. 101	HB 190
	amended	Ch. 379	HB 390
	amended	Ch. 429	SB 540
23-5-119	amended	Ch. 277	HB 633
23-5-152	amended	Ch. 429	SB 540
23-5-153	amended	Ch. 429	SB 540
23-5-306	amended	Ch. 101	HB 190
23-5-308	amended	Ch. 101	HB 190
23-5-313	amended	Ch. 101	HB 190
23-5-317	amended	Ch. 101	HB 190
23-5-319	repealed	Ch. 101	HB 190
23-5-325	enacted	Ch. 101	HB 190
23-5-610	amended	Ch. 475	SB 525
23-5-710	amended	Ch. 101	HB 190
23-5-801	amended	Ch. 387	HB 616
23-5-802	amended	Ch. 387	HB 616
23-5-805	amended	Ch. 387	HB 616
23-5-806	amended	Ch. 387	HB 616
25-1-1101	amended	Ch. 405	SB 209
25-1-1103	repealed	Ch. 405	SB 209
25-1-1104	amended	Ch. 405	SB 209
	amended	Ch. 502	SB 153
25-1-1105	repealed	Ch. 405	SB 209
25-1-1106	repealed	Ch. 405	SB 209
25-1-1107	amended	Ch. 405	SB 209
25-1-1111	amended	Ch. 405	SB 209
25-1-1112	amended	Ch. 405	SB 209
25-3-105	amended	Ch. 405	SB 209
25-3-201	amended	Ch. 405	SB 209
25-3-203	amended	Ch. 405	SB 209
25-3-204	amended	Ch. 405	SB 209
25-3-302	amended	Ch. 405	SB 209
25-13-212	amended	Ch. 457	SB 227
25-13-402	amended	Ch. 457	SB 227
25-13-608	amended	Ch. 397	SB 133
25-13-609	amended	Ch. 397	SB 133
25-13-613	amended	Ch. 449	SB 130
25-14-101	amended	Ch. 457	SB 227
25-31-409	amended	Ch. 457	SB 227
25-31-710	amended	Ch. 457	SB 227
25-31-1104	amended	Ch. 457	SB 227
27-2-204	amended	Ch. 266	HB 435
27-6-103	amended	Ch. 270	HB 467
27-6-105	amended	Ch. 270	HB 467
28-10-103	amended	Ch. 440	HB 768
30-9A-420	amended	Ch. 69	SB 73
30-9A-501	amended	Ch. 44	SB 39
30-12-203	amended	Ch. 196	HB 99
30-14-102	amended	Ch. 331	HB 755
30-14-1301	enacted	Ch. 162	HB 724
30-14-1302	enacted	Ch. 162	HB 724
30-14-1303	enacted	Ch. 162	HB 724
30-14-1304	enacted	Ch. 162	HB 724
30-14-1701	amended	Ch. 276	HB 630
30-14-1702	amended	Ch. 276	HB 630
30-14-1704	amended	Ch. 180	HB 789
30-14-1712	enacted	Ch. 276	HB 630
30-14-1713	enacted	Ch. 276	HB 630
30-14-1726	enacted	Ch. 138	SB 116
30-14-1727	enacted	Ch. 138	SB 116
30-14-1728	enacted	Ch. 138	SB 116
30-14-1729	enacted	Ch. 138	SB 116
30-14-1730	enacted	Ch. 138	SB 116

30-14-1731	enacted	Ch. 138	SB 116
30-14-1732	enacted	Ch. 138	SB 116
30-14-1733	enacted	Ch. 138	SB 116
30-14-1734	enacted	Ch. 138	SB 116
30-14-1735	enacted	Ch. 138	SB 116
30-14-1736	enacted	Ch. 138	SB 116
30-14-2501	enacted	Ch. 152	HB 409
30-14-2502	enacted	Ch. 152	HB 409
30-14-2503	enacted	Ch. 152	HB 409
30-18-102	amended	Ch. 130	HB 177
30-18-118	amended	Ch. 130	HB 177
31-1-111	amended	Ch. 369	HB 69
	amended	Ch. 451	SB 165
	amended	Ch. 497	SB 74
31-1-702	amended	Ch. 451	SB 165
31-1-703	amended	Ch. 451	SB 165
31-1-705	amended	Ch. 451	SB 165
31-1-706	amended	Ch. 451	SB 165
31-1-711	amended	Ch. 451	SB 165
31-1-712	amended	Ch. 451	SB 165
31-1-713	amended	Ch. 451	SB 165
31-1-714	amended	Ch. 451	SB 165
31-1-715	amended	Ch. 451	SB 165
31-1-721	amended	Ch. 451	SB 165
31-1-723	amended	Ch. 451	SB 165
31-1-726	enacted	Ch. 451	SB 165
31-1-727	enacted	Ch. 451	SB 165
31-1-728	enacted	Ch. 451	SB 165
31-1-802	amended	Ch. 497	SB 74
31-1-803	amended	Ch. 497	SB 74
31-1-811	amended	Ch. 497	SB 74
31-1-813	enacted	Ch. 497	SB 74
31-1-816	amended	Ch. 497	SB 74
31-1-817	amended	Ch. 497	SB 74
31-1-825	amended	Ch. 497	SB 74
31-1-841	enacted	Ch. 497	SB 74
31-1-842	enacted	Ch. 497	SB 74
31-3-132	enacted	Ch. 195	HB 35
32-1-422	amended	Ch. 33	HB 158
32-5-102	amended	Ch. 372	HB 141
32-5-103	amended	Ch. 372	HB 141
32-5-104	repealed 10/1/2008	Ch. 372	HB 141
32-5-201	amended	Ch. 372	HB 141
32-5-202	amended	Ch. 372	HB 141
32-5-204	amended	Ch. 372	HB 141
32-5-207	amended	Ch. 372	HB 141
32-5-208	amended	Ch. 372	HB 141
32-5-301	amended	Ch. 372	HB 141
32-5-302	amended	Ch. 372	HB 141
32-5-303	amended	Ch. 372	HB 141
32-5-305	amended	Ch. 372	HB 141
32-5-306	amended	Ch. 372	HB 141
32-5-308	amended	Ch. 372	HB 141
32-5-310	amended	Ch. 372	HB 141
32-5-321	repealed 10/1/2008	Ch. 372	HB 141
32-5-322	repealed 10/1/2008	Ch. 372	HB 141
32-5-323	repealed 10/1/2008	Ch. 372	HB 141
32-5-324	repealed 10/1/2008	Ch. 372	HB 141
32-5-401	amended	Ch. 372	HB 141
32-5-402	amended	Ch. 372	HB 141
32-5-403	amended	Ch. 372	HB 141
32-5-404	repealed 10/1/2008	Ch. 372	HB 141
32-5-405	amended	Ch. 372	HB 141

32-5-406	repealed 10/1/2008	Ch. 372	HB 141
32-5-407	amended	Ch. 372	HB 141
32-5-408	enacted	Ch. 372	HB 141
32-5-409	enacted	Ch. 372	HB 141
32-5-501	repealed 10/1/2008	Ch. 372	HB 141
32-5-502	repealed 10/1/2008	Ch. 372	HB 141
32-5-503	repealed 10/1/2008	Ch. 372	HB 141
32-5-504	repealed 10/1/2008	Ch. 372	HB 141
32-5-505	repealed 10/1/2008	Ch. 372	HB 141
32-5-506	repealed 10/1/2008	Ch. 372	HB 141
32-9-103	amended	Ch. 498	SB 92
32-9-108	amended	Ch. 498	SB 92
32-9-109	amended	Ch. 498	SB 92
32-9-110	amended	Ch. 498	SB 92
32-9-111	repealed	Ch. 498	SB 92
32-9-115	amended	Ch. 498	SB 92
32-9-117	amended	Ch. 498	SB 92
32-9-119	enacted	Ch. 498	SB 92
32-9-121	amended	Ch. 498	SB 92
32-9-122	amended	Ch. 498	SB 92
32-9-123	amended	Ch. 498	SB 92
32-9-124	amended	Ch. 498	SB 92
32-9-125	amended	Ch. 498	SB 92
32-9-126	amended	Ch. 498	SB 92
32-9-130	amended	Ch. 498	SB 92
32-9-131	repealed	Ch. 498	SB 92
32-9-133	amended	Ch. 498	SB 92
32-9-141	enacted	Ch. 498	SB 92
32-9-142	enacted	Ch. 498	SB 92
32-10-101	enacted	Ch. 369	HB 69
32-10-102	enacted	Ch. 369	HB 69
32-10-103	enacted	Ch. 369	HB 69
32-10-201	enacted	Ch. 369	HB 69
32-10-202	enacted	Ch. 369	HB 69
32-10-203	enacted	Ch. 369	HB 69
32-10-204	enacted	Ch. 369	HB 69
32-10-207	enacted	Ch. 369	HB 69
32-10-208	enacted	Ch. 369	HB 69
32-10-209	enacted	Ch. 369	HB 69
32-10-301	enacted	Ch. 369	HB 69
32-10-302	enacted	Ch. 369	HB 69
32-10-303	enacted	Ch. 369	HB 69
32-10-309	enacted	Ch. 369	HB 69
32-10-310	enacted	Ch. 369	HB 69
32-10-401	enacted	Ch. 369	HB 69
32-10-402	enacted	Ch. 369	HB 69
32-10-403	enacted	Ch. 369	HB 69
32-10-404	enacted	Ch. 369	HB 69
32-10-405	enacted	Ch. 369	HB 69
32-10-406	enacted	Ch. 369	HB 69
32-10-501	enacted	Ch. 369	HB 69
32-10-502	enacted	Ch. 369	HB 69
32-10-503	enacted	Ch. 369	HB 69
32-10-504	enacted	Ch. 369	HB 69
32-10-505	enacted	Ch. 369	HB 69
32-10-506	enacted	Ch. 369	HB 69
32-10-507	enacted	Ch. 369	HB 69
32-10-512	enacted	Ch. 369	HB 69
32-10-513	enacted	Ch. 369	HB 69
32-10-514	enacted	Ch. 369	HB 69
32-10-515	enacted	Ch. 369	HB 69
32-11-101	enacted	Ch. 411	SB 321
32-11-102	enacted	Ch. 411	SB 321

32-11-103	enacted	Ch. 411	SB 321
32-11-104	enacted	Ch. 411	SB 321
32-11-105	enacted	Ch. 411	SB 321
32-11-106	enacted	Ch. 411	SB 321
32-11-107	enacted	Ch. 411	SB 321
32-11-108	enacted	Ch. 411	SB 321
32-11-201	enacted	Ch. 411	SB 321
32-11-202	enacted	Ch. 411	SB 321
32-11-203	enacted	Ch. 411	SB 321
32-11-204	enacted	Ch. 411	SB 321
32-11-205	enacted	Ch. 411	SB 321
32-11-206	enacted	Ch. 411	SB 321
32-11-207	enacted	Ch. 411	SB 321
32-11-208	enacted	Ch. 411	SB 321
32-11-209	enacted	Ch. 411	SB 321
32-11-210	enacted	Ch. 411	SB 321
32-11-211	enacted	Ch. 411	SB 321
32-11-212	enacted	Ch. 411	SB 321
32-11-215	enacted	Ch. 411	SB 321
32-11-216	enacted	Ch. 411	SB 321
32-11-217	enacted	Ch. 411	SB 321
32-11-218	enacted	Ch. 411	SB 321
32-11-219	enacted	Ch. 411	SB 321
32-11-220	enacted	Ch. 411	SB 321
32-11-221	enacted	Ch. 411	SB 321
32-11-222	enacted	Ch. 411	SB 321
32-11-223	enacted	Ch. 411	SB 321
32-11-224	enacted	Ch. 411	SB 321
32-11-225	enacted	Ch. 411	SB 321
32-11-226	enacted	Ch. 411	SB 321
32-11-301	enacted	Ch. 411	SB 321
32-11-302	enacted	Ch. 411	SB 321
32-11-303	enacted	Ch. 411	SB 321
32-11-304	enacted	Ch. 411	SB 321
32-11-305	enacted	Ch. 411	SB 321
32-11-306	enacted	Ch. 411	SB 321
32-11-307	enacted	Ch. 411	SB 321
32-11-308	enacted	Ch. 411	SB 321
32-11-309	enacted	Ch. 411	SB 321
32-11-310	enacted	Ch. 411	SB 321
32-11-311	enacted	Ch. 411	SB 321
32-11-312	enacted	Ch. 411	SB 321
32-11-313	enacted	Ch. 411	SB 321
32-11-401	enacted	Ch. 411	SB 321
32-11-402	enacted	Ch. 411	SB 321
32-11-403	enacted	Ch. 411	SB 321
32-11-404	enacted	Ch. 411	SB 321
32-11-405	enacted	Ch. 411	SB 321
32-11-406	enacted	Ch. 411	SB 321
32-11-407	enacted	Ch. 411	SB 321
32-11-411	enacted	Ch. 411	SB 321
32-11-412	enacted	Ch. 411	SB 321
32-11-413	enacted	Ch. 411	SB 321
32-11-414	enacted	Ch. 411	SB 321
33-1-111	enacted	Ch. 249	HB 77
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33-1-311	amended	Ch. 399	SB 157
33-1-1302	amended	Ch. 44	SB 39
33-1-1303	amended	Ch. 44	SB 39
33-2-712	amended	Ch. 377	HB 278
33-4-312	amended	Ch. 399	SB 157
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33-17-507 . . . . . repealed . . . . . Ch. 399 . . . . . SB 157
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33-18-224 . . . . . amended . . . . . Ch. 339 . . . . . SB 204
33-18-235 . . . . . amended . . . . . Ch. 399 . . . . . SB 157
33-18-301 . . . . . amended . . . . . Ch. 507 . . . . . SB 276
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33-19-105 . . . . . amended . . . . . Ch. 399 . . . . . SB 157
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33-20-128 . . . . . amended . . . . . Ch. 32 . . . . . HB 156
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33-20-802 . . . . . enacted . . . . . Ch. 476 . . . . . SB 535
33-20-803 . . . . . enacted . . . . . Ch. 476 . . . . . SB 535
33-20-804 . . . . . enacted . . . . . Ch. 476 . . . . . SB 535
33-20-805 . . . . . enacted . . . . . Ch. 476 . . . . . SB 535
33-20-806 . . . . . enacted . . . . . Ch. 476 . . . . . SB 535
33-20-901 . . . . . enacted . . . . . Ch. 476 . . . . . SB 535
33-20-902 . . . . . enacted . . . . . Ch. 476 . . . . . SB 535
33-20-903 . . . . . enacted . . . . . Ch. 476 . . . . . SB 535
33-20-904 . . . . . enacted . . . . . Ch. 476 . . . . . SB 535
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33-20-907 . . . . . enacted . . . . . Ch. 476 . . . . . SB 535
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33-20-1111 . . . . . amended . . . . . Ch. 430 . . . . . SB 542
33-20-1209 . . . . . amended . . . . . Ch. 430 . . . . . SB 542
33-20-1303 . . . . . amended . . . . . Ch. 44 . . . . . SB 39
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33-20-1315 . . . . . amended . . . . . Ch. 44 . . . . . SB 39
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33-22-121 . . . . . amended . . . . . Ch. 399 . . . . . SB 157
33-22-122 . . . . . amended . . . . . Ch. 399 . . . . . SB 157
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33-22-262 . . . . . amended . . . . . Ch. 463 . . . . . SB 387
33-22-303 . . . . . amended . . . . . Ch. 390 . . . . . HB 687
33-22-512 . . . . . amended . . . . . Ch. 390 . . . . . HB 687
33-22-513 . . . . . amended . . . . . Ch. 399 . . . . . SB 157
33-22-521 . . . . . amended . . . . . Ch. 463 . . . . . SB 387
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33-25-212	amended	Ch. 399	SB 157
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33-28-107	amended	Ch. 518	SB 161
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33-28-110	formerly 33-28-305	Ch. 518	SB 161
33-28-120	enacted	Ch. 518	SB 161
33-28-201	amended	Ch. 518	SB 161
33-28-202	amended	Ch. 518	SB 161
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33-28-306	amended	Ch. 518	SB 161
33-28-310	enacted	Ch. 518	SB 161
33-30-1014	amended	Ch. 390	HB 687
33-30-1015	amended	Ch. 399	SB 157
33-31-102	amended	Ch. 356	SB 419
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33-31-111	amended	Ch. 356	SB 419
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33-31-301	amended	Ch. 390	HB 687
	amended	Ch. 463	SB 387
33-31-311	amended	Ch. 399	SB 157
33-35-103	amended	Ch. 399	SB 157
33-35-306	amended	Ch. 249	HB 77
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33-36-103	amended	Ch. 502	SB 153
33-38-105	amended	Ch. 399	SB 157
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35-8-911	repealed 10/1/2008	Ch. 240	HB 153
35-8-1003	amended	Ch. 240	HB 153
35-8-1004	repealed 10/1/2008	Ch. 240	HB 153
35-8-1005	repealed 10/1/2008	Ch. 240	HB 153
35-8-1006	repealed 10/1/2008	Ch. 240	HB 153
35-8-1011	amended	Ch. 240	HB 153
35-8-1014	amended	Ch. 240	HB 153
35-8-1103	repealed 10/1/2008	Ch. 240	HB 153
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35-9-501	amended	Ch. 240	HB 153
35-12-507	repealed 10/1/2008	Ch. 240	HB 153
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35-18-104	amended	Ch. 234	SB 369
35-19-102	amended	Ch. 491	HB 25
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37-1-107	enacted	Ch. 11	SB 54
37-1-130	amended	Ch. 502	SB 153
37-1-131	amended	Ch. 225	SB 453
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37-1-136	amended	Ch. 225	SB 453
37-1-201	amended	Ch. 389	HB 668
37-1-302	amended	Ch. 502	SB 153
37-1-303	amended	Ch. 44	SB 39
37-1-307	amended	Ch. 389	HB 668
37-1-311	amended	Ch. 225	SB 453
37-1-401	amended	Ch. 11	SB 54
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37-1-405	amended	Ch. 225	SB 453
37-1-410	amended	Ch. 502	SB 153
37-2-104	amended	Ch. 125	HB 118
37-3-203	amended	Ch. 137	HB 770
37-3-208	enacted	Ch. 271	HB 468
37-7-103	amended	Ch. 125	HB 118
37-8-102	amended	Ch. 502	SB 153
37-8-202	amended	Ch. 44	SB 39
37-8-405	amended	Ch. 502	SB 153
37-8-415	amended	Ch. 502	SB 153
37-9-102	enacted	Ch. 107	HB 378
37-10-302	amended	Ch. 502	SB 153
37-15-302	amended	Ch. 502	SB 153
37-16-405	amended	Ch. 502	SB 153
37-18-306	amended	Ch. 502	SB 153
37-22-101	amended	Ch. 460	SB 342
37-22-301	amended	Ch. 460	SB 342
37-23-101	amended	Ch. 460	SB 342
37-23-202	amended	Ch. 460	SB 342
37-26-201	amended	Ch. 502	SB 153
37-26-403	amended	Ch. 502	SB 153
37-27-302	amended	Ch. 44	SB 39
37-31-101	amended	Ch. 36	HB 255

37-31-331	amended	Ch. 44	SB 39
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37-36-102	enacted	Ch. 388	HB 665
37-36-201	enacted	Ch. 388	HB 665
37-36-202	enacted	Ch. 388	HB 665
37-36-203	enacted	Ch. 388	HB 665
37-36-204	enacted	Ch. 388	HB 665
37-36-205	enacted	Ch. 388	HB 665
37-42-102	amended	Ch. 423	SB 446
37-47-103	enacted	Ch. 502	SB 153
37-47-201	amended	Ch. 44	SB 39
37-47-318	amended	Ch. 502	SB 153
37-47-341	amended	Ch. 502	SB 153
37-47-344	amended	Ch. 445	SB 100
37-48-101	amended	Ch. 178	HB 769
37-48-102	amended	Ch. 178	HB 769
37-48-103	amended	Ch. 178	HB 769
37-48-106	enacted	Ch. 178	HB 769
37-48-107	enacted	Ch. 178	HB 769
37-48-108	enacted	Ch. 178	HB 769
37-48-113	enacted	Ch. 178	HB 769
37-48-115	enacted	Ch. 178	HB 769
37-48-118	enacted	Ch. 178	HB 769
37-51-102	amended	Ch. 502	SB 153
37-51-301	amended	Ch. 502	SB 153
37-51-302	amended	Ch. 502	SB 153
37-51-313	amended	Ch. 118	SB 319
37-51-324	enacted	Ch. 502	SB 153
37-60-101	amended	Ch. 405	SB 209
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37-60-103	amended	Ch. 405	SB 209
	amended	Ch. 502	SB 153
37-60-105	amended	Ch. 405	SB 209
37-60-202	amended	Ch. 405	SB 209
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37-60-301	amended	Ch. 405	SB 209
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37-60-302	amended	Ch. 502	SB 153
37-60-303	amended	Ch. 405	SB 209
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37-60-304	amended	Ch. 405	SB 209
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37-60-309	amended	Ch. 502	SB 153
37-60-310	amended	Ch. 502	SB 153
37-60-314	amended	Ch. 502	SB 153
37-60-315	repealed	Ch. 502	SB 153
37-60-402	amended	Ch. 502	SB 153
37-60-403	amended	Ch. 502	SB 153
37-60-405	amended	Ch. 405	SB 209
37-60-406	repealed	Ch. 502	SB 153
37-60-409	amended	Ch. 502	SB 153
37-65-102	amended	Ch. 11	SB 54
37-65-204	amended	Ch. 11	SB 54
37-65-311	enacted	Ch. 502	SB 153
37-65-323	amended	Ch. 11	SB 54
37-66-103	amended	Ch. 11	SB 54
37-66-201	repealed	Ch. 11	SB 54
37-66-202	repealed	Ch. 11	SB 54
37-66-309	enacted	Ch. 11	SB 54
37-69-311	enacted	Ch. 502	SB 153
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37-76-103	repealed	Ch. 11	SB	54
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37-76-105	repealed	Ch. 11	SB	54
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37-76-121	repealed	Ch. 11	SB	54
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39-2-216	enacted	Ch. 290	SB	89
39-2-217	enacted	Ch. 290	SB	89
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39-3-501	amended	Ch. 110	HB	623
39-8-202	amended	Ch. 15	HB	72
39-8-205	amended	Ch. 15	HB	72
39-8-207	amended	Ch. 15	HB	72
39-11-202	amended	Ch. 177	HB	756
39-51-201	amended	Ch. 52	HB	111
39-51-203	amended	Ch. 52	HB	111
39-51-204	amended	Ch. 52	HB	111
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39-51-207	enacted	Ch. 52	HB	111
39-51-301	amended	Ch. 52	HB	111
	amended	Ch. 81	HB	13
39-51-404	amended	Ch. 362	HB	790
39-51-405	amended	Ch. 52	HB	111
39-51-406	amended	Ch. 52	HB	111
39-51-409	amended	Ch. 362	HB	790
39-51-1105	amended	Ch. 52	HB	111
39-51-1109	amended	Ch. 52	HB	111
39-51-1121	amended	Ch. 362	HB	790
39-51-1212	amended	Ch. 362	HB	790
39-51-1214	amended	Ch. 52	HB	111
39-51-1218	amended	Ch. 52	HB	111
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39-51-2208	amended	Ch. 205	HB	782
39-51-2302	amended	Ch. 52	HB	111
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39-51-2304	amended	Ch. 52	HB	111
39-51-2306	amended	Ch. 52	HB	111
39-51-2510	amended	Ch. 52	HB	111
39-51-3207	amended	Ch. 362	HB	790
39-71-107	amended	Ch. 117	SB	108
39-71-116	amended	Ch. 359	SB	444
39-71-118	amended	Ch. 449	SB	130
39-71-201	amended	Ch. 117	SB	108
39-71-225	amended	Ch. 48	HB	65
39-71-325	enacted	Ch. 117	SB	108
39-71-401	amended	Ch. 179	HB	786
	amended	Ch. 288	HB	785
39-71-415	amended	Ch. 117	SB	108

41-5-113	enacted	Ch. 398	SB	146
41-5-121	amended	Ch. 398	SB	146
41-5-123	repealed	Ch. 398	SB	146
41-5-124	amended	Ch. 398	SB	146
41-5-130	amended	Ch. 398	SB	146
41-5-131	amended	Ch. 398	SB	146
41-5-132	amended	Ch. 398	SB	146
41-5-206	amended	Ch. 483	SB	547
41-5-216	amended	Ch. 139	SB	119
	amended	Ch. 483	SB	547
41-5-1503	amended	Ch. 398	SB	146
41-5-1512	amended	Ch. 398	SB	146
41-5-1513	amended	Ch. 398	SB	146
	amended	Ch. 483	SB	547
41-5-1522	amended	Ch. 398	SB	146
41-5-1523	amended	Ch. 398	SB	146
41-5-1706	amended	Ch. 506	SB	273
41-5-1808	formerly 44-4-305	Ch. 506	SB	273
41-5-2002	amended	Ch. 398	SB	146
41-5-2003	amended	Ch. 398	SB	146
41-5-2004	amended	Ch. 398	SB	146
41-5-2005	amended	Ch. 398	SB	146
41-5-2006	amended	Ch. 398	SB	146
41-5-2011	amended	Ch. 398	SB	146
41-5-2012	enacted	Ch. 398	SB	146
44-1-302	amended	Ch. 244	HB	636
44-1-504	amended	Ch. 44	SB	39
	amended	Ch. 81	HB	13
44-1-511	amended	Ch. 12	SB	97
44-2-117	amended	Ch. 287	HB	781
44-4-301	amended	Ch. 506	SB	273
44-4-302	repealed	Ch. 506	SB	273
44-4-305	amended and renumbered 41-5-1808	Ch. 506	SB	273
44-4-401	enacted	Ch. 506	SB	273
44-4-402	enacted	Ch. 506	SB	273
44-4-403	enacted	Ch. 506	SB	273
44-4-404	enacted	Ch. 506	SB	273
44-4-902	amended	Ch. 506	SB	273
44-5-103	amended	Ch. 449	SB	130
44-5-202	amended	Ch. 141	SB	141
44-5-303	amended	Ch. 449	SB	130
44-11-309	repealed	Ch. 94	HB	128
44-11-310	amended	Ch. 94	HB	128
45-1-205	amended	Ch. 446	SB	104
	amended	Ch. 483	SB	547
45-2-101	amended	Ch. 155	HB	521
45-2-204	enacted	Ch. 464	SB	404
45-5-202	amended	Ch. 472	SB	486
45-5-209	amended	Ch. 44	SB	39
45-5-305	enacted	Ch. 147	SB	385
45-5-306	enacted	Ch. 147	SB	385
45-5-501	amended	Ch. 321	HB	514
	amended	Ch. 335	SB	50
45-5-502	amended	Ch. 321	HB	514
	amended	Ch. 335	SB	50
45-5-503	amended	Ch. 335	SB	50
	amended	Ch. 483	SB	547
45-5-507	amended	Ch. 483	SB	547
45-5-512	amended	Ch. 483	SB	547
45-5-601	amended	Ch. 483	SB	547
45-5-602	amended	Ch. 483	SB	547
45-5-603	amended	Ch. 483	SB	547
45-5-620	repealed	Ch. 29	HB	82

46-23-1003	amended	Ch. 506	SB 273
46-23-1011	amended	Ch. 483	SB 547
46-23-1021	amended	Ch. 238	HB 452
46-23-1027	enacted	Ch. 238	HB 452
46-24-106	amended	Ch. 424	SB 447
46-24-201	amended	Ch. 424	SB 447
46-24-218	enacted	Ch. 195	HB 35
46-24-219	enacted	Ch. 195	HB 35
46-24-220	amended	Ch. 195	HB 35
49-2-501	amended	Ch. 28	HB 76
49-2-503	amended	Ch. 28	HB 76
49-2-504	amended	Ch. 28	HB 76
49-2-505	amended	Ch. 28	HB 76
49-2-506	amended	Ch. 28	HB 76
49-2-507	repealed	Ch. 28	HB 76
49-2-508	amended	Ch. 28	HB 76
49-2-509	repealed	Ch. 28	HB 76
49-2-510	amended	Ch. 28	HB 76
49-2-511	enacted	Ch. 28	HB 76
49-2-512	enacted	Ch. 28	HB 76
49-4-302	amended	Ch. 59	SB 30
49-4-304	amended	Ch. 59	SB 30
50-1-101	amended	Ch. 150	HB 92
50-1-105	enacted	Ch. 150	HB 92
50-1-106	enacted	Ch. 150	HB 92
50-1-202	amended	Ch. 150	HB 92
50-1-211	amended	Ch. 473	SB 505
50-2-101	repealed	Ch. 150	HB 92
50-2-116	amended	Ch. 150	HB 92
50-2-118	amended	Ch. 150	HB 92
50-2-130	amended	Ch. 150	HB 92
50-3-101	amended	Ch. 449	SB 130
50-3-102	amended	Ch. 449	SB 130
50-3-106	amended	Ch. 449	SB 130
50-4-603	amended	Ch. 119	SB 323
50-4-703	amended	Ch. 399	SB 157
50-4-801	enacted	Ch. 436	HB 406
50-4-802	enacted	Ch. 436	HB 406
50-4-803	enacted	Ch. 436	HB 406
50-4-804	enacted	Ch. 436	HB 406
50-4-805	enacted	Ch. 436	HB 406
50-4-806	enacted	Ch. 436	HB 406
50-4-810	enacted	Ch. 436	HB 406
50-4-811	enacted	Ch. 436	HB 406
50-4-815	enacted	Ch. 436	HB 406
50-5-101	amended	Ch. 466	SB 417
50-5-105	amended	Ch. 351	SB 312
50-5-117	enacted	Ch. 351	SB 312
50-5-203	amended	Ch. 466	SB 417
50-5-207	amended	Ch. 351	SB 312
50-5-215	amended	Ch. 449	SB 130
50-5-245	amended	Ch. 466	SB 417
50-6-502	amended	Ch. 291	SB 95
50-6-503	amended	Ch. 291	SB 95
50-6-505	amended	Ch. 291	SB 95
50-9-105	amended	Ch. 345	SB 287
50-9-106	amended	Ch. 480	HB 683
50-10-103	amended	Ch. 345	SB 287
50-15-101	amended	Ch. 474	SB 518
50-15-208	enacted	Ch. 474	SB 518
50-19-203	amended	Ch. 401	SB 162
50-19-211	amended	Ch. 401	SB 162
50-19-403	amended	Ch. 449	SB 130

52-4-205	amended	Ch. 449	SB 130
52-5-109	amended	Ch. 398	SB 146
53-1-203	amended	Ch. 398	SB 146
	amended	Ch. 483	SB 547
53-1-404	amended	Ch. 76	SB 90
53-2-108	amended	Ch. 205	HB 782
53-2-1203	amended	Ch. 224	SB 440
53-4-1004	amended	Ch. 490	SB 22
53-4-1005	amended	Ch. 169	HB 198
53-4-1007	amended	Ch. 129	HB 157
53-4-1012	amended	Ch. 129	HB 157
53-6-124	enacted	Ch. 414	SB 354
53-6-125	enacted	Ch. 414	SB 354
53-6-126	enacted	Ch. 414	SB 354
53-6-127	enacted	Ch. 414	SB 354
53-6-1201	amended	Ch. 482	SB 155
53-9-104	amended	Ch. 266	HB 435
53-9-112	enacted	Ch. 266	HB 435
53-19-302	amended	Ch. 325	HB 611
53-19-306	amended	Ch. 325	HB 611
53-19-307	amended	Ch. 325	HB 611
53-19-308	amended	Ch. 325	HB 611
53-19-310	amended	Ch. 325	HB 611
53-19-311	amended	Ch. 325	HB 611
53-19-312	repealed	Ch. 325	HB 611
53-19-315	enacted	Ch. 325	HB 611
53-19-316	enacted	Ch. 325	HB 611
53-19-317	enacted	Ch. 325	HB 611
53-19-318	enacted	Ch. 325	HB 611
53-19-319	enacted	Ch. 325	HB 611
53-19-401	amended	Ch. 251	HB 117
53-19-402	amended	Ch. 251	HB 117
53-19-403	repealed	Ch. 251	HB 117
53-19-404	amended	Ch. 251	HB 117
53-20-102	amended	Ch. 122	HB 64
	amended	Ch. 252	HB 154
53-20-110	enacted	Ch. 252	HB 154
53-20-112	amended	Ch. 252	HB 154
53-20-118	amended	Ch. 252	HB 154
53-20-121	amended	Ch. 252	HB 154
53-20-125	amended	Ch. 34	HB 162
	amended	Ch. 252	HB 154
53-20-126	amended	Ch. 252	HB 154
53-20-128	amended	Ch. 252	HB 154
53-20-129	amended	Ch. 252	HB 154
53-20-132	amended	Ch. 252	HB 154
53-20-133	amended	Ch. 252	HB 154
53-20-134	enacted	Ch. 263	HB 414
53-20-140	enacted	Ch. 252	HB 154
53-20-141	amended	Ch. 252	HB 154
53-20-172	enacted	Ch. 374	HB 195
53-20-307	amended	Ch. 449	SB 130
53-21-102	amended	Ch. 71	SB 81
	amended	Ch. 116	SB 45
53-21-129	amended	Ch. 116	SB 45
53-21-193	amended	Ch. 116	SB 45
53-21-194	amended	Ch. 116	SB 45
53-21-1101	enacted	Ch. 471	SB 478
53-21-1102	enacted	Ch. 471	SB 478
53-21-1103	enacted	Ch. 471	SB 478
60-1-213	enacted	Ch. 58	SB 29
60-1-214	enacted	Ch. 109	HB 531
60-2-111	amended	Ch. 56	HB 334

60-2-112	amended	Ch. 56	HB 334
60-2-116	enacted	Ch. 259	HB 319
60-2-117	enacted	Ch. 259	HB 319
60-2-134	amended	Ch. 56	HB 334
60-2-135	repealed	Ch. 56	HB 334
60-2-136	repealed	Ch. 56	HB 334
60-2-137	amended	Ch. 56	HB 334
60-4-201	amended	Ch. 342	SB 251
60-5-110	amended	Ch. 435	HB 357
61-1-101	amended	Ch. 20	HB 219
	amended	Ch. 44	SB 39
	amended	Ch. 83	HB 28
	amended	Ch. 233	SB 185
	amended	Ch. 329	HB 737
61-2-103	amended	Ch. 8	HB 121
61-3-101	amended	Ch. 44	SB 39
	amended	Ch. 180	HB 789
	amended	Ch. 329	HB 737
61-3-103	amended	Ch. 50	HB 90
61-3-115	amended	Ch. 329	HB 737
61-3-116	amended	Ch. 44	SB 39
	amended	Ch. 329	HB 737
61-3-203	amended	Ch. 50	HB 90
61-3-204	amended	Ch. 50	HB 90
61-3-206	amended	Ch. 329	HB 737
61-3-211	amended	Ch. 53	HB 143
61-3-214	enacted	Ch. 329	HB 737
61-3-216	amended	Ch. 180	HB 789
	amended	Ch. 329	HB 737
61-3-217	amended	Ch. 44	SB 39
61-3-222	amended	Ch. 329	HB 737
61-3-224	amended	Ch. 44	SB 39
	amended	Ch. 329	HB 737
61-3-225	enacted	Ch. 53	HB 143
61-3-301	amended	Ch. 44	SB 39
	amended	Ch. 329	HB 737
61-3-303	amended	Ch. 44	SB 39
	amended	Ch. 329	HB 737
61-3-311	amended	Ch. 44	SB 39
61-3-319	enacted	Ch. 329	HB 737
61-3-320	amended	Ch. 329	HB 737
61-3-321	amended	Ch. 44	SB 39
	amended	Ch. 206	SB 36
	amended	Ch. 329	HB 737
61-3-332	amended	Ch. 329	HB 737
	amended	Ch. 392	HB 840
61-3-448	amended	Ch. 329	HB 737
61-3-458	amended	Ch. 37	HB 274
	amended	Ch. 59	SB 30
61-3-461	amended	Ch. 44	SB 39
61-3-462	amended	Ch. 44	SB 39
61-3-463	amended	Ch. 329	HB 737
61-3-468	amended	Ch. 329	HB 737
61-3-479	amended	Ch. 392	HB 840
61-3-481	amended	Ch. 392	HB 840
61-3-503	amended	Ch. 329	HB 737
61-3-550	amended	Ch. 50	HB 90
61-3-562	amended	Ch. 329	HB 737
	amended	Ch. 392	HB 840
61-3-708	amended	Ch. 400	SB 158
61-3-721	amended	Ch. 44	SB 39
61-4-101	amended	Ch. 329	HB 737
61-4-102	amended	Ch. 329	HB 737

61-4-104	amended	Ch. 329	HB 737
61-4-105	amended	Ch. 329	HB 737
61-4-109	amended	Ch. 44	SB 39
	amended	Ch. 329	HB 737
61-4-111	amended	Ch. 329	HB 737
61-4-112	amended	Ch. 329	HB 737
61-4-120	amended	Ch. 329	HB 737
61-4-122	amended	Ch. 329	HB 737
61-4-123	amended	Ch. 20	HB 219
	amended	Ch. 218	SB 305
	amended	Ch. 329	HB 737
61-4-124	amended	Ch. 329	HB 737
61-4-125	amended	Ch. 329	HB 737
61-4-126	amended	Ch. 329	HB 737
61-4-127	enacted	Ch. 329	HB 737
61-4-128	enacted	Ch. 329	HB 737
61-4-129	amended	Ch. 329	HB 737
61-4-130	amended	Ch. 329	HB 737
61-4-131	amended	Ch. 329	HB 737
61-4-135	amended	Ch. 329	HB 737
61-4-136	amended	Ch. 329	HB 737
61-4-137	amended	Ch. 329	HB 737
61-4-202	amended	Ch. 329	HB 737
61-4-204	amended	Ch. 329	HB 737
61-4-501	amended	Ch. 84	HB 31
61-4-517	amended	Ch. 84	HB 31
61-5-102	amended	Ch. 233	SB 185
	amended	Ch. 462	SB 386
61-5-104	amended	Ch. 144	SB 239
61-5-105	amended	Ch. 242	HB 496
61-5-111	amended	Ch. 242	HB 496
61-5-112	amended	Ch. 329	HB 737
61-5-120	amended	Ch. 242	HB 496
61-5-121	amended	Ch. 6	HB 23
	amended	Ch. 44	SB 39
61-5-127	amended	Ch. 133	HB 341
61-5-128	enacted	Ch. 198	HB 287
61-5-203	amended	Ch. 83	HB 28
61-5-205	amended	Ch. 145	SB 322
61-5-206	amended	Ch. 180	HB 789
61-5-207	amended	Ch. 242	HB 496
61-5-212	amended	Ch. 83	HB 28
	amended	Ch. 462	SB 386
61-5-302	amended	Ch. 180	HB 789
61-6-304	amended	Ch. 329	HB 737
61-7-103	amended	Ch. 145	SB 322
61-8-102	amended	Ch. 329	HB 737
	amended	Ch. 449	SB 130
61-8-212	enacted	Ch. 143	SB 208
61-8-303	amended	Ch. 349	SB 302
61-8-346	amended	Ch. 520	SB 222
61-8-364	amended	Ch. 449	SB 130
61-8-377	enacted	Ch. 233	SB 185
61-8-715	amended	Ch. 44	SB 39
61-9-402	amended	Ch. 449	SB 130
	amended	Ch. 520	SB 222
61-9-406	amended	Ch. 114	SB 237
61-9-414	amended	Ch. 298	SB 422
61-9-418	amended	Ch. 105	HB 332
61-9-428	amended	Ch. 242	HB 496
61-9-432	enacted	Ch. 233	SB 185
61-9-435	enacted	Ch. 329	HB 737
61-11-105	amended	Ch. 329	HB 737

61-11-503	amended	Ch. 130	HB	177
61-12-401	amended	Ch. 461	SB	384
61-12-402	amended	Ch. 53	HB	143
61-12-801	enacted	Ch. 227	SB	480
61-13-103	amended	Ch. 242	HB	496
67-2-302	amended	Ch. 17	HB	122
67-3-205	amended	Ch. 19	HB	127
67-3-401	repealed	Ch. 18	HB	126
67-3-402	repealed	Ch. 18	HB	126
67-3-403	repealed	Ch. 18	HB	126
67-3-404	repealed	Ch. 18	HB	126
67-3-405	repealed	Ch. 18	HB	126
69-1-114	amended	Ch. 491	HB	25
69-2-216	enacted	Ch. 469	SB	448
69-2-217	enacted	Ch. 469	SB	448
69-3-305	amended	Ch. 103	HB	244
69-3-1302	amended	Ch. 325	HB	611
69-3-1402	amended	Ch. 174	HB	427
69-3-1408	amended	Ch. 174	HB	427
69-3-2001	formerly 69-8-1001	Ch. 220	SB	367
69-3-2002	formerly 69-8-1002	Ch. 220	SB	367
69-3-2003	formerly 69-8-1003	Ch. 220	SB	367
69-3-2004	formerly 69-8-1004	Ch. 220	SB	367
69-3-2005	formerly 69-8-1005	Ch. 220	SB	367
69-3-2006	formerly 69-8-1006	Ch. 220	SB	367
69-3-2007	formerly 69-8-1007	Ch. 220	SB	367
69-3-2008	formerly 69-8-1008	Ch. 220	SB	367
69-5-102	amended	Ch. 231	HB	526
69-5-105	amended	Ch. 231	HB	526
69-5-106	amended	Ch. 231	HB	526
69-5-110	amended	Ch. 231	HB	526
69-5-113	enacted	Ch. 231	HB	526
69-5-114	enacted	Ch. 231	HB	526
69-8-101	amended	Ch. 491	HB	25
69-8-102	repealed	Ch. 491	HB	25
69-8-103	amended	Ch. 491	HB	25
69-8-104	repealed	Ch. 491	HB	25
69-8-201	amended	Ch. 491	HB	25
69-8-202	repealed	Ch. 491	HB	25
69-8-203	repealed	Ch. 491	HB	25
69-8-204	repealed	Ch. 491	HB	25
69-8-208	repealed	Ch. 491	HB	25
69-8-209	repealed	Ch. 491	HB	25
69-8-210	amended	Ch. 491	HB	25
69-8-211	repealed	Ch. 491	HB	25
69-8-301	repealed	Ch. 491	HB	25
69-8-302	repealed	Ch. 491	HB	25
69-8-303	repealed	Ch. 491	HB	25
69-8-304	repealed	Ch. 491	HB	25
69-8-308	repealed	Ch. 491	HB	25
69-8-309	repealed	Ch. 491	HB	25
69-8-310	repealed	Ch. 491	HB	25
69-8-311	amended	Ch. 491	HB	25
69-8-402	amended	Ch. 491	HB	25
69-8-403	amended	Ch. 491	HB	25
69-8-404	repealed	Ch. 491	HB	25
69-8-408	repealed	Ch. 491	HB	25
69-8-409	repealed	Ch. 491	HB	25
69-8-410	repealed	Ch. 491	HB	25
69-8-411	amended	Ch. 491	HB	25
69-8-419	amended	Ch. 491	HB	25
69-8-420	amended	Ch. 491	HB	25
69-8-421	amended	Ch. 491	HB	25

69-8-426	enacted	Ch. 491	HB 25
69-8-602	amended	Ch. 491	HB 25
69-8-603	amended	Ch. 491	HB 25
69-8-1001	renumbered 69-3-2001	Ch. 220	SB 367
69-8-1002	renumbered 69-3-2002	Ch. 220	SB 367
69-8-1003	renumbered 69-3-2003	Ch. 220	SB 367
	amended	Ch. 246	HB 681
69-8-1004	renumbered 69-3-2004	Ch. 220	SB 367
	amended	Ch. 246	HB 681
	amended	Ch. 491	HB 25
69-8-1005	renumbered 69-3-2005	Ch. 220	SB 367
	amended	Ch. 246	HB 681
69-8-1006	renumbered 69-3-2006	Ch. 220	SB 367
69-8-1007	renumbered 69-3-2007	Ch. 220	SB 367
	amended	Ch. 246	HB 681
69-8-1008	renumbered 69-3-2008	Ch. 220	SB 367
69-12-102	amended	Ch. 223	SB 414
69-13-101	amended (voided by sec. 7, Ch. 365)	Ch. 365	HB 24
69-13-102	amended (voided by sec. 7, Ch. 365)	Ch. 365	HB 24
69-13-201	amended (voided by sec. 7, Ch. 365)	Ch. 365	HB 24
69-13-301	amended (voided by sec. 7, Ch. 365)	Ch. 365	HB 24
69-13-302	amended (voided by sec. 7, Ch. 365)	Ch. 365	HB 24
69-13-303	amended (voided by sec. 7, Ch. 365)	Ch. 365	HB 24
70-9-802	amended	Ch. 331	HB 755
70-9-803	amended	Ch. 331	HB 755
70-16-301	amended	Ch. 353	SB 318
70-16-302	amended	Ch. 353	SB 318
70-17-111	amended	Ch. 352	SB 317
70-17-203	amended	Ch. 352	SB 317
70-24-103	amended	Ch. 267	HB 456
70-24-305	amended	Ch. 267	HB 456
70-24-313	repealed	Ch. 267	HB 456
70-24-314	amended	Ch. 267	HB 456
70-24-315	repealed	Ch. 267	HB 456
70-24-422	amended	Ch. 267	HB 456
70-24-431	amended	Ch. 267	HB 456
70-24-432	repealed	Ch. 267	HB 456
70-24-436	repealed	Ch. 267	HB 456
70-24-441	amended	Ch. 267	HB 456
70-30-102	amended	Ch. 193	SB 536
	amended	Ch. 512	SB 363
70-30-111	amended	Ch. 512	SB 363
70-30-322	amended	Ch. 512	SB 363
70-32-104	amended	Ch. 99	HB 149
70-33-101	enacted	Ch. 267	HB 456
70-33-102	enacted	Ch. 267	HB 456
70-33-103	enacted	Ch. 267	HB 456
70-33-104	enacted	Ch. 267	HB 456
70-33-105	enacted	Ch. 267	HB 456
70-33-106	enacted	Ch. 267	HB 456
70-33-107	enacted	Ch. 267	HB 456
70-33-201	enacted	Ch. 267	HB 456
70-33-202	enacted	Ch. 267	HB 456
70-33-203	enacted	Ch. 267	HB 456
70-33-301	enacted	Ch. 267	HB 456
70-33-302	enacted	Ch. 267	HB 456
70-33-303	enacted	Ch. 267	HB 456
70-33-304	enacted	Ch. 267	HB 456
70-33-305	enacted	Ch. 267	HB 456
70-33-311	enacted	Ch. 267	HB 456
70-33-312	enacted	Ch. 267	HB 456
70-33-313	enacted	Ch. 267	HB 456
70-33-314	enacted	Ch. 267	HB 456

70-33-315	enacted	Ch. 267	HB 456
70-33-321	enacted	Ch. 267	HB 456
70-33-322	enacted	Ch. 267	HB 456
70-33-401	enacted	Ch. 267	HB 456
70-33-402	enacted	Ch. 267	HB 456
70-33-403	enacted	Ch. 267	HB 456
70-33-404	enacted	Ch. 267	HB 456
70-33-405	enacted	Ch. 267	HB 456
70-33-406	enacted	Ch. 267	HB 456
70-33-407	enacted	Ch. 267	HB 456
70-33-408	enacted	Ch. 267	HB 456
70-33-409	enacted	Ch. 267	HB 456
70-33-410	enacted	Ch. 267	HB 456
70-33-422	enacted	Ch. 267	HB 456
70-33-423	enacted	Ch. 267	HB 456
70-33-424	enacted	Ch. 267	HB 456
70-33-425	enacted	Ch. 267	HB 456
70-33-426	enacted	Ch. 267	HB 456
70-33-427	enacted	Ch. 267	HB 456
70-33-428	enacted	Ch. 267	HB 456
70-33-429	enacted	Ch. 267	HB 456
70-33-430	enacted	Ch. 267	HB 456
70-33-431	enacted	Ch. 267	HB 456
70-33-432	enacted	Ch. 267	HB 456
70-33-433	enacted	Ch. 267	HB 456
70-33-434	enacted	Ch. 267	HB 456
71-1-316	amended	Ch. 158	HB 579
71-3-522	amended	Ch. 293	SB 114
71-3-531	amended	Ch. 293	SB 114
71-3-551	amended	Ch. 204	HB 657
71-3-553	amended	Ch. 204	HB 657
71-3-1111	amended	Ch. 502	SB 153
71-3-1112	amended	Ch. 502	SB 153
71-3-1113	amended	Ch. 502	SB 153
71-3-1114	amended	Ch. 295	SB 246
	amended	Ch. 502	SB 153
71-3-1115	amended	Ch. 502	SB 153
71-3-1117	amended	Ch. 502	SB 153
71-3-1118	amended	Ch. 502	SB 153
71-3-1201	amended	Ch. 134	HB 397
72-5-315	amended	Ch. 184	SB 164
72-5-321	amended	Ch. 480	HB 683
72-5-408	amended	Ch. 184	SB 164
72-5-421	amended	Ch. 42	SB 20
72-6-111	amended	Ch. 258	HB 310
72-6-121	enacted	Ch. 258	HB 310
72-6-122	enacted	Ch. 258	HB 310
72-17-101	amended	Ch. 345	SB 287
72-17-102	amended	Ch. 345	SB 287
72-17-108	amended	Ch. 345	SB 287
72-17-109	enacted	Ch. 345	SB 287
72-17-201	amended	Ch. 345	SB 287
72-17-202	amended	Ch. 345	SB 287
72-17-207	amended	Ch. 345	SB 287
72-17-208	amended	Ch. 345	SB 287
72-17-213	amended	Ch. 345	SB 287
72-17-214	amended	Ch. 345	SB 287
72-17-216	enacted	Ch. 345	SB 287
72-17-217	enacted	Ch. 345	SB 287
72-17-218	enacted	Ch. 345	SB 287
72-17-301	amended	Ch. 345	SB 287
72-17-303	enacted	Ch. 345	SB 287
72-30-101	amended	Ch. 421	SB 424

72-30-102	amended	Ch. 421	SB 424
72-30-103	amended	Ch. 421	SB 424
72-30-201	repealed	Ch. 421	SB 424
72-30-202	repealed	Ch. 421	SB 424
72-30-203	repealed	Ch. 421	SB 424
72-30-204	repealed	Ch. 421	SB 424
72-30-205	repealed	Ch. 421	SB 424
72-30-206	repealed	Ch. 421	SB 424
72-30-207	amended	Ch. 421	SB 424
72-30-208	enacted	Ch. 421	SB 424
72-30-209	enacted	Ch. 421	SB 424
72-30-210	enacted	Ch. 421	SB 424
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72-30-212	enacted	Ch. 421	SB 424
72-30-213	enacted	Ch. 421	SB 424
75-1-201	amended	Ch. 469	SB 448
75-1-205	amended	Ch. 469	SB 448
75-1-1101	amended	Ch. 432	HB 116
75-2-111	amended	Ch. 256	HB 291
75-5-305	amended	Ch. 150	HB 92
	amended	Ch. 312	HB 259
75-5-325	enacted	Ch. 312	HB 259
75-5-326	enacted	Ch. 312	HB 259
75-5-327	enacted	Ch. 312	HB 259
75-5-410	enacted	Ch. 391	HB 831
75-6-102	amended	Ch. 423	SB 446
75-6-103	amended	Ch. 423	SB 446
75-6-104	amended	Ch. 423	SB 446
75-6-112	amended	Ch. 423	SB 446
75-6-120	amended	Ch. 423	SB 446
75-10-104	amended	Ch. 54	HB 167
75-10-106	amended	Ch. 54	HB 167
75-10-111	amended	Ch. 54	HB 167
75-10-208	enacted	Ch. 97	HB 144
75-10-215	amended	Ch. 156	HB 555
75-10-231	amended	Ch. 97	HB 144
75-10-501	amended	Ch. 265	HB 428
75-10-513	amended	Ch. 53	HB 143
75-10-534	amended	Ch. 408	SB 261
75-10-541	amended	Ch. 53	HB 143
75-10-621	amended	Ch. 432	HB 116
75-10-704	amended	Ch. 432	HB 116
75-10-725	amended	Ch. 449	SB 130
75-10-743	amended	Ch. 432	HB 116
75-10-807	amended	Ch. 54	HB 167
75-10-920	amended	Ch. 54	HB 167
75-10-1003	amended	Ch. 97	HB 144
75-10-1004	amended	Ch. 97	HB 144
75-10-1006	amended	Ch. 97	HB 144
75-10-1007	enacted	Ch. 97	HB 144
75-11-302	amended	Ch. 100	HB 176
75-11-314	amended	Ch. 100	HB 176
75-11-505	amended	Ch. 51	HB 94
75-11-512	amended	Ch. 51	HB 94
75-11-525	amended	Ch. 51	HB 94
75-20-104	amended	Ch. 260	HB 328
75-20-216	amended	Ch. 469	SB 448
75-20-223	amended	Ch. 469	SB 448
76-1-103	amended	Ch. 455	SB 201
76-1-201	amended	Ch. 151	HB 400
76-1-211	amended	Ch. 151	HB 400
76-1-304	amended	Ch. 172	HB 265
76-1-410	enacted	Ch. 455	SB 201

76-13-702	enacted	Ch. 409	SB 293
76-14-103	amended	Ch. 44	SB 39
76-15-302	amended	Ch. 44	SB 39
77-1-101	amended	Ch. 164	HB 37
77-1-108	amended	Ch. 247	HB 19
77-1-109	amended	Ch. 247	HB 19
77-1-126	enacted	Ch. 164	HB 37
77-1-127	enacted	Ch. 164	HB 37
77-1-128	enacted	Ch. 164	HB 37
77-1-129	enacted	Ch. 164	HB 37
77-1-602	amended	Ch. 247	HB 19
77-1-606	amended	Ch. 247	HB 19
77-1-613	amended	Ch. 247	HB 19
	amended	Ch. 494	SB 25
77-1-905	amended	Ch. 247	HB 19
77-2-102	amended	Ch. 160	HB 703
77-2-213	amended	Ch. 456	SB 213
77-2-328	amended	Ch. 247	HB 19
77-2-363	amended	Ch. 396	SB 131
	amended	Ch. 456	SB 213
77-2-364	amended	Ch. 396	SB 131
	amended	Ch. 456	SB 213
77-2-366	amended	Ch. 396	SB 131
77-5-103	amended	Ch. 336	SB 145
77-5-104	repealed	Ch. 336	SB 145
77-5-105	repealed	Ch. 336	SB 145
77-5-106	repealed	Ch. 336	SB 145
77-5-201	amended	Ch. 494	SB 25
77-5-204	amended	Ch. 247	HB 19
	amended	Ch. 494	SB 25
77-5-214	enacted	Ch. 494	SB 25
77-5-215	enacted	Ch. 494	SB 25
77-5-216	enacted	Ch. 494	SB 25
77-5-217	enacted	Ch. 494	SB 25
77-5-218	enacted	Ch. 494	SB 25
77-5-219	enacted	Ch. 494	SB 25
77-6-114	repealed	Ch. 313	HB 269
80-2-203	amended	Ch. 275	HB 537
80-2-207	amended	Ch. 275	HB 537
80-2-208	amended	Ch. 275	HB 537
80-2-209	amended	Ch. 275	HB 537
80-2-227	amended	Ch. 275	HB 537
80-2-231	amended	Ch. 275	HB 537
80-2-244	amended	Ch. 275	HB 537
80-7-105	amended	Ch. 384	HB 569
80-7-106	amended	Ch. 384	HB 569
80-7-108	amended	Ch. 384	HB 569
80-7-109	amended	Ch. 384	HB 569
80-7-110	amended	Ch. 384	HB 569
80-7-122	amended	Ch. 384	HB 569
80-7-123	amended	Ch. 384	HB 569
80-7-133	amended	Ch. 384	HB 569
80-7-135	amended	Ch. 384	HB 569
80-7-823	amended	Ch. 432	HB 116
80-11-701	enacted	Ch. 148	SB 479
80-11-702	enacted	Ch. 148	SB 479
80-11-801	enacted	Ch. 300	SB 544
81-1-110	enacted	Ch. 261	HB 364
81-1-111	enacted	Ch. 261	HB 364
81-3-107	amended	Ch. 420	SB 413
81-7-202	amended	Ch. 297	SB 406
81-7-305	amended	Ch. 297	SB 406
81-7-605	amended	Ch. 297	SB 406

85-2-306	amended	Ch. 213	SB 248
85-2-308	amended	Ch. 213	SB 248
	amended	Ch. 448	SB 128
85-2-310	amended	Ch. 213	SB 248
85-2-311	amended	Ch. 213	SB 248
	amended	Ch. 391	HB 831
85-2-312	amended	Ch. 213	SB 248
85-2-316	amended	Ch. 213	SB 248
85-2-319	amended	Ch. 213	SB 248
85-2-320	enacted	Ch. 213	SB 248
85-2-329	amended	Ch. 391	HB 831
85-2-330	amended	Ch. 391	HB 831
85-2-331	amended	Ch. 213	SB 248
85-2-335	amended	Ch. 142	SB 178
	amended	Ch. 391	HB 831
85-2-336	amended	Ch. 213	SB 248
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85-2-337	repealed	Ch. 391	HB 831
85-2-340	amended	Ch. 391	HB 831
85-2-341	amended	Ch. 213	SB 248
	amended	Ch. 391	HB 831
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85-2-343	amended	Ch. 213	SB 248
	amended	Ch. 391	HB 831
85-2-344	amended	Ch. 213	SB 248
	amended	Ch. 391	HB 831
85-2-350	amended	Ch. 44	SB 39
85-2-360	enacted	Ch. 391	HB 831
85-2-361	enacted	Ch. 391	HB 831
85-2-362	enacted	Ch. 391	HB 831
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85-2-369	enacted	Ch. 391	HB 831
85-2-370	enacted	Ch. 391	HB 831
85-2-401	amended	Ch. 213	SB 248
85-2-402	amended	Ch. 213	SB 248
	amended	Ch. 448	SB 128
85-2-404	amended	Ch. 355	SB 370
85-2-419	amended	Ch. 448	SB 128
85-2-421	amended	Ch. 366	HB 39
85-2-422	amended	Ch. 366	HB 39
85-2-424	amended	Ch. 366	HB 39
85-2-426	amended	Ch. 366	HB 39
85-2-431	amended	Ch. 366	HB 39
85-2-436	amended	Ch. 448	SB 128
85-2-437	repealed	Ch. 448	SB 128
85-2-438	repealed	Ch. 448	SB 128
85-2-501	amended	Ch. 412	SB 324
85-2-506	amended	Ch. 391	HB 831
85-2-516	amended	Ch. 412	SB 324
85-2-522	enacted	Ch. 412	SB 324
85-2-602	amended	Ch. 448	SB 128
85-2-905	amended	Ch. 432	HB 116
85-5-101	amended	Ch. 92	HB 87
85-5-107	amended	Ch. 513	SB 365
85-5-201	amended	Ch. 92	HB 87
	amended	Ch. 513	SB 365
85-5-204	amended	Ch. 513	SB 365
85-5-206	amended	Ch. 513	SB 365
85-5-301	amended	Ch. 92	HB 87
85-7-206	amended	Ch. 93	HB 102
85-7-1953	amended	Ch. 93	HB 102

85-7-1973	amended	Ch. 93	HB 102
85-7-2104	amended	Ch. 93	HB 102
85-7-2117	amended	Ch. 93	HB 102
85-7-2134	amended	Ch. 93	HB 102
85-7-2136	amended	Ch. 93	HB 102
	amended	Ch. 110	HB 623
85-7-2152	amended	Ch. 110	HB 623
85-7-2157	amended	Ch. 110	HB 623
85-7-2158	amended	Ch. 110	HB 623
85-7-2159	amended	Ch. 110	HB 623
85-7-2162	amended	Ch. 110	HB 623
85-7-2163	amended	Ch. 110	HB 623
85-8-601	amended	Ch. 110	HB 623
85-20-1101	enacted	Ch. 79	SB 187
85-20-1201	enacted	Ch. 80	SB 188
85-20-1301	enacted	Ch. 161	HB 717
85-20-1401	enacted	Ch. 213	SB 248
85-20-1503	enacted	Ch. 489	HB 829
85-20-1504	enacted	Ch. 489	HB 829
85-20-1505	enacted	Ch. 489	HB 829
85-20-1506	enacted	Ch. 489	HB 829
87-1-111	amended	Ch. 415	SB 372
87-1-114	amended	Ch. 500	SB 115
87-1-201	amended	Ch. 262	HB 389
87-1-202	amended	Ch. 16	HB 115
87-1-257	amended	Ch. 448	SB 128
87-1-271	amended	Ch. 63	SB 44
87-1-272	amended	Ch. 183	SB 77
87-1-301	amended	Ch. 262	HB 389
87-1-601	amended	Ch. 332	HB 759
	amended	Ch. 420	SB 413
87-2-104	amended	Ch. 25	HB 38
	amended	Ch. 35	HB 226
87-2-106	amended	Ch. 180	HB 789
	amended	Ch. 237	HB 450
87-2-120	amended	Ch. 55	HB 264
87-2-202	amended	Ch. 180	HB 789
	amended	Ch. 237	HB 450
	amended	Ch. 452	SB 166
87-2-505	amended	Ch. 25	HB 38
87-2-523	enacted	Ch. 415	SB 372
87-2-524	enacted	Ch. 415	SB 372
87-2-702	amended	Ch. 25	HB 38
87-2-711	amended	Ch. 406	SB 243
87-2-801	amended	Ch. 452	SB 166
87-2-803	amended	Ch. 102	HB 193
	amended	Ch. 136	HB 497
	amended	Ch. 137	HB 770
	amended	Ch. 406	SB 243
87-2-805	amended	Ch. 452	SB 166
87-2-813	enacted	Ch. 415	SB 372
87-2-814	enacted	Ch. 415	SB 372
87-2-903	amended	Ch. 452	SB 166
87-3-102	amended	Ch. 415	SB 372
87-3-116	enacted	Ch. 445	SB 100
87-3-125	amended	Ch. 102	HB 193
87-3-236	amended	Ch. 410	SB 314
87-5-402	amended	Ch. 16	HB 115
87-5-704	amended	Ch. 44	SB 39
90-1-104	amended	Ch. 30	HB 106
90-1-131	amended	Ch. 453	SB 173
90-1-135	amended	Ch. 453	SB 173
90-1-160	enacted	Ch. 217	SB 299

90-1-161	enacted	Ch. 217	SB 299
90-1-162	enacted	Ch. 217	SB 299
90-1-163	enacted	Ch. 217	SB 299
90-1-164	enacted	Ch. 217	SB 299
90-1-167	enacted	Ch. 217	SB 299
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90-1-169	enacted	Ch. 217	SB 299
90-1-201	amended	Ch. 104	HB 286
90-1-202	amended	Ch. 104	HB 286
90-1-204	amended	Ch. 104	HB 286
90-1-404	amended	Ch. 352	SB 317
90-2-1103	amended	Ch. 432	HB 116
90-2-1104	amended	Ch. 363	HB 7
	repealed	Ch. 432	HB 116
90-2-1111	amended	Ch. 432	HB 116
90-2-1121	amended	Ch. 432	HB 116
90-3-1002	amended	Ch. 438	HB 715
90-3-1003	amended	Ch. 438	HB 715
90-4-215	amended	Ch. 4	HB 41
90-4-302	amended	Ch. 182	SB 60
90-4-1201	enacted	Ch. 378	HB 330
90-4-1202	enacted	Ch. 378	HB 330
90-4-1203	enacted	Ch. 378	HB 330
90-4-1204	enacted	Ch. 378	HB 330
90-4-1205	enacted	Ch. 378	HB 330
90-4-1206	enacted	Ch. 378	HB 330
90-4-1207	enacted	Ch. 378	HB 330
90-4-1208	enacted	Ch. 378	HB 330
90-4-1209	enacted	Ch. 378	HB 330
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90-4-1221	enacted	Ch. 378	HB 330
90-4-1222	enacted	Ch. 378	HB 330
90-4-1223	enacted	Ch. 378	HB 330
90-6-107	amended	Ch. 426	SB 491
90-6-131	amended	Ch. 426	SB 491
90-6-132	amended	Ch. 426	SB 491
90-6-133	amended	Ch. 426	SB 491
90-6-134	amended	Ch. 426	SB 491
90-7-302	amended	Ch. 278	HB 634
90-14-103	amended	Ch. 85	HB 51

SESSION LAWS AFFECTED

Laws Affected	Action	Chapter	Bill Number
Laws of 1989			
Ch. 658, sec. 11	repealed	448	SB 128
Laws of 1991			
Ch. 740, secs. 4, 7	repealed	448	SB 128
Laws of 1995			
Ch. 463, sec. 5	repealed	77	SB 126
Laws of 1997			
Ch. 537, sec. 9	amended	208	SB 150
Laws of 1999			
Ch. 123, secs. 5, 6, 7, 9	repealed	448	SB 128
Ch. 512, sec. 19	repealed	453	SB 173
Ch. 529, secs. 6, 9	repealed	77	SB 126
Laws of 2001			
Ch. 69, sec. 5	repealed	453	SB 173
Ch. 226, sec. 5	amended	208	SB 150
Ch. 321, sec. 3	amended	237	HB 450
Ch. 435, sec. 1	amended	383	HB 512
Ch. 469, sec. 3	repealed	113	SB 88
Laws of 2003			
Ch. 60, sec. 11	repealed	153	HB 503
Ch. 81, sec. 4	amended	185	SB 170
Ch. 390, sec. 20	amended	517	SB 118
Ch. 473, sec. 2	amended	363	HB 7
Ch. 562, sec. 15	repealed	50	HB 90
Laws of 2005			
Ch. 4, sec. 7	amended	208	SB 150
Ch. 23, sec. 1	amended	185	SB 170
Ch. 288, sec. 15	repealed	319	HB 473
Ch. 307, sec. 11	repealed	431	HB 6
Ch. 308, sec. 10	repealed	363	HB 7
Ch. 365, sec. 6	repealed	466	SB 417
Ch. 404, sec. 4	amended	473	SB 505
Ch. 418, sec. 2	repealed	239	HB 36
Ch. 460, secs. 3, 4	repealed	453	SB 173
Ch. 464, sec. 14	amended	44	SB 39
Ch. 535, sec. 5	amended	44	SB 39
Ch. 577, sec. 5	amended	27	HB 48
Ch. 606, secs. 4, 7	amended	517	SB 118

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Ch.	359		SB	444	10/01/2007
Ch.	360		SB	517	10/01/2007

Ch.	361	§§ 1 and 8	SB	553	04/28/2007
		§§ 2-4, 7, and 9			07/01/2008
		§ 5			07/01/2009
		§ 6			12/31/2010
Ch.	362	§§ 2 and 7	HB	790	10/01/2007
		§§ 1, 3, 5, and 6			01/01/2008
		§ 4			07/01/2008
Ch.	363	§§ 9 and 11	HB	7	05/03/2007
		§§ 1-8, and 10			07/01/2007
Ch.	364		HB	8	07/01/2007
Ch.	365		HB	24	Chapter void — per section 7 of Chapter 365 (HB 24), this act is void if SB 218 was not passed and approved. SB 218 died in House Natural Resources Committee
Ch.	366		HB	39	07/01/2008
Ch.	367		HB	40	05/03/2007
Ch.	368		HB	49	05/03/2007
Ch.	369		HB	69	10/01/2007
Ch.	370		HB	96	07/01/2007
Ch.	371		HB	131	07/01/2007
Ch.	372	§§ 3, 5, and 24	HB	141	10/01/2007
		§§ 1, 2, 4, and 6-23			10/01/2008
Ch.	373		HB	155	05/03/2007
Ch.	374		HB	195	07/01/2007
Ch.	375		HB	240	10/01/2007
Ch.	376		HB	257	05/03/2007
Ch.	377		HB	278	05/03/2007
Ch.	378	§§ 1-20, 22, and 23	HB	330	05/03/2007
		§ 21			07/01/2007
Ch.	379		HB	390	07/01/2007
Ch.	380		HB	426	07/01/2007
Ch.	381		HB	480	07/01/2007
Ch.	382		HB	488	07/01/2007
Ch.	383	§§ 7-9, and 11	HB	512	05/03/2007
		§§ 1-6, and 10			07/01/2007
Ch.	384		HB	569	10/01/2007
Ch.	385		HB	583	10/01/2007
Ch.	386		HB	608	07/01/2007
Ch.	387		HB	616	10/01/2007
Ch.	388		HB	665	10/01/2007
Ch.	389		HB	668	10/01/2007
Ch.	390		HB	687	01/01/2008
Ch.	391		HB	831	05/03/2007
Ch.	392		HB	840	01/01/2008
Ch.	393		SB	48	10/01/2007
Ch.	394		SB	71	05/03/2007
Ch.	395		SB	94	10/01/2007
Ch.	396		SB	131	07/01/2007
Ch.	397		SB	133	05/03/2007
Ch.	398		SB	146	06/30/2007
Ch.	399		SB	157	05/03/2007
Ch.	400		SB	158	10/01/2007
Ch.	401		SB	162	10/01/2007
Ch.	402		SB	172	10/01/2007
Ch.	403		SB	184	05/03/2007
Ch.	404		SB	192	10/01/2007
Ch.	405		SB	209	07/01/2007
Ch.	406		SB	243	05/03/2007
Ch.	407		SB	253	10/01/2007
Ch.	408		SB	261	07/01/2007
Ch.	409		SB	293	10/01/2007
Ch.	410		SB	314	03/01/2008

Ch.	411		SB	321	10/01/2007
Ch.	412		SB	324	10/01/2007
Ch.	413		SB	350	10/01/2007
Ch.	414		SB	354	10/01/2007
Ch.	415	§§ 7 and 8	SB	372	05/03/2007
		§§ 1-3, 5, and 6			Effective upon notification by the U.S. fish and wildlife service to the department of fish, wildlife, and parks that the wolf has been formally removed from the federal threatened or endangered species list and upon removal of the wolf from the state endangered species list by the department of fish, wildlife, and parks
		§ 4			Effective upon notification by the U.S. fish and wildlife service to the department of fish, wildlife, and parks that the grizzly bear has been formally removed from the federal threatened or endangered species list
Ch.	416		SB	376	05/03/2007
Ch.	417		SB	379	05/03/2007
Ch.	418		SB	403	05/03/2007
Ch.	419		SB	412	05/03/2007
Ch.	420		SB	413	10/01/2007
Ch.	421		SB	424	10/01/2007
Ch.	422		SB	431	10/01/2007
Ch.	423		SB	446	10/01/2007
Ch.	424		SB	447	10/01/2007
Ch.	425		SB	461	10/01/2007
Ch.	426		SB	491	10/01/2007
Ch.	427		SB	492	05/03/2007
Ch.	428		SB	523	10/01/2007
Ch.	429		SB	540	05/03/2007
Ch.	430		SB	542	10/01/2007
Ch.	431	§§ 2-12	HB	6	05/03/2007
		§ 1			07/01/2007
Ch.	432		HB	116	07/01/2007
Ch.	433		HB	304	07/01/2007
Ch.	434		HB	353	10/01/2007
Ch.	435		HB	357	05/08/2007
Ch.	436		HB	406	07/01/2007
Ch.	437		HB	592	05/08/2007
Ch.	438		HB	715	07/01/2007
Ch.	439		HB	729	10/01/2007
Ch.	440		HB	768	10/01/2007
Ch.	441		SB	41	05/08/2007
Ch.	442		SB	49	07/01/2007
Ch.	443		SB	51	05/08/2007
Ch.	444		SB	69	07/01/2007
Ch.	445		SB	100	07/01/2007
Ch.	446		SB	104	10/01/2007
Ch.	447		SB	121	05/08/2007
Ch.	448		SB	128	05/08/2007
Ch.	449		SB	130	06/01/2007
Ch.	450		SB	147	06/01/2007
Ch.	451		SB	165	10/01/2007
Ch.	452		SB	166	05/08/2007
Ch.	453		SB	173	07/01/2007
Ch.	454		SB	200	05/08/2007
Ch.	455		SB	201	05/08/2007

Ch.	456		SB	213	05/08/2007
Ch.	457		SB	227	10/01/2007
Ch.	458		SB	270	10/01/2007
Ch.	459		SB	309	10/01/2007
Ch.	460		SB	342	10/01/2007
Ch.	461		SB	384	10/01/2007
Ch.	462		SB	386	10/01/2007
Ch.	463		SB	387	01/01/2008
Ch.	464		SB	404	05/08/2007
Ch.	465		SB	411	05/08/2007
Ch.	466		SB	417	05/08/2007
Ch.	467		SB	436	10/01/2007
Ch.	468		SB	439	01/01/2008
Ch.	469		SB	448	05/08/2007
Ch.	470		SB	449	07/01/2007
Ch.	471		SB	478	07/01/2007
Ch.	472		SB	486	10/01/2007
Ch.	473		SB	505	05/08/2007
Ch.	474		SB	518	01/01/2008
Ch.	475		SB	525	05/08/2007
Ch.	476		SB	535	10/01/2007
Ch.	477		SB	538	10/01/2007
Ch.	478		SB	549	05/08/2007
Ch.	479		SB	489	Effective upon approval by the electorate
Ch.	480		HB	683	10/01/2007
Ch.	481		SB	96	05/11/2007
Ch.	482		SB	155	05/11/2007
Ch.	483		SB	547	05/11/2007
Ch.	484		HB	160	07/01/2007
Ch.	485		HB	337	05/14/2007
Ch.	486		HB	368	Chapter void — per section 2 of Chapter 486 (HB 368), this act is void if HB 818 was not passed and approved. HB 818 died in conference committee
Ch.	487		HB	462	05/14/2007
Ch.	488		HB	491	10/01/2007
Ch.	489	§§ 1-6(1), 7, and 8	HB	829	05/14/2007
		§ 6(2)			Effective when a water rights compact among the Blackfeet Tribe, the state, and the United States has been finally ratified by the legislature, the congress of the United States, and the Blackfeet Tribe
Ch.	490		SB	22	07/01/2007
Ch.	491		HB	25	10/01/2007
Ch.	492		SB	4	07/01/2007
Ch.	493		SB	12	07/01/2007
Ch.	494		SB	25	05/16/2007
Ch.	495		SB	27	10/01/2007
Ch.	496		SB	31	10/01/2007
Ch.	497		SB	74	10/01/2007
Ch.	498		SB	92	10/01/2007
Ch.	499		SB	103	10/01/2007
Ch.	500		SB	115	07/01/2007
Ch.	501		SB	127	10/01/2007
Ch.	502		SB	153	10/01/2007
Ch.	503		SB	168	07/01/2007
Ch.	504		SB	206	05/16/2007
Ch.	505		SB	233	10/01/2007
Ch.	506		SB	273	07/01/2007

Ch.	507	SB	276	01/01/2008
Ch.	508	SB	279	10/01/2007
Ch.	509	SB	281	05/16/2007
Ch.	510	SB	316	05/16/2007
Ch.	511	SB	348	05/16/2007
Ch.	512	SB	363	10/01/2007
Ch.	513	SB	365	05/16/2007
Ch.	514	SB	382	07/01/2007
Ch.	515	SB	433	05/16/2007
Ch.	516	SB	524	10/01/2007
Ch.	517	SB	118	05/18/2007
Ch.	518	SB	161	10/01/2007
Ch.	519	SB	205	07/01/2007
Ch.	520	SB	222	10/01/2007
Ch.	521	SB	550	10/01/2007

EFFECTIVE DATES BY DATE

Effective Date	Chapter Number	Bill Number
02/01/2007	Ch. 1	HB 1
02/01/2007	Ch. 2	HB 10
02/01/2007	Ch. 3	HB 42
02/05/2007	Ch. 4	HB 41
02/13/2007	Ch. 5	HB 21
02/16/2007	Ch. 6	HB 23
03/12/2007	Ch. 9	HB 333
03/16/2007	Ch. 10	SB 15
03/16/2007	Ch. 12	SB 97
03/16/2007	Ch. 14	HB 44
03/16/2007	Ch. 16	HB 115
03/16/2007	Ch. 18	HB 126
03/16/2007	Ch. 20	HB 219
03/16/2007	Ch. 21	HB 292
03/22/2007	Ch. 24	HB 18
03/22/2007	Ch. 25	HB 38
03/22/2007	Ch. 27	HB 48
03/22/2007	Ch. 30	HB 106
03/22/2007	Ch. 35	HB 226
03/22/2007	Ch. 40	SB 10
03/22/2007	Ch. 41	SB 11
03/22/2007	Ch. 42	SB 20
03/22/2007	Ch. 43	SB 35
03/27/2007	Ch. 45	HB 20
03/27/2007	Ch. 51	HB 94
03/27/2007	Ch. 55	HB 264
03/27/2007	Ch. 58	SB 29
03/27/2007	Ch. 63	SB 44
03/27/2007	Ch. 65	SB 59
03/27/2007	Ch. 68	SB 72
03/27/2007	Ch. 70	SB 76
03/27/2007	Ch. 76	SB 90
03/27/2007	Ch. 77	SB 126
03/30/2007	Ch. 83	HB 28
03/30/2007	Ch. 84	HB 31
03/30/2007	Ch. 85	HB 51
03/30/2007	Ch. 87	HB 67
03/30/2007	Ch. 89	HB 75
03/30/2007	Ch. 90	HB 81
03/30/2007	Ch. 92	HB 87
03/30/2007	Ch. 93	HB 102
03/30/2007	Ch. 98	HB 145
03/30/2007	Ch. 99	HB 149
03/30/2007	Ch. 100	HB 176
03/30/2007	Ch. 103	HB 244
03/30/2007	Ch. 106	HB 347
03/30/2007	Ch. 108	HB 449
03/30/2007	Ch. 109	HB 531
03/30/2007	Ch. 111	HB 662
03/30/2007	Ch. 113	SB 88
04/02/2007	Ch. 115	HB 664
04/03/2007	Ch. 118	SB 319
04/03/2007	Ch. 119	SB 323
04/05/2007	Ch. 121	HB 22
04/05/2007	Ch. 124	HB 105
04/05/2007	Ch. 126	HB 120
04/05/2007	Ch. 129	HB 157
04/05/2007	Ch. 133	HB 341

04/05/2007	Ch.	136	HB	497
04/05/2007	Ch.	137	HB	770
04/05/2007	Ch.	146	SB	328
04/05/2007	Ch.	147	SB	385
04/05/2007	Ch.	148	SB	479
04/06/2007	Ch.	151	HB	400
04/06/2007	Ch.	159	HB	596
04/06/2007	Ch.	161	HB	717
04/06/2007	Ch.	162	HB	724
04/10/2007	Ch.	168	HB	166
04/10/2007	Ch.	172	HB	265
04/10/2007	Ch.	173	HB	363
04/10/2007	Ch.	174	HB	427
04/10/2007	Ch.	176	HB	532
04/10/2007	Ch.	178	HB	769
04/10/2007	Ch.	181	HB	803
04/10/2007	Ch.	183	SB	77
04/10/2007	Ch.	184	SB	164
04/10/2007	Ch.	186	SB	203
04/10/2007	Ch.	190	SB	467
04/11/2007	Ch.	192	SB	225
04/11/2007	Ch.	193	SB	536
04/12/2007	Ch.	194	SB	291
04/17/2007	Ch.	201	HB	587
04/17/2007	Ch.	205	HB	782
04/17/2007	Ch.	206	SB	36
04/17/2007	Ch.	208	SB	150
04/17/2007	Ch.	210	SB	169
04/17/2007	Ch.	213	SB	248
04/17/2007	Ch.	215	SB	285
04/17/2007	Ch.	216	SB	286
04/17/2007	Ch.	222	SB	378
04/17/2007	Ch.	224	SB	440
04/17/2007	Ch.	229	SB	527
04/23/2007	Ch.	231	HB	526
04/23/2007	Ch.	233	SB	185
04/24/2007	Ch.	235	HB	361
04/24/2007	Ch.	237	HB	450
04/25/2007	Ch.	239	HB	36
04/25/2007	Ch.	244	HB	636
04/25/2007	Ch.	246	HB	681
04/26/2007	Ch.	247	HB	19
04/26/2007	Ch.	255	HB	283
04/26/2007	Ch.	256	HB	291
04/26/2007	Ch.	257	HB	300
04/26/2007	Ch.	262	HB	389
04/26/2007	Ch.	266	HB	435
04/26/2007	Ch.	269	HB	460
04/26/2007	Ch.	270	HB	467
04/26/2007	Ch.	275	HB	537
04/26/2007	Ch.	278	HB	634
04/26/2007	Ch.	283	HB	743
04/26/2007	Ch.	284	HB	744
04/26/2007	Ch.	286	HB	778
04/26/2007	Ch.	288	HB	785
04/26/2007	Ch.	289	HB	811
04/26/2007	Ch.	292	SB	102
04/26/2007	Ch.	296	SB	339
04/26/2007	Ch.	297	SB	406
04/26/2007	Ch.	298	SB	422
04/26/2007	Ch.	300	SB	544
04/27/2007	Ch.	301	HB	3
04/27/2007	Ch.	302	HB	4

05/08/2007	Ch.	456	SB	213
05/08/2007	Ch.	464	SB	404
05/08/2007	Ch.	465	SB	411
05/08/2007	Ch.	466	SB	417
05/08/2007	Ch.	469	SB	448
05/08/2007	Ch.	473	SB	505
05/08/2007	Ch.	475	SB	525
05/08/2007	Ch.	478	SB	549
05/11/2007	Ch.	481	SB	96
05/11/2007	Ch.	482	SB	155
05/11/2007	Ch.	483	SB	547
05/14/2007	Ch.	485	HB	337
05/14/2007	Ch.	487	HB	462
05/14/2007	Ch.	489	HB	829
		§§ 1-6(1), 7, and 8		
05/16/2007	Ch.	494	SB	25
05/16/2007	Ch.	504	SB	206
05/16/2007	Ch.	509	SB	281
05/16/2007	Ch.	510	SB	316
05/16/2007	Ch.	511	SB	348
05/16/2007	Ch.	513	SB	365
05/16/2007	Ch.	515	SB	433
05/18/2007	Ch.	517	SB	118
06/01/2007	Ch.	449	SB	130
06/01/2007	Ch.	450	SB	147
06/30/2007	Ch.	398	SB	146
07/01/2007	Ch.	11	SB	54
07/01/2007	Ch.	15	HB	72
07/01/2007	Ch.	22	HB	419
07/01/2007	Ch.	28	HB	76
07/01/2007	Ch.	31	HB	137
07/01/2007	Ch.	32	HB	156
07/01/2007	Ch.	39	HB	402
07/01/2007	Ch.	47	HB	62
07/01/2007	Ch.	48	HB	65
07/01/2007	Ch.	50	HB	90
07/01/2007	Ch.	52	HB	111
		§§ 10 and 16-18		
07/01/2007	Ch.	56	HB	334
07/01/2007	Ch.	66	SB	62
07/01/2007	Ch.	74	SB	84
07/01/2007	Ch.	81	HB	13
		§§ 1-11 and 13-25		
07/01/2007	Ch.	101	HB	190
07/01/2007	Ch.	104	HB	286
07/01/2007	Ch.	117	SB	108
07/01/2007	Ch.	120	HB	260
07/01/2007	Ch.	123	HB	98
07/01/2007	Ch.	127	HB	124
07/01/2007	Ch.	132	HB	284
07/01/2007	Ch.	138	SB	116
07/01/2007	Ch.	140	SB	124
07/01/2007	Ch.	165	HB	57
07/01/2007	Ch.	166	HB	91
07/01/2007	Ch.	169	HB	198
07/01/2007	Ch.	175	HB	437
07/01/2007	Ch.	177	HB	756
07/01/2007	Ch.	179	HB	786
07/01/2007	Ch.	187	SB	245
07/01/2007	Ch.	199	HB	348
07/01/2007	Ch.	200	HB	372
07/01/2007	Ch.	214	SB	282
07/01/2007	Ch.	217	SB	299

07/01/2007	Ch.	442		SB	49
07/01/2007	Ch.	444		SB	69
07/01/2007	Ch.	445		SB	100
07/01/2007	Ch.	453		SB	173
07/01/2007	Ch.	470		SB	449
07/01/2007	Ch.	471		SB	478
07/01/2007	Ch.	484		HB	160
07/01/2007	Ch.	490		SB	22
07/01/2007	Ch.	492		SB	4
07/01/2007	Ch.	493		SB	12
07/01/2007	Ch.	500		SB	115
07/01/2007	Ch.	503		SB	168
07/01/2007	Ch.	506		SB	273
07/01/2007	Ch.	514		SB	382
07/01/2007	Ch.	519		SB	205
07/07/2007	Ch.	81		HB	13
			§ 12		
10/01/2007	Ch.	7		HB	470
10/01/2007	Ch.	8		HB	121
10/01/2007	Ch.	13		SB	101
10/01/2007	Ch.	17		HB	122
10/01/2007	Ch.	19		HB	127
10/01/2007	Ch.	23		HB	431
10/01/2007	Ch.	26		HB	46
10/01/2007	Ch.	29		HB	82
10/01/2007	Ch.	33		HB	158
10/01/2007	Ch.	34		HB	162
10/01/2007	Ch.	36		HB	255
10/01/2007	Ch.	38		HB	290
10/01/2007	Ch.	44		SB	39
10/01/2007	Ch.	46		HB	43
10/01/2007	Ch.	49		HB	84
10/01/2007	Ch.	52		HB	111
			§§ 2, 5-7, 9, and 11-15		
10/01/2007	Ch.	53		HB	143
10/01/2007	Ch.	54		HB	167
10/01/2007	Ch.	57		SB	19
10/01/2007	Ch.	59		SB	30
10/01/2007	Ch.	60		SB	32
10/01/2007	Ch.	61		SB	40
10/01/2007	Ch.	62		SB	43
10/01/2007	Ch.	64		SB	53
10/01/2007	Ch.	67		SB	70
10/01/2007	Ch.	69		SB	73
10/01/2007	Ch.	71		SB	81
10/01/2007	Ch.	72		SB	82
10/01/2007	Ch.	73		SB	83
10/01/2007	Ch.	75		SB	85
10/01/2007	Ch.	78		SB	136
10/01/2007	Ch.	79		SB	187
10/01/2007	Ch.	80		SB	188
10/01/2007	Ch.	86		HB	58
10/01/2007	Ch.	88		HB	70
10/01/2007	Ch.	91		HB	86
10/01/2007	Ch.	94		HB	128
10/01/2007	Ch.	95		HB	132
10/01/2007	Ch.	96		HB	140
10/01/2007	Ch.	97		HB	144
10/01/2007	Ch.	105		HB	332
10/01/2007	Ch.	107		HB	378
10/01/2007	Ch.	110		HB	623
10/01/2007	Ch.	112		SB	21
10/01/2007	Ch.	114		SB	237

10/01/2007	Ch.	116	SB	45
10/01/2007	Ch.	122	HB	64
10/01/2007	Ch.	125	HB	118
10/01/2007	Ch.	128	HB	129
10/01/2007	Ch.	130	HB	177
10/01/2007	Ch.	131	HB	207
10/01/2007	Ch.	134	HB	397
10/01/2007	Ch.	135	HB	412
10/01/2007	Ch.	139	SB	119
10/01/2007	Ch.	141	SB	141
10/01/2007	Ch.	142	SB	178
10/01/2007	Ch.	143	SB	208
10/01/2007	Ch.	144	SB	239
10/01/2007	Ch.	145	SB	322
10/01/2007	Ch.	149	SB	485
10/01/2007	Ch.	150	HB	92
10/01/2007	Ch.	152	HB	409
10/01/2007	Ch.	153	HB	503
10/01/2007	Ch.	154	HB	510
10/01/2007	Ch.	155	HB	521
10/01/2007	Ch.	156	HB	555
10/01/2007	Ch.	157	HB	570
10/01/2007	Ch.	158	HB	579
10/01/2007	Ch.	160	HB	703
10/01/2007	Ch.	163	HB	795
10/01/2007	Ch.	164	HB	37
10/01/2007	Ch.	167	HB	112
10/01/2007	Ch.	170	HB	206
10/01/2007	Ch.	171	HB	253
10/01/2007	Ch.	180	HB	789
10/01/2007	Ch.	182	SB	60
10/01/2007	Ch.	185	SB	170
10/01/2007	Ch.	188	SB	341
10/01/2007	Ch.	189	SB	466
10/01/2007	Ch.	191	HB	242
10/01/2007	Ch.	195	HB	35
10/01/2007	Ch.	196	HB	99
10/01/2007	Ch.	197	HB	113
10/01/2007	Ch.	198	HB	287
10/01/2007	Ch.	202	HB	617
10/01/2007	Ch.	203	HB	629
10/01/2007	Ch.	204	HB	657
10/01/2007	Ch.	207	SB	47
10/01/2007	Ch.	209	SB	160
10/01/2007	Ch.	211	SB	177
10/01/2007	Ch.	212	SB	193
10/01/2007	Ch.	218	SB	305
10/01/2007	Ch.	219	SB	364
10/01/2007	Ch.	220	SB	367
10/01/2007	Ch.	223	SB	414
10/01/2007	Ch.	226	SB	459
10/01/2007	Ch.	227	SB	480
10/01/2007	Ch.	228	SB	502
10/01/2007	Ch.	238	HB	452
10/01/2007	Ch.	241	HB	433
10/01/2007	Ch.	242	HB	496
10/01/2007	Ch.	243	HB	594
10/01/2007	Ch.	245	HB	641
10/01/2007	Ch.	248	HB	26
10/01/2007	Ch.	251	HB	117
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§ 1, If approved by the electorate
01/01/2009 . . . . . Ch. 225 . . . . . SB 453
06/30/2009 . . . . . Ch. 234 . . . . . SB 369
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§ 5
12/31/2010 . . . . . Ch. 361 . . . . . SB 553
§ 6
? . . . . . Ch. 82 . . . . . SB 16
(§§ 2-5, Effective upon approval by the electorate.)
? . . . . . Ch. 365 . . . . . HB 24
(Chapter void — per section 7 of Chapter 365 (HB 24), this act is void if SB 218 was not passed and approved. SB 218 died in House Natural Resources Committee.)
? . . . . . Ch. 415 . . . . . SB 372
(§§ 1-3, 5, and 6, Effective upon notification by the U.S. fish and wildlife service to the department of fish, wildlife, and parks that the wolf has been formally removed from the federal threatened or endangered species list and upon removal of the wolf from the state endangered species list by the department of fish, wildlife, and parks.)
(§ 4, Effective upon notification by the U.S. fish and wildlife service to the department of fish, wildlife, and parks that the grizzly bear has been formally removed from the federal threatened or endangered species list.)
? . . . . . Ch. 479 . . . . . SB 489
(Effective upon approval by the electorate.)
? . . . . . Ch. 486 . . . . . HB 368
(Chapter void — per section 2 of Chapter 486 (HB 368), this act is void if HB 818 was not passed and approved. HB 818 died in conference committee.)
? . . . . . Ch. 489 . . . . . HB 829
(§ 6(2), Effective when a water rights compact among the Blackfeet Tribe, the state, and the United States has been finally ratified by the legislature, the congress of the United States, and the Blackfeet Tribe.)

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2	1	Appropriation — reversion
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4	1	90-4-215
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5	1	5-3-101
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6	1	61-5-121
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7	1	15-18-212
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9	1	23-4-101
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	6	Effective date
10	1	45-8-116
	2	Codification instruction
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	5	Applicability
11	1	37-1-107
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	20	37-65-204
	21	37-65-323
	22	37-66-103
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	24	Repealer
	25	Codification instruction
	26	Effective date
12	1	39-71-742
	2	39-71-743
	3	44-1-511
	4	Effective date
13	1	2-17-808
14	1	17-5-703
	2	17-5-704
	3	Repealer
	4	Effective date
15	1	39-8-202
	2	39-8-205
	3	39-8-207
	4	Effective date
16	1	87-1-202
	2	87-5-402
	3	Effective date
17	1	67-2-302
18	1	Repealer
	2	Effective date
19	1	67-3-205
20	1	61-1-101
	2	61-4-123
	3	Effective date
21	1	7-8-2231
	2	7-32-2201
	3	Effective date
22	1	15-70-101
	2	Effective date
23	1	81-23-101
	2	81-23-302
24	1	Repealer
	2	Effective date
25	1	87-2-104
	2	87-2-505
	3	87-2-702
	4	Effective date
26	1	10-1-104
27	1	20-25-421
	2	Sec. 5, Ch. 577, L. 2005
	3	Effective date
28	1	49-2-501
	2	49-2-503
	3	49-2-504
	4	49-2-505
	5	49-2-506
	6	49-2-511
	7	49-2-508
	8	49-2-512
	9	49-2-510
	10	Repealer
	11	Codification instruction
	12	Effective date
29	1	45-5-625
	2	50-19-501
	3	Repealer
30	1	90-1-104
	2	Notification to tribal governments
	3	Effective date
31	1	17-6-402
	2	17-6-403
	3	17-6-407
	4	Effective date
32	1	33-20-127
	2	33-20-128
	3	33-22-1104
	4	33-22-1107
	5	33-22-1111
	6	33-22-1115
	7	33-22-1116
	8	33-22-1119
	9	33-22-1121
	10	33-22-1123
	11	33-22-1124
	12	33-22-1125
	13	33-22-1126
	14	33-22-1127
	15	33-22-1128
	16	33-22-1129

	17	Codification instruction
	18	Effective date
33	1	32-1-422
	2	35-1-113
	3	35-1-217
	4	35-1-1104
	5	35-1-1309
	6	35-2-119
	7	35-2-1109
	8	35-8-102
	9	35-8-208
	10	82-1-104
	11	82-1-107
34	1	53-20-125
35	1	87-2-104
	2	Effective date
36	1	37-31-101
37	1	61-3-458
	2	Effective date
38	1	20-31-104
39	1	3-2-403
	2	Effective date
40	1	2-18-503
	2	Effective date
41	1	19-3-412
	2	Effective date
42	1	72-5-421
	2	Effective date
43	1	10-3-903
	2	Effective date
44	1	2-15-3304
	2	7-1-2111
	3	7-6-1544
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	15	16-2-101
	16	16-3-322
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	20	17-7-112
	21	20-3-324
	22	20-5-322
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	24	20-9-408
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	33	33-1-1302
	34	33-1-1303
	35	33-10-106
	36	33-20-1303
	37	33-20-1315
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	39	37-1-101
	40	37-1-303
	41	37-8-202
	42	37-27-302
	43	37-31-331
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	45	37-47-201
	46	44-1-504
	47	45-5-209
	48	50-60-115
	49	50-60-705
	50	61-1-101
	51	61-3-101
	52	61-3-116
	53	61-3-217
	54	61-3-224
	55	61-3-301
	56	61-3-303
	57	61-3-311
	58	61-3-321
	59	61-3-461
	60	61-3-462
	61	61-3-721
	62	61-4-109
	63	61-5-121
	64	61-8-715
	65	76-9-103
	66	76-14-103
	67	76-15-302
	68	82-4-127
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	73	Sec. 14, Ch. 464, L. 2005
	74	Sec. 5, Ch. 535, L. 2005
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45	1	85-2-125
	2	Saving clause
	3	Effective date
46	1	2-18-411
	2	17-8-303
	3	17-8-306
	4	39-3-213
47	1	2-18-617
	2	2-18-618
	3	Effective date
48	1	39-71-522
	2	39-71-916
	3	39-71-225
	4	39-71-503
	5	39-71-508
	6	39-71-510
	7	39-71-907
	8	39-71-915
	9	Codification instruction
	10	Effective date
	11	Applicability
49	1	16-6-201
50	1	17-5-1608
	2	17-5-2001
	3	61-3-103
	4	61-3-203
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	6	61-3-550
	7	Appropriation
	8	Repealer
	9	Two-thirds vote required
	10	Effective date
51	1	75-11-505
	2	75-11-512
	3	75-11-525

	4	Saving clause
	5	Effective date
52	1	39-51-207
	2	39-51-201
	3	39-51-203
	4	39-51-204
	5	39-51-301
	6	39-51-405
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	11	39-51-1218
	12	39-51-2302
	13	39-51-2304
	14	39-51-2306
	15	39-51-2510
	16	Notification to tribal governments
	17	Codification instruction
	18	Effective dates
53	1	61-3-211
	2	61-12-402
	3	75-10-513
	4	75-10-541
	5	61-3-225
	6	Codification instruction
54	1	75-10-104
	2	75-10-106
	3	75-10-111
	4	75-10-807
	5	75-10-920
55	1	87-2-120
	2	Effective date
56	1	18-8-204
	2	18-8-205
	3	60-2-111
	4	60-2-112
	5	60-2-134
	6	60-2-137
	7	Repealer
	8	Effective date
57	1	82-1-107
	2	82-10-503
	3	82-10-504
	4	82-10-505
	5	82-10-510
	6	Codification instruction
	7	Applicability
58	1	60-1-213
	2	Codification instruction
	3	Effective date
59	1	49-4-302
	2	49-4-304
	3	61-3-458
60	1	52-3-604
61	1	1-1-107
	2	1-1-201
	3	1-1-202
	4	1-1-203
	5	1-1-204
	6	1-1-217
	7	1-1-219
	8	1-1-224
	9	1-1-226
	10	1-1-512
	11	1-1-515
	12	1-1-516
	13	1-3-203
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	19	1-3-210
	20	1-3-212
	21	1-3-217
	22	1-3-220
	23	1-3-234
	24	1-4-102
	25	1-5-302
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	27	1-5-305
	28	1-5-406
	29	1-5-407
	30	1-5-419
	31	1-5-420
	32	1-6-102
	33	1-6-104
	34	2-1-302
	35	2-2-205
	36	2-2-207
	37	2-2-304
	38	2-3-105
	39	2-3-221
	40	2-4-104
	41	2-4-202
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	45	2-4-621
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	73	2-15-124
	74	2-15-131
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	76	2-15-201
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	78	2-15-302
	79	2-15-502
	80	2-15-602
	81	2-15-1202
	82	2-15-1203
	83	2-15-1515
	84	2-15-1521
	85	2-15-1701

86	2-15-1742
87	2-15-1744
88	2-15-1748
89	2-15-1814
90	2-15-3002
91	2-15-3003
92	2-15-3305
93	2-15-3104
94	2-15-3331
95	2-15-3402
96	2-16-102
97	2-16-114
98	2-16-115
99	2-16-202
100	2-16-212
101	2-16-213
102	2-16-303
103	2-16-406
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107	2-16-513
108	2-16-521
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110	2-16-612
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112	2-16-616
113	2-16-617
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124	2-18-616
125	2-18-619
126	2-18-621
127	2-18-902
128	2-18-1001
129	2-18-1011
130	3-1-402
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143	3-1-605
144	3-1-606
145	3-1-607
146	3-1-701
147	3-1-1003
148	3-1-1009
149	3-1-1010
150	3-1-1103
151	3-1-1104
152	3-1-1106
153	3-1-1108
154	3-1-1109
155	3-1-1110
156	3-1-1111
157	3-1-1122
158	3-1-1502
159	3-1-1503
160	3-2-102
161	3-2-212
162	3-2-301
163	3-2-401
164	3-2-406
165	3-2-502
166	3-5-115
167	3-5-201
168	3-5-202
169	3-5-213
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173	3-5-311
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175	3-5-405
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182	3-6-101
183	3-6-203
184	3-6-303
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197	3-10-514
198	3-10-602
199	3-10-706
200	3-10-1005
201	3-11-202
202	3-11-203
203	3-11-204
204	3-11-205
205	3-12-203
206	3-15-201
207	3-15-203
208	3-15-401
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62	1 82-15-105
63	1 87-1-271
	2 Effective date
64	1 2-8-401
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	5 2-8-405
	6 Codification instruction
	7 Saving clause
65	1 81-9-219
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66	1 2-15-122
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68	1 2-15-1009
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	3 Applicability
69	1 30-9A-420
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	4 15-31-511
	5 17-1-132
	6 17-7-111
	7 Codification instruction
	8 Effective date
71	1 53-21-102
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73	1 41-3-438
	2 41-3-442
	3 41-3-445
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	2 17-3-212
	3 Effective date
75	1 45-5-622
76	1 53-1-404
	2 Effective date
77	1 Repealer
	2 Effective date
78	1 2-15-1205
79	1 85-20-1101
	2 Codification instruction
80	1 85-20-1201
	2 Codification instruction
81	1 2-6-110
	2 2-15-131

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	16	5-2-301
	17	5-2-302
	18	13-37-106
	19	15-2-102
	20	39-51-301
	21	44-1-504
	22	Appropriations for broadband classification plan pay implementation
	23	Repealer
	24	Effective dates
	25	Applicability
82	1	Tax levy for university system
	2	Codification instruction
	3	Effective dates
	4	Termination
	5	Submission to electorate
83	1	61-1-101
	2	61-5-203
	3	61-5-212
	4	Effective date
	5	Retroactive applicability
84	1	61-4-501
	2	61-4-517
	3	Effective date
85	1	90-14-103
	2	Repealer
	3	Effective date
86	1	39-51-2201
	2	39-51-2302
87	1	2-4-306
	2	2-4-403
	3	2-4-404
	4	Effective date
	5	Applicability
88	1	2-4-202
	2	2-4-302
	3	2-4-312
	4	2-4-313
89	1	15-39-110
	2	17-7-502
	3	Transition remittance
	4	Effective date
	5	Retroactive applicability
90	1	19-20-101
	2	19-20-104
	3	19-20-202
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	5	19-20-305
	6	19-20-414
	7	19-20-427
	8	19-20-501
	9	19-20-503
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	17	19-20-805
	18	19-20-1101
	19	Effective date
91	1	5-13-101
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	6	5-13-313
	7	5-13-314
	8	Codification instruction
92	1	85-5-101
	2	85-5-201
	3	85-5-301
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93	1	7-12-2102
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	7	7-13-2328
	8	85-7-206
	9	85-7-1953
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94	1	7-7-104
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	4	20-7-454
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	8	20-9-327
	9	20-9-461
	10	20-9-464
	11	20-9-466
	12	20-15-404
	13	44-11-310
	14	Repealer
95	1	1-11-301
	2	22-1-211
	3	22-1-212
	4	22-1-213
	5	22-1-219
	6	22-1-218
	7	Repealer
	8	Codification instruction
96	1	13-10-201
97	1	75-10-231
	2	75-10-1003
	3	75-10-1004
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	5	75-10-1007
	6	75-10-208
	7	Codification instruction
98	1	50-60-106
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99	1	70-32-104
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100	1	2-17-414
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	16	15-70-523
	17	15-70-527
	18	17-6-317
	19	75-11-302
	20	75-11-314
	21	Name change — directions to code commissioner
	22	Effective date
101	1	23-5-112
	2	23-5-306
	3	23-5-308
	4	23-5-313
	5	23-5-317
	6	23-5-710
	7	23-5-325
	8	Repealer
	9	Codification instruction
	10	Effective date
102	1	87-2-803
	2	87-3-125
	3	Effective date
103	1	69-3-305
	2	Effective date
104	1	90-1-201
	2	90-1-202
	3	90-1-204
	4	Notification to tribal governments
	5	Effective date
105	1	61-9-418
106	1	20-9-204
	2	Effective date
107	1	37-9-102
	2	2-15-1735
	3	Codification instruction
108	1	50-32-226
	2	50-32-232
	3	Effective date
109	1	60-1-214
	2	Codification instruction
	3	Effective date
110	1	7-2-2722
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	28	39-3-501
	29	85-7-2136
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	36	85-8-601
111	1	76-4-125
	2	Effective date
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	2	Codification instruction
113	1	Repealer
	2	Effective date
114	1	61-9-406
115	1	76-13-304
	2	Effective date
116	1	53-21-102
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117	1	39-71-107
	2	39-71-201
	3	39-71-415
	4	39-71-417
	5	39-71-418
	6	39-71-704 (Voided and replaced by sec. 3, Ch. 330)
	7	39-71-727
	8	39-71-1107
	9	39-71-2106
	10	39-71-2201
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	13	39-71-2337
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	16	Repealer
	17	Codification instruction
	18	Effective date
118	1	37-51-313
	2	Effective date
119	1	50-4-603
	2	Effective date
	3	Retroactive applicability
120	1	2-15-1508
	2	Saving clause
	3	Effective date
	4	Applicability
121	1	17-7-502
	2	Repealer
	3	Effective date
	4	Retroactive applicability
122	1	53-20-102
123	1	52-2-309
	2	52-2-301
	3	52-2-308
	4	Use of medicaid funds — report
	5	Codification instruction
	6	Effective date

124	1	2-15-143
	2	Notification to tribal governments
	3	Effective date
125	1	37-2-104
	2	37-7-103
	3	50-31-307
126	1	52-2-713
	2	52-2-733
	3	Effective date
127	1	2-18-811
	2	18-4-313
	3	Effective date
128	1	19-2-602
	2	19-2-715
	3	19-2-907
	4	19-2-908
	5	19-2-909
	6	19-3-401
	7	19-3-412
	8	19-3-510
	9	19-3-1105
	10	19-3-1106
	11	19-3-1202
	12	19-3-1203
	13	19-3-1204
	14	19-3-2111
	15	19-3-2112
	16	19-3-2113
	17	19-6-707
	18	19-7-101
	19	19-7-312
	20	19-7-1101
	21	19-8-301
	22	19-8-302
	23	19-9-1202
	24	19-9-1205
	25	19-9-1206
	26	19-17-102
	27	19-17-108
	28	19-17-401
	29	19-17-402
	30	19-17-502
	31	Repealer
129	1	53-4-1007
	2	53-4-1012
	3	Effective date
	4	Retroactive applicability
	5	Contingent termination — transfer of excess funds
130	1	30-18-102
	2	30-18-118
	3	61-11-503
	4	Repealer
131	1	7-4-2105
	2	7-4-2205
132	1	Renovation of Morony apartment building at Giant Springs state park
	2	Appropriation
	3	Notification to tribal governments
	4	Effective date
133	1	3-15-402
	2	3-15-403
	3	3-15-404
	4	46-17-202
	5	61-5-127
	6	Repealer
	7	Effective date
134	1	71-3-1201
135	1	35-2-1401
136	1	87-2-803
	2	Effective date
137	1	37-3-203
	2	87-2-803
	3	Effective date
138	1	30-14-1726
	2	30-14-1727
	3	30-14-1728
	4	30-14-1729
	5	30-14-1730
	6	30-14-1731
	7	30-14-1732
	8	30-14-1733
	9	30-14-1734
	10	30-14-1735
	11	30-14-1736
	12	Severability
	13	Codification instruction
	14	Effective date
139	1	41-5-216
140	1	3-5-901
	2	46-14-202
	3	46-14-221
	4	Effective date
141	1	44-5-202
142	1	85-2-335
143	1	61-8-212
	2	Codification instruction
144	1	61-5-104
145	1	61-5-205
	2	61-7-103
146	1	18-4-132
	2	Effective date
	3	Applicability
147	1	45-5-305
	2	45-5-306
	3	Codification instruction
	4	Effective date
148	1	80-11-701
	2	80-11-702
	3	Codification instruction
	4	Effective date
149	1	2-6-109
150	1	50-1-105
	2	50-1-106
	3	50-1-101
	4	50-1-202
	5	50-2-116
	6	50-2-118
	7	50-2-130
	8	50-48-102
	9	50-53-102
	10	75-5-305
	11	76-4-125
	12	76-4-133
	13	Repealer
	14	Codification instruction
	15	Notification to tribal governments
151	1	76-1-201
	2	76-1-211
	3	Transition
	4	Effective date
152	1	30-14-2501
	2	30-14-2502
	3	30-14-2503
	4	Codification instruction
153	1	Repealer
154	1	7-12-2202
	2	7-12-4323
155	1	45-2-101

156	1	75-10-215
157	1	13-21-103
	2	13-21-201
	3	13-21-202
	4	13-21-205
	5	13-21-206
	6	13-21-210
	7	Repealer
	8	Notification to tribal governments
158	1	71-1-316
159	1	7-14-4110
	2	Effective date
	3	Retroactive applicability
160	1	77-2-102
161	1	85-20-1301
	2	Codification instruction
	3	Effective date
162	1	30-14-1301
	2	30-14-1302
	3	30-14-1303
	4	30-14-1304
	5	Codification instruction
	6	Effective date
	7	Applicability
163	1	7-12-4102
164	1	77-1-101
	2	77-1-126
	3	77-1-127
	4	77-1-128
	5	77-1-129
	6	Codification instruction
	7	Severability
165	1	41-3-120
	2	Appropriation
	3	Codification instruction
	4	Effective date
166	1	41-3-110
	2	41-3-115
	3	41-3-201
	4	41-3-205
	5	41-3-422
	6	41-3-423
	7	41-3-432
	8	41-3-445
	9	Codification instruction
	10	Effective date
167	1	7-33-2001
	2	Repealer
	3	Codification instruction
168	1	15-32-701
	2	15-32-702
	3	15-32-703
	4	Effective date
	5	Retroactive applicability
169	1	53-4-1005
	2	Effective date
	3	Termination
170	1	15-10-425
171	1	Repealer
172	1	76-1-304
	2	Effective date
173	1	20-9-141
	2	20-9-308
	3	20-9-353
	4	Effective date
	5	Retroactive applicability
174	1	69-3-1402
	2	69-3-1408
	3	Effective date
175	1	2-15-2230
	2	Codification instruction
	3	Effective date
176	1	10-1-505
	2	10-1-501
	3	10-1-502
	4	Codification instruction
	5	Effective date
177	1	39-11-202
	2	Effective date
178	1	37-48-106
	2	37-48-107
	3	37-48-108
	4	37-48-113
	5	37-48-115
	6	37-48-118
	7	37-48-101
	8	37-48-102
	9	37-48-103
	10	Codification instruction
	11	Effective date
179	1	39-71-401
	2	Effective date
180	1	16-3-322
	2	16-6-305
	3	30-14-1704
	4	33-19-321
	5	45-6-332
	6	45-8-206
	7	45-8-322
	8	61-3-101
	9	61-3-216
	10	61-5-206
	11	61-5-302
	12	87-2-106
	13	87-2-202
	14	Notification to tribal governments
181	1	10-2-102
	2	Effective date
182	1	10-3-312
	2	90-4-302
183	1	87-1-272
	2	Effective date
	3	Termination
184	1	72-5-315
	2	72-5-408
	3	Effective date
	4	Applicability
185	1	Sec. 4, Ch. 81, L. 2003
	2	Sec. 1, Ch. 23, L. 2005
186	1	7-32-235
	2	Effective date
187	1	7-3-1321
	2	7-7-2101
	3	7-7-4201
	4	7-14-2524
	5	7-14-2525
	6	Effective date
188	1	18-8-204
189	1	2-4-405
190	1	2-15-1808
	2	Effective date
191	1	13-10-211
	2	Applicability
192	1	20-20-105
	2	Effective date
	3	Extension of school election deadlines — applicability
193	1	70-30-102
	2	Effective date
194	1	20-6-326

	2	20-6-104
	3	20-9-366
	4	20-9-439
	5	20-9-502
	6	Codification instruction
	7	Effective date — applicability
195	1	46-24-218
	2	46-24-220
	3	31-3-132
	4	46-24-219
	5	33-18-612
	6	Codification instruction
196	1	30-12-203
197	1	16-4-401
198	1	61-5-128
	2	Codification instruction
199	1	23-2-615
	2	Effective date
200	1	7-4-2503
	2	Effective date
201	1	33-23-203
	2	Effective date
	3	Applicability
202	1	40-5-222
	2	40-5-227
203	1	46-1-501
	2	46-1-502
	3	46-1-503
	4	46-1-504
	5	46-1-505
	6	46-1-506
	7	46-1-507
	8	Codification instruction
204	1	71-3-551
	2	71-3-553
205	1	39-51-2208
	2	53-2-108
	3	Effective date
	4	Retroactive applicability
206	1	61-3-321
	2	Effective date
207	1	2-4-302
208	1	15-30-165
	2	Sec. 9, Ch. 537, L. 1997
	3	Sec. 5, Ch. 226, L. 2001
	4	Sec. 7, Ch. 4, L. 2005
	5	Effective date
	6	Applicability
	7	Termination
209	1	7-14-112
210	1	15-1-121
	2	Effective date
	3	Applicability
211	1	2-3-114
	2	2-3-213
212	1	41-3-301
213	1	85-20-1401
	2	85-2-320
	3	85-2-102
	4	85-2-302
	5	85-2-306
	6	85-2-308
	7	85-2-310
	8	85-2-311
	9	85-2-312
	10	85-2-316
	11	85-2-319
	12	85-2-331
	13	85-2-336
	14	85-2-341
	15	85-2-343
	16	85-2-344
	17	85-2-401
	18	85-2-402
	19	Codification instruction
	20	Effective date
214	1	45-8-213
	2	Effective date
215	1	2-17-802
	2	Effective date
216	1	2-17-807
	2	Effective date
217	1	2-17-135
	2	7-16-2201
	3	7-16-2205 (Voided and replaced by sec. 13, Ch. 505)
	4	90-1-160
	5	90-1-161
	6	90-1-162
	7	90-1-163
	8	90-1-164
	9	90-1-167
	10	90-1-168
	11	90-1-169
	12	18-2-105
	13	Codification instructions
	14	Notification to tribal governments
	15	Effective date
218	1	61-4-123
219	1	7-4-2106
220	1	Directions to code commissioner
221	1	13-13-212
	2	13-21-210
	3	Effective date
222	1	15-30-305
	2	15-31-501
	3	Effective date
	4	Retroactive applicability
223	1	69-12-102
224	1	53-2-1203
	2	Saving clause
	3	Effective date
225	1	37-1-101
	2	37-1-131
	3	37-1-136
	4	37-1-311
	5	37-1-405
	6	Severability
	7	Effective date
226	1	18-4-301
	2	18-4-303
227	1	61-12-801
	2	Codification instruction
228	1	13-3-202
	2	13-3-205
	3	13-3-206
	4	13-3-207
	5	13-3-212
	6	13-3-213
	7	Repealer
229	1	76-3-203
	2	Effective date
230	1	Legislative findings — county attorney workload and salaries
	2	7-4-2502
	3	7-4-2503
	4	7-4-2704
	5	7-4-2706
	6	17-7-112
	7	17-7-502

	8	Effective date
231	1	69-5-102
	2	69-5-105
	3	69-5-106
	4	69-5-110
	5	69-5-113
	6	69-5-114
	7	Saving clause
	8	Codification instruction
	9	Effective date
	10	Applicability
232	1	39-73-101
	2	39-73-103
	3	39-73-104
	4	39-73-107
	5	39-73-109
	6	Appropriation
	7	Effective date
233	1	61-1-101
	2	61-8-377
	3	61-9-432
	4	61-5-102
	5	Codification instruction
	6	Effective date
234	1	35-18-104
	2	Saving clause
	3	Effective date
235	1	40-1-202
	2	40-1-301
	3	Effective date
236	1	7-7-2402
	2	Effective date
237	1	87-2-106
	2	87-2-202
	3	Sec. 3, Ch. 321, L. 2001
	4	Effective date
	5	Contingent termination
238	1	46-23-1027
	2	46-23-1021
	3	Codification instruction
239	1	Repealer
	2	Effective date
240	1	35-7-101
	2	35-7-102
	3	35-7-103
	4	35-7-104
	5	35-7-105
	6	35-7-106
	7	35-7-107
	8	35-7-108
	9	35-7-109
	10	35-7-110
	11	35-7-111
	12	35-7-112
	13	35-7-113
	14	35-7-114
	15	35-7-115
	16	35-7-116
	17	35-7-117
	18	15-31-103
	19	35-1-116
	20	35-1-216
	21	35-1-226
	22	35-1-425
	23	35-1-518
	24	35-1-523
	25	35-1-838
	26	35-1-940
	27	35-1-1028
	28	35-1-1029
	29	35-1-1037
	30	35-1-1038
	31	35-1-1040
	32	35-1-1104
	33	35-1-1109
	34	35-1-1309
	35	35-2-115
	36	35-2-130
	37	35-2-213
	38	35-2-222
	39	35-2-423
	40	35-2-528
	41	35-2-535
	42	35-2-609
	43	35-2-613
	44	35-2-729
	45	35-2-822
	46	35-2-823
	47	35-2-832
	48	35-2-904
	49	35-2-909
	50	35-2-1109
	51	35-3-202
	52	35-3-209
	53	35-3-210
	54	35-4-311
	55	35-4-411
	56	35-6-102
	57	35-8-202
	58	35-8-208
	59	35-8-209
	60	35-8-1003
	61	35-8-1011
	62	35-8-1014
	63	35-8-1203
	64	35-9-207
	65	35-9-501
	66	35-12-508
	67	35-12-601
	68	Repealer
	69	Codification instruction
	70	Effective date
241	1	5-7-120
	2	Codification instruction
242	1	61-5-105
	2	61-5-111
	3	61-5-120
	4	61-5-207
	5	61-9-428
	6	61-13-103
243	1	1-1-530
	2	Codification instruction
244	1	7-32-103
	2	7-32-2107
	3	7-32-4105
	4	44-1-302
	5	46-6-420
	6	Effective date
245	1	45-5-624
246	1	69-8-1003
	2	69-8-1004
	3	69-8-1005
	4	69-8-1007
	5	Effective date
247	1	17-1-508
	2	17-6-201
	3	17-7-502
	4	77-1-108
	5	77-1-109
	6	77-1-602

	7	77-1-606
	8	77-1-613
	9	77-1-905
	10	77-2-328
	11	77-5-204
	12	Effective date
248	1	2-15-246 (Renumbered 2-15-2511)
	2	Appropriation
	3	Directions to code commissioner
249	1	33-1-111
	2	33-35-306
	3	Codification instruction
	4	Effective date
250	1	46-23-210
	2	Effective date
	3	Applicability
251	1	53-19-401
	2	53-19-402
	3	53-19-404
	4	Repealer
252	1	53-20-102
	2	53-20-112
	3	53-20-110
	4	53-20-118
	5	53-20-121
	6	53-20-125
	7	53-20-126
	8	53-20-128
	9	53-20-129
	10	53-20-132
	11	53-20-133
	12	53-20-140
	13	53-20-141
	14	Severability
	15	Codification instruction
253	1	7-12-1102
	2	7-12-1111
	3	7-12-1121
	4	7-12-1132
	5	7-12-1133
254	1	46-23-504 (Voided and replaced by sec. 4, Ch. 254)
	2	46-23-505 (Voided and replaced by sec. 5, Ch. 254)
	3	46-23-508 (Voided by sec. 6, Ch. 254)
	4	Coordination instruction
	5	Coordination instruction
	6	Coordination instruction
255	1	20-25-428
	2	Notification to tribal governments
	3	Effective date
256	1	75-2-111
	2	Effective date
257	1	16-4-402
	2	Effective date
	3	Applicability
258	1	72-6-121
	2	72-6-122
	3	72-6-111
	4	Codification instruction
	5	Applicability
259	1	18-2-124
	2	60-2-116
	3	60-2-117
	4	Codification instruction
260	1	75-20-104
261	1	2-15-3110
	2	2-15-3111
	3	2-15-3112
	4	2-15-3113
	5	81-1-110
	6	81-1-111
	7	2-15-3114
	8	Appropriation
	9	Notification to tribal governments
	10	Codification instruction
	11	Effective dates
262	1	87-1-201
	2	87-1-301
	3	Effective date
263	1	53-20-134
	2	Codification instruction
264	1	76-3-621
265	1	75-10-501
266	1	27-2-204
	2	53-9-104
	3	53-9-112
	4	Codification instruction
	5	Severability
	6	Effective date
	7	Applicability
267	1	70-24-103
	2	70-24-305
	3	70-24-314
	4	70-24-422
	5	70-24-431
	6	70-24-441
	7	70-33-101
	8	70-33-102
	9	70-33-103
	10	70-33-104
	11	70-33-105
	12	70-33-106
	13	70-33-107
	14	70-33-201
	15	70-33-202
	16	70-33-203
	17	70-33-301
	18	70-33-302
	19	70-33-303
	20	70-33-304
	21	70-33-305
	22	70-33-311
	23	70-33-312
	24	70-33-313
	25	70-33-314
	26	70-33-315
	27	70-33-321
	28	70-33-322
	29	70-33-401
	30	70-33-402
	31	70-33-403
	32	70-33-404
	33	70-33-405
	34	70-33-406
	35	70-33-407
	36	70-33-408
	37	70-33-409
	38	70-33-410
	39	70-33-422
	40	70-33-423
	41	70-33-424
	42	70-33-425
	43	70-33-426
	44	70-33-427
	45	70-33-428
	46	70-33-429
	47	70-33-430
	48	70-33-431

	49	70-33-432
	50	70-33-433
	51	70-33-434
	52	Repealer
	53	Codification instruction
268	1	46-4-123
269	1	82-4-338
	2	Effective date
	3	Applicability
270	1	27-6-103
	2	27-6-105
	3	Effective date
271	1	37-3-208
	2	Codification instruction
272	1	2-7-503
273	1	13-1-101
	2	13-1-108
	3	13-1-111
	4	13-1-202
	5	13-2-304
	6	13-10-204
	7	13-10-209
	8	13-10-211
	9	13-10-301
	10	13-10-311
	11	13-10-326
	12	13-10-503 (Voided and replaced by sec. 2, Ch. 458)
	13	13-10-601
	14	13-12-205
	15	13-12-207
	16	13-13-117
	17	13-13-201
	18	13-13-205
	19	13-13-213
	20	13-13-214
	21	13-13-241
	22	13-15-107
	23	13-15-201
	24	13-15-206
	25	13-15-209
	26	13-15-301
	27	13-17-103
	28	13-17-211
	29	13-17-212
	30	13-25-101
	31	13-27-401
	32	Repealer
274	1	7-2-4101
275	1	80-2-203
	2	80-2-207
	3	80-2-208
	4	80-2-209
	5	80-2-227
	6	80-2-231
	7	80-2-244
	8	Effective date
276	1	30-14-1712
	2	30-14-1713
	3	30-14-1701
	4	30-14-1702
	5	33-19-410
	6	Codification instruction
277	1	16-4-204
	2	23-5-119
	3	Effective date
278	1	90-7-302
	2	Effective date
279	1	20-9-406
	2	20-9-407
	3	Effective date
280	1	15-35-108
	2	82-4-244
	3	Codification instruction
	4	Effective date
	5	Applicability
281	1	7-33-4124
282	1	46-16-221
	2	Codification instruction
	3	Severability
	4	Applicability
283	1	17-6-602
	2	17-6-606
	3	Effective date
284	1	20-6-105
	2	Effective date
285	1	17-6-230
	2	19-2-410
	3	19-20-215
	4	5-11-210
	5	19-2-405
	6	19-2-407
	7	19-2-408
	8	19-20-201
	9	19-20-719
	10	Codification instruction
	11	Effective date
286	1	15-36-304
	2	Effective date
	3	Retroactive applicability
287	1	44-2-117
	2	Effective date
288	1	39-71-401
	2	Effective date
289	1	22-2-701
	2	Notification to tribal governments
	3	Codification instruction
	4	Effective date
290	1	39-2-215
	2	39-2-216
	3	39-2-217
	4	Codification instruction
291	1	50-6-502
	2	50-6-503
	3	50-6-505
	4	Effective date
292	1	7-33-2108
	2	7-33-2202
	3	7-33-2405
	4	7-33-4112
	5	10-3-202
	6	10-3-209
	7	10-3-1102
	8	10-3-1103
	9	Effective date
293	1	71-3-522
	2	71-3-531
294	1	40-1-202
	2	40-1-203
	3	40-1-205
	4	40-1-206
	5	40-1-208
295	1	71-3-1114
296	1	7-2-4208
	2	Codification instruction
	3	Effective date
297	1	81-7-202
	2	81-7-305
	3	81-7-605
	4	Effective date

298	1	61-9-414
	2	Effective date
299	1	19-13-210
	2	19-13-301
	3	Effective date
300	1	80-11-801
	2	Codification instruction
	3	Effective date
301	1	Time limits
	2	Appropriations — authorization to expend money
	3	Effective date
302	1	Time limits
	2	Appropriations
	3	Effective date
303	1	Appropriation of cultural and aesthetic grant funds — priority of disbursement
	2	Fund transfer
	3	Appropriation of cultural and aesthetic grant funds
	4	Reversion of grant money
	5	Reduction of grants on pro rata basis
	6	Effective date
304	1	10-4-101
	2	10-4-102
	3	10-4-114
	4	10-4-115
	5	10-4-201
	6	10-4-301
	7	10-4-313
	8	Codification instruction
	9	Effective date
305	1	19-20-607
	2	17-7-502
	3	19-20-101
	4	19-20-102
	5	19-20-501
	6	19-20-605
	7	19-20-621
	8	19-20-716
	9	19-20-719
	10	19-20-731
	11	Appropriations
	12	Codification instruction
	13	Effective dates
306	1	17-7-502
	2	19-21-203
	3	Effective date
307	1	Appropriation to repay startup loan for defined contribution plan
	2	Effective date
308	1	10-1-1201
	2	15-30-116
	3	17-7-502
	4	10-1-1202
	5	Codification instruction
	6	Effective date
309	1	5-11-120
	2	17-7-502
	3	Fund transfer
	4	Codification instruction
	5	Effective date
310	1	50-53-102
	2	50-53-103
	3	50-53-201
	4	50-53-202
	5	50-53-203
	6	50-53-206
311	1	10-1-1301
	2	10-1-1302
	3	10-1-1303
	4	10-1-1304
	5	10-1-1305
	6	10-1-1306
	7	10-1-1307
	8	10-1-1308
	9	10-1-1309
	10	10-1-1310
	11	15-30-193
	12	17-7-502
	13	Fund transfer
	14	Codification instruction
	15	Effective date
	16	Applicability
312	1	75-5-325
	2	75-5-326
	3	75-5-305
	4	75-5-327
	5	Codification instruction
	6	Applicability
313	1	7-22-2116
	2	7-22-2126
	3	7-22-2142
	4	7-22-2151
	5	Repealer
	6	Transfer of funds
	7	Effective dates
314	1	Extension of natural resource damage program appropriation
	2	Loan agreement
	3	Three-fourths vote required
	4	Effective dates
315	1	23-2-702
	2	23-2-703
	3	23-2-704
	4	23-2-731
	5	23-2-733
	6	23-2-734
	7	23-2-735
	8	23-2-736
316	1	15-16-701
	2	15-16-702
	3	Saving clause
	4	Effective date
317	1	76-3-504
	2	Effective date
318	1	50-65-101
	2	50-65-102
	3	50-65-103
	4	50-65-104
	5	50-65-110
	6	50-65-111
	7	50-65-112
	8	50-65-115
	9	50-65-120
	10	50-65-121
	11	Notification to tribal governments
	12	Effective date
	13	Codification instruction
319	1	15-1-216
	2	17-7-102
	3	85-2-270
	4	85-2-271
	5	85-2-280
	6	Funds transfer
	7	85-2-281
	8	Collection of outstanding water adjudication fees — appeals

	9	Repealer
	10	Effective date
	11	Termination
320	1	15-30-194
	2	Codification instruction
	3	Effective date
	4	Retroactive applicability
321	1	45-5-501
	2	45-5-502
322	1	15-70-317
	2	15-70-302
	3	15-70-372
	4	Codification instruction
	5	Effective date
	6	Applicability
323	1	Appropriation
	2	Effective date
324	1	20-3-330
	2	Codification instruction
	3	Effective date — applicability
325	1	2-15-2212
	2	53-19-302
	3	53-19-306
	4	53-19-307
	5	53-19-308
	6	53-19-310
	7	53-19-311
	8	69-3-1302
	9	53-19-315
	10	53-19-316
	11	53-19-317
	12	53-19-318
	13	53-19-319
	14	Repealer
	15	Codification instruction
	16	Effective date
326	1	Appropriation — matching funds — administration
	2	Effective date
327	1	15-1-218
	2	17-7-502
	3	Codification instruction
	4	Effective date
328	1	13-37-216
329	1	61-3-214
	2	61-3-319
	3	61-4-127
	4	61-4-128
	5	61-9-435
	6	15-1-122
	7	23-2-502
	8	23-2-515
	9	23-2-601
	10	23-2-614
	11	23-2-631
	12	23-2-634
	13	23-2-641
	14	23-2-642
	15	23-2-644
	16	61-1-101
	17	61-3-101
	18	61-3-115
	19	61-3-116
	20	61-3-206
	21	61-3-216
	22	61-3-222
	23	61-3-224
	24	61-3-301
	25	61-3-303
	26	61-3-320
	27	61-3-321
	28	61-3-332
	29	61-3-448
	30	61-3-463
	31	61-3-468
	32	61-3-503
	33	61-3-562
	34	61-4-101
	35	61-4-102
	36	61-4-104
	37	61-4-105
	38	61-4-109
	39	61-4-111
	40	61-4-112
	41	61-4-120
	42	61-4-122
	43	61-4-123
	44	61-4-124
	45	61-4-125
	46	61-4-126
	47	61-4-129
	48	61-4-130
	49	61-4-131
	50	61-4-135
	51	61-4-136
	52	61-4-137
	53	61-4-202
	54	61-4-204
	55	61-5-112
	56	61-6-304
	57	61-8-102
	58	61-11-105
	59	Repealer
	60	Codification instruction
	61	Effective date
330	1	39-71-704 (Voided and replaced by sec. 3, Ch. 330)
	2	39-71-743
	3	Coordination instruction
	4	Effective date
	5	Applicability dates
331	1	30-14-102
	2	70-9-802
	3	70-9-803
	4	Effective date — retroactive applicability
332	1	10-3-801
	2	87-1-601
	3	Effective date
333	1	33-18-103
	2	Codification instruction
	3	Effective date
334	1	5-2-304
	2	19-3-412
	3	Transition
	4	Effective date
	5	Retroactive applicability
335	1	45-5-501
	2	45-5-502
	3	45-5-503
336	1	76-13-115
	2	45-6-203
	3	76-13-101
	4	76-13-102
	5	76-13-103
	6	76-13-104 (Voided and replaced by sec. 34, Ch. 336)
	7	76-13-116
	8	76-13-105
	9	76-13-110

	10	76-13-121
	11	76-13-122
	12	76-13-123
	13	76-13-124
	14	76-13-125
	15	76-13-126
	16	76-13-212
	17	76-13-201
	18	76-13-202
	19	76-13-203
	20	76-13-204
	21	76-13-205
	22	76-13-206
	23	76-13-207
	24	76-13-208
	25	76-13-209
	26	76-13-210
	27	76-13-211
	28	77-5-103
	29	76-13-213
	30	Repealer
	31	Codification instruction
	32	Directions to code commissioner
	33	Coordination instruction
	34	Coordination instruction
	35	Effective date
337	1	2-4-306
	2	Effective date
338	1	13-10-211
339	1	33-18-224
340	1	39-51-204
	2	39-71-417
	3	Effective date
341	1	2-18-621
	2	Effective date
342	1	7-14-2101
	2	60-4-201
343	1	20-3-332
	2	Effective date
344	1	7-4-2636
	2	Effective date
345	1	46-4-103
	2	50-9-105
	3	50-10-103
	4	72-17-101
	5	72-17-102
	6	72-17-108
	7	72-17-201
	8	72-17-202
	9	72-17-207
	10	72-17-208
	11	72-17-213
	12	72-17-214
	13	72-17-216
	14	72-17-217
	15	72-17-218
	16	72-17-301
	17	72-17-303
	18	72-17-109
	19	Codification instruction
	20	Applicability
346	1	20-5-420
	2	Effective date
347	1	10-1-101
	2	10-1-1401
	3	10-1-1402
	4	10-1-1403
	5	Codification instruction
	6	Effective date
348	1	16-4-420
	2	Saving clause
	3	Effective date
349	1	61-8-303
350	1	7-14-2507
	2	Codification instruction
	3	Effective date
351	1	50-5-117
	2	50-5-105
	3	50-5-207
	4	Codification instruction
	5	Effective date
	6	Termination
352	1	70-17-111
	2	70-17-203
	3	76-6-207
	4	90-1-404
	5	76-6-212
	6	Codification instruction
	7	Effective dates
353	1	70-16-301
	2	70-16-302
	3	Effective date
354	1	20-9-327
	2	Effective date
355	1	85-2-404
	2	Effective date
356	1	33-22-152
	2	2-18-701
	3	2-18-704
	4	33-22-101
	5	33-22-140
	6	33-22-1803
	7	33-31-102
	8	33-31-111
	9	33-35-306
	10	Codification instruction
	11	Effective date
357	1	82-4-1006
	2	Codification instruction
	3	Effective date
358	1	13-13-212
	2	Applicability
359	1	39-71-116
360	1	13-1-106
361	1	15-30-189
	2	17-1-511
	3	20-26-1501
	4	20-26-1502
	5	20-26-1503
	6	Repealer
	7	Codification instruction
	8	Effective dates
	9	Applicability
362	1	39-51-404
	2	39-51-409
	3	39-51-1121
	4	39-51-1212
	5	39-51-1218
	6	39-51-3207
	7	Effective dates
363	1	Appropriations for reclamation and development grants (Amended by sec. 10, Ch. 363)
	2	Approved grants and projects
	3	Coordination of fund sources for grants program projects
	4	Condition of grants
	5	Other appropriations
	6	Fund transfer (Voided by sec. 10, Ch. 363)

	6	Appropriation — periodic transfer — reversion
	7	Codification instruction
	8	Effective date
	9	Retroactive applicability
374	1	20-5-101
	2	53-20-172
	3	Appropriation
	4	Codification instruction
	5	Effective date
375	1	50-51-114
	2	50-51-115
	3	15-30-196 15-31-171
	4	Codification instructions
	5	Applicability
376	1	15-1-222
	2	15-1-223
	3	Effective date
377	1	33-2-712
	2	Effective date
378	1	90-4-1201
	2	90-4-1202
	3	90-4-1203
	4	90-4-1204
	5	90-4-1205
	6	90-4-1206
	7	90-4-1207
	8	90-4-1208
	9	90-4-1209
	10	90-4-1210
	11	90-4-1216
	12	90-4-1217
	13	90-4-1218
	14	90-4-1219
	15	90-4-1220
	16	90-4-1221
	17	90-4-1222
	18	90-4-1223
	19	17-5-1604
	20	17-5-1608
	21	Appropriation
	22	Codification instruction
	23	Effective dates
379	1	23-4-101
	2	23-4-202
	3	23-4-301
	4	23-4-302
	5	23-5-112
	6	Effective date
380	1	7-14-2506
	2	Effective date
381	1	Appropriation
	2	Effective date
382	1	Interim study on property reappraisal cycle
	2	Appropriation (Replaced by sec. 2, Ch. 510)
	3	Effective date
	4	Termination
383	1	Appropriation from treasure state endowment state special revenue account
	2	Approval of grants
	3	Conditions and manner of disbursement of grant funds
	4	Appropriations from treasure state endowment state special revenue account for emergency grants
	5	Appropriations from treasure state endowment special revenue account for preliminary engineering grants
	6	Sec. 1, Ch. 435, L. 2001
	7	Appropriation from treasure state endowment regional water system special revenue account
	8	Approval of funds — completion of appropriation
	9	Conditions — manner of disbursement of funds
	10	Notification to tribal governments
	11	Effective dates
384	1	80-7-105
	2	80-7-106
	3	80-7-108
	4	80-7-109
	5	80-7-110
	6	80-7-122
	7	80-7-123
	8	80-7-133
	9	80-7-135
385	1	82-4-437
	2	82-4-402
	3	82-4-403
	4	82-4-406
	5	82-4-422
	6	82-4-424
	7	82-4-425
	8	82-4-426
	9	82-4-427
	10	82-4-431
	11	82-4-432
	12	82-4-433
	13	82-4-434
	14	82-4-436
	15	82-4-441
	16	82-4-442
	17	Codification instruction
	18	Repealer
386	1	Fund transfer
	2	Effective date
387	1	23-4-101
	2	23-4-104
	3	23-4-201
	4	23-4-202
	5	23-4-301
	6	23-4-302
	7	23-4-304
	8	23-5-801
	9	23-5-802
	10	23-5-805
	11	23-5-806
388	1	2-15-1771
	2	37-36-101
	3	37-36-102
	4	37-36-201
	5	37-36-202
	6	37-36-203
	7	37-36-204
	8	37-36-205
	9	Codification instruction
389	1	37-1-201
	2	37-1-307
	3	Applicability
390	1	2-18-704
	2	33-22-303
	3	33-22-512
	4	33-30-1014

	5	33-31-301
	6	33-35-306
	7	Effective date
	8	Applicability
391	1	85-2-102
	2	85-2-302
	3	85-2-311
	4	85-2-329
	5	85-2-330
	6	85-2-335
	7	85-2-336
	8	85-2-340
	9	85-2-341
	10	85-2-342
	11	85-2-343
	12	85-2-344
	13	85-2-506
	14	85-2-360
	15	85-2-361
	16	85-2-362
	17	85-2-363
	18	85-2-364
	19	75-5-410
	20	85-2-368
	21	85-2-369
	22	85-2-370
	23	Closed basin case study
	24	Case study — requirements for participation — fee
	25	Appropriation
	26	Direction for amendment of rule
	27	Repealer
	28	Codification instruction
	29	Severability
	30	Effective date
	31	Applicability
392	1	61-3-332
	2	61-3-479
	3	61-3-481
	4	61-3-562
	5	Effective date
	6	Applicability
393	1	40-6-501
	2	40-6-502
	3	20-5-412
	4	20-5-420
	5	Codification instruction
	6	Two-thirds vote required — contingent voidness
	7	Applicability
394	1	2-4-302 (Voided and replaced by sec. 2, Ch. 394)
	2	Coordination instruction
	3	Effective date
	4	Applicability
395	1	50-57-101
	2	50-57-102
	3	50-57-105
396	1	77-2-363
	2	77-2-364
	3	77-2-366
	4	Effective date
397	1	25-13-608
	2	25-13-609
	3	Effective date
	4	Applicability
398	1	41-5-113
	2	41-5-103
	3	41-5-112
	4	41-5-121
	5	41-5-124
	6	41-5-130
	7	41-5-131
	8	41-5-132
	9	41-5-1503
	10	41-5-1512
	11	41-5-1513
	12	41-5-1522
	13	41-5-1523
	14	41-5-2002
	15	41-5-2003
	16	41-5-2004
	17	41-5-2005
	18	41-5-2006
	19	41-5-2011
	20	41-5-2012
	21	52-5-109
	22	53-1-203
	23	Repealer
	24	Codification instruction
	25	Effective date
399	1	33-1-201
	2	33-1-311
	3	33-4-312
	4	33-17-211
	5	33-17-214
	6	33-17-232
	7	33-17-511
	8	33-17-1103
	9	33-18-235
	10	33-19-105
	11	33-20-1303
	12	33-20-1315
	13	33-22-121
	14	33-22-122
	15	33-22-513
	16	33-22-1517
	17	33-22-2001
	18	33-22-2002
	19	33-22-2004
	20	33-25-212
	21	33-25-214
	22	33-30-1015
	23	33-31-111
	24	33-31-311
	25	33-35-103
	26	33-35-306
	27	33-38-105
	28	50-4-703
	29	Repealer
	30	Effective date
	31	Retroactive applicability
400	1	61-3-708
401	1	50-19-203
	2	50-19-211
402	1	5-7-102
	2	5-7-209
403	1	18-2-102
	2	22-3-1003
	3	Effective date
404	1	45-8-220
	2	Codification instruction
405	1	2-15-1781
	2	25-1-1101
	3	25-1-1104
	4	25-1-1107
	5	25-1-1111
	6	25-1-1112
	7	25-3-105
	8	25-3-201

	9	25-3-203
	10	25-3-204
	11	25-3-302
	12	37-60-101
	13	37-60-103
	14	37-60-105
	15	37-60-202
	16	37-60-301
	17	37-60-303
	18	37-60-304
	19	37-60-405
	20	Repealer
	21	Effective date
406	1	87-2-711
	2	87-2-803
	3	Effective date
407	1	13-35-240
	2	13-37-111
	3	13-37-113
	4	13-37-124
	5	45-7-202
	6	Codification instruction
408	1	75-10-534
	2	Effective date
409	1	76-13-701
	2	76-13-702
	3	Codification instruction
410	1	87-3-236
	2	Effective date
411	1	32-11-101
	2	32-11-102
	3	32-11-103
	4	32-11-105
	5	32-11-201
	6	32-11-202
	7	32-11-204
	8	32-11-205
	9	32-11-206
	10	32-11-207
	11	32-11-208
	12	32-11-209
	13	32-11-215
	14	32-11-216
	15	32-11-210
	16	32-11-211
	17	32-11-212
	18	32-11-217
	19	32-11-218
	20	32-11-219
	21	32-11-220
	22	32-11-221
	23	32-11-222
	24	32-11-223
	25	32-11-224
	26	32-11-225
	27	32-11-301
	28	32-11-302
	29	32-11-303
	30	32-11-401
	31	32-11-203
	32	32-11-304
	33	32-11-305
	34	32-11-306
	35	32-11-307
	36	32-11-308
	37	32-11-309
	38	32-11-310
	39	32-11-311
	40	32-11-313
	41	32-11-402
	42	32-11-403
	43	32-11-404
	44	32-11-405
	45	32-11-406
	46	32-11-407
	47	32-11-411
	48	32-11-104
	49	32-11-412
	50	32-11-413
	51	32-11-414
	52	32-11-108
	53	32-11-312
	54	32-11-226
	55	32-11-106
	56	32-11-107
	57	Codification instruction
412	1	85-2-501
	2	85-2-516
	3	85-2-522
	4	Codification instruction
413	1	45-6-105
	2	Codification instruction
414	1	53-6-124
	2	53-6-125
	3	53-6-126
	4	53-6-127
	5	Codification instruction
415	1	87-2-523
	2	87-2-524
	3	87-2-813
	4	87-2-814
	5	87-1-111
	6	87-3-102
	7	Codification instruction
	8	Effective dates — contingencies
416	1	85-2-141
	2	Effective date
417	1	46-8-104
	2	Effective date
418	1	15-6-211
	2	Effective date
	3	Retroactive applicability
419	1	20-25-309
	2	18-2-102
	3	20-25-308
	4	Codification instruction
	5	Effective date
420	1	15-1-232
	2	17-6-105
	3	23-1-105
	4	81-3-107
	5	87-1-601
421	1	72-30-101
	2	72-30-102
	3	72-30-103
	4	72-30-207
	5	72-30-208
	6	72-30-209
	7	72-30-210
	8	72-30-211
	9	72-30-212
	10	72-30-213
	11	Repealer
	12	Codification instruction
422	1	50-53-115
423	1	37-42-102
	2	75-6-102
	3	75-6-103
	4	75-6-104
	5	75-6-112

	6	75-6-120
424	1	46-24-106
	2	46-24-201
425	1	82-4-232
	2	Contingent voidness
426	1	90-6-107
	2	90-6-131
	3	90-6-132
	4	90-6-133
	5	90-6-134
427	1	7-8-2202
	2	Effective date
428	1	3-1-102
429	1	23-5-112
	2	23-5-152
	3	23-5-153
	4	Effective date
	5	Retroactive applicability
430	1	33-20-1101
	2	33-20-1111
	3	33-20-1209
431	1	Appropriations from renewable resource grant and loan program state special revenue account (Amended by sec. 10, Ch. 431)
	2	Conditions of grants
	3	Conditions for grants
	4	Appropriations established
	5	Review of previously authorized grants
	6	85-1-604
	7	Repealer
	8	Severability
	9	Notification to tribal governments
	10	Coordination instruction
	11	Coordination instruction
	12	Effective dates
432	1	15-36-331
	2	15-37-117
	3	15-38-106
	4	15-38-202
	5	15-38-203
	6	17-5-702
	7	17-7-502
	8	19-5-404
	9	75-1-1101
	10	75-10-621
	11	75-10-704
	12	75-10-743
	13	80-7-823
	14	85-1-102
	15	85-1-603
	16	85-1-605
	17	85-1-606
	18	85-1-613
	19	85-1-614
	20	85-1-615
	21	85-1-616
	22	85-1-631
	23	85-2-905
	24	90-2-1103
	25	90-2-1111
	26	90-2-1121
	27	15-38-301
	28	15-38-302
	29	Transfer of funds
	30	Repealer
	31	Codification instruction
	32	Effective date
	33	Termination
433	1	Water policy interim committee
	2	Appropriation
	3	Effective date
	4	Termination
434	1	46-5-222
435	1	60-5-110
	2	Effective date
436	1	50-4-801
	2	50-4-802
	3	50-4-803
	4	50-4-805
	5	50-4-806
	6	50-4-810
	7	50-4-811
	8	50-4-804
	9	50-4-815
	10	Appropriation
	11	Codification instruction
	12	Notification to tribal governments
	13	Effective date
437	1	Appropriation
	2	Effective date
438	1	90-3-1002
	2	90-3-1003
	3	Notification to tribal governments
	4	Saving clause
	5	Effective date
439	1	7-1-2121
	2	7-5-2411
440	1	28-10-103
441	1	7-15-4204
	2	7-15-4206
	3	7-15-4258
	4	7-15-4259
	5	Effective date
442	1	20-5-501
	2	20-5-502
	3	20-5-503
	4	1-1-215
	5	20-5-321
	6	20-5-412
	7	20-5-420
	8	Codification instruction
	9	Two-thirds vote required — contingent voidness
	10	Effective date
	11	Applicability
443	1	76-1-601
	2	76-3-501
	3	76-3-504
	4	76-13-109
	5	50-60-901
	6	50-60-902
	7	Codification instruction
	8	Effective date — applicability
444	1	17-6-305
	2	17-6-311
	3	Effective date
445	1	87-3-116
	2	37-47-344
	3	Codification instruction
	4	Effective date
446	1	45-1-205
447	1	15-1-108
	2	15-1-109
	3	15-1-110
	4	Codification instruction
	5	Effective date
448	1	85-2-102
	2	85-2-308

	3	85-2-402
	4	85-2-419
	5	85-2-436
	6	85-2-602
	7	87-1-257
	8	Repealer
	9	Effective date
449	1	2-7-501
	2	2-15-1519
	3	2-15-2005
	4	7-6-204
	5	18-8-202
	6	25-13-613
	7	39-71-118
	8	40-6-402
	9	44-5-103
	10	44-5-303
	11	46-18-261
	12	50-3-101
	13	50-3-102
	14	50-3-106
	15	50-5-215
	16	50-19-403
	17	50-37-107
	18	50-37-108
	19	50-37-109
	20	50-60-202
	21	50-61-102
	22	50-61-114
	23	50-61-115
	24	50-61-121
	25	50-62-101
	26	50-62-102
	27	50-62-103
	28	50-62-112
	29	50-63-102
	30	50-63-103
	31	50-63-202
	32	50-63-203
	33	50-63-401
	34	50-63-402
	35	50-63-404
	36	50-78-102
	37	52-2-733
	38	52-2-734
	39	52-4-205
	40	53-20-307
	41	61-8-102
	42	61-8-364
	43	61-9-402
	44	75-10-725
	45	Effective date
450	1	7-33-2212
	2	10-3-406
	3	Codification instruction
	4	Effective date
451	1	31-1-111
	2	31-1-702
	3	31-1-703
	4	31-1-705
	5	31-1-706
	6	31-1-711
	7	31-1-712
	8	31-1-713
	9	31-1-714
	10	31-1-715
	11	31-1-721
	12	31-1-723
	13	31-1-726
	14	31-1-727
	15	31-1-728
	16	Codification instruction
452	1	87-2-202
	2	87-2-801
	3	87-2-805
	4	87-2-903
	5	Transfer of funds
	6	Effective date
	7	Termination
453	1	90-1-131
	2	90-1-135
	3	Repealer
	4	Notification to tribal governments
	5	Effective date
454	1	Authorization of natural resource damage litigation
	2	Natural resource damage program policy committee
	3	Legislative oversight
	4	Effective date
455	1	76-1-103
	2	76-1-601
	3	76-1-410
	4	76-3-616
	5	76-3-605
	6	76-3-608
	7	76-3-609
	8	Codification instruction
	9	Effective date
456	1	77-2-213
	2	77-2-363
	3	77-2-364
	4	Effective date
457	1	3-10-304
	2	25-13-212
	3	25-13-402
	4	25-14-101
	5	25-31-409
	6	25-31-710
	7	25-31-1104
458	1	13-10-503 (Voided and replaced by sec. 2, Ch. 458)
	2	Coordination instruction
459	1	10-3-114
	2	Codification instruction
460	1	37-22-101
	2	37-22-301 (Voided and replaced by sec. 5, Ch. 460)
	3	37-23-101
	4	37-23-202 (Voided and replaced by sec. 6, Ch. 460)
	5	Coordination instruction
	6	Coordination instruction
	7	Applicability
461	1	61-12-401
462	1	61-5-102
	2	61-5-212
463	1	2-18-704
	2	33-22-244
	3	33-22-262
	4	33-22-521
	5	33-31-102
	6	33-31-301
	7	Effective date
464	1	45-2-204
	2	76-13-140
	3	7-33-4501
	4	Codification instruction
	5	Effective date
465	1	40-15-102

	2	Effective date
466	1	50-5-101
	2	50-5-203
	3	50-5-245
	4	Repealer
	5	Effective date
	6	Applicability
467	1	7-33-2404
468	1	15-30-261
	2	15-30-262
	3	15-30-263
	4	15-30-264
	5	15-30-265
	6	15-30-266
	7	15-30-267
	8	15-30-268
	9	15-30-269
	10	15-30-270
	11	15-30-271
	12	15-30-272
	13	Notification to tribal governments
	14	Codification instruction
	15	Effective date
	16	Applicability
469	1	69-2-216
	2	69-2-217
	3	75-1-201
	4	75-1-205
	5	75-20-216
	6	75-20-223
	7	Codification instruction
	8	Coordination instruction
	9	Effective date
	10	Applicability
470	1	2-17-415
	2	2-17-416
	3	2-17-417
	4	2-17-418
	5	Codification instruction
	6	Effective date
471	1	53-21-1101
	2	53-21-1102
	3	53-21-1103
	4	Notification to tribal governments
	5	Codification instruction
	6	Effective date
472	1	45-5-202
473	1	50-1-211
	2	Sec. 4, Ch. 404, L. 2005
	3	Effective date
474	1	50-15-208
	2	50-15-101
	3	Codification instruction
	4	Effective date
475	1	17-2-124
	2	15-35-108
	3	15-36-331
	4	15-37-117
	5	15-38-106
	6	15-50-311
	7	15-51-103
	8	15-53-156
	9	15-59-108
	10	15-60-210
	11	15-65-121
	12	15-66-102 (Voided and replaced by sec. 29, Ch. 475)
	13	15-67-102
	14	15-68-820
	15	15-70-101
	16	15-70-125
	17	15-72-106
	18	16-1-306
	19	16-1-401
	20	16-1-404
	21	16-1-406
	22	16-1-411
	23	16-11-114
	24	16-11-119
	25	23-5-610
	26	39-71-2321
	27	Repealer
	28	Codification instruction
	29	Coordination instruction
	30	Effective date
	31	Retroactive applicability
476	1	33-20-801
	2	33-20-802
	3	33-20-803
	4	33-20-804
	5	33-20-805
	6	33-20-806
	7	33-20-901
	8	33-20-902
	9	33-20-903
	10	33-20-904
	11	33-20-905
	12	33-20-906
	13	33-20-907
	14	Applicability
	15	Codification instruction
477	1	1-1-227
	2	Codification instruction
478	1	15-7-202
	2	Effective date
	3	Retroactive applicability
479	1	Art. VIII, sec. 13, Mont. Const
	2	Effective date
	3	Submission to electorate
480	1	50-9-106
	2	72-5-321
481	1	3-2-202
	2	3-5-302
	3	13-1-101
	4	13-22-102
	5	13-27-102
	6	13-27-201
	7	13-27-202
	8	13-27-204
	9	13-27-205
	10	13-27-207
	11	13-27-208
	12	13-27-209
	13	13-27-210
	14	13-27-302
	15	13-27-312
	16	13-27-315
	17	13-27-316
	18	13-27-317
	19	13-27-402
	20	13-27-403
	21	13-27-409
	22	13-27-501
	23	13-35-207
	24	13-37-210
	25	13-37-226
	26	13-37-228
	27	Repealer
	28	Codification instruction
	29	Severability

	30	Effective date
482	1	52-3-115
	2	17-7-302
	3	17-7-304
	4	53-6-1201
	5	Codification instruction
	6	Effective date
	7	Termination
483	1	41-5-206
	2	41-5-216
	3	41-5-1513
	4	45-1-205
	5	45-5-503
	6	45-5-507
	7	45-5-512
	8	45-5-601
	9	45-5-602
	10	45-5-603
	11	45-5-625
	12	46-18-111
	13	46-18-201
	14	46-18-202
	15	46-18-203
	16	46-18-205
	17	46-18-222
	18	46-18-231
	19	46-23-502
	20	46-23-504
	21	46-23-505
	22	46-23-506
	23	46-23-508
	24	46-23-509
	25	46-23-1011
	26	53-1-203
	27	46-18-207
	28	Codification instruction
	29	Severability
	30	Effective date
	31	Retroactive applicability
484	1	Transfer and appropriation for repayment
	2	Obligation settled
	3	Effective date
485	1	7-6-621
	2	7-33-2109
	3	7-33-2209
	4	7-33-2403
	5	7-33-4109
	6	7-33-4111
	7	Codification instruction
	8	Effective date
486	1	Appropriations (Voided by sec. 2, Ch. 486)
	2	Contingent voidness
487	1	13-37-401
	2	13-37-402
	3	13-37-240
	4	Codification instruction
	5	Effective date
488	1	46-16-226
	2	46-16-227
	3	46-16-228
	4	46-16-229
	5	Repealer
	6	Codification instruction
	7	Severability
489	1	85-20-1503
	2	85-20-1504
	3	85-20-1505
	4	85-20-1506
	5	Fund transfer
	6	Appropriation
	7	Codification instruction
	8	Effective dates — contingency
490	1	53-4-1004
	2	Effective date
491	1	15-72-103
	2	15-72-104
	3	35-19-102
	4	69-1-114
	5	69-8-101
	6	69-8-103
	7	69-8-201
	8	69-8-210
	9	69-8-311
	10	69-8-402
	11	69-8-403
	12	69-8-411
	13	69-8-419
	14	69-8-420
	15	69-8-421
	16	69-8-602
	17	69-8-603
	18	69-8-1004
	19	69-8-426
	20	Codification instruction
	21	Repealer
	22	Saving clause
	23	Severability
492	1	18-4-227
	2	Codification instruction
	3	Effective date
493	1	20-15-310
	2	20-15-312
	3	Effective date — applicability
494	1	77-5-214
	2	77-5-215
	3	77-5-216
	4	77-5-217
	5	77-5-218
	6	77-5-219
	7	77-1-613
	8	77-5-201
	9	77-5-204
	10	Coordination instruction
	11	Coordination instruction
	12	Severability
	13	Codification instruction
	14	Effective date
495	1	40-9-102
	2	Applicability
496	1	40-6-601
	2	40-6-602
	3	Codification instruction
	4	Two-thirds vote required — contingent voidness
	5	Applicability
497	1	31-1-111
	2	31-1-802
	3	31-1-803
	4	31-1-811
	5	31-1-813
	6	31-1-841
	7	31-1-842
	8	31-1-816
	9	31-1-817
	10	31-1-825
	11	Codification instruction
498	1	32-9-103
	2	32-9-108

	3	32-9-109
	4	32-9-110
	5	32-9-115
	6	32-9-117
	7	32-9-121
	8	32-9-122
	9	32-9-123
	10	32-9-119
	11	32-9-124
	12	32-9-125
	13	32-9-141
	14	32-9-142
	15	32-9-126
	16	32-9-130
	17	32-9-133
	18	Repealer
	19	Codification instruction
499	1	7-33-2101
	2	7-33-2102
	3	7-33-2103
	4	7-33-2104
	5	7-33-2105
	6	7-33-2106
	7	7-33-2107
	8	7-33-2109
	9	7-33-2120
	10	7-33-2121 (Renumbered 7-33-2141)
	11	7-33-2142
	12	7-33-2123 (Renumbered 7-33-2143)
	13	7-33-2124 (Renumbered 7-33-2144)
	14	7-33-2125
	15	7-33-2126
	16	7-33-2127
	17	7-33-2128
	18	7-33-2202 (Replaced by sec. 26, Ch. 499)
	19	7-33-2205
	20	7-33-2206
	21	7-33-2210
	22	7-33-2311
	23	7-33-2313
	24	7-33-2401
	25	Repealer
	26	Coordination instruction
	27	Codification instruction
500	1	87-1-114
	2	Effective date
501	1	16-3-219
	2	16-3-301
	3	16-3-401
	4	16-3-402
	5	16-3-404
	6	16-3-411
	7	16-3-418
	8	16-4-107
	9	16-4-501
	10	16-4-906
	11	16-6-104
	12	16-6-314
502	1	37-65-311
	2	37-69-311
	3	2-15-1757
	4	2-15-1781
	5	25-1-1104
	6	33-36-103
	7	37-1-130
	8	37-1-131
	9	37-1-302
	10	37-1-401
	11	37-1-410
	12	37-8-102
	13	37-8-405
	14	37-8-415
	15	37-10-302
	16	37-15-302
	17	37-16-405
	18	37-18-306
	19	37-26-201
	20	37-26-403
	21	37-47-318
	22	37-47-341
	23	37-47-103
	24	37-51-324
	25	37-51-102
	26	37-51-301
	27	37-51-302
	28	37-60-101
	29	37-60-103
	30	37-60-202
	31	37-60-301
	32	37-60-302
	33	37-60-303
	34	37-60-304
	35	37-60-309
	36	37-60-310
	37	37-60-314
	38	37-60-402
	39	37-60-403
	40	37-60-409
	41	37-73-208
	42	50-32-314
	43	71-3-1111
	44	71-3-1112
	45	71-3-1113
	46	71-3-1114
	47	71-3-1115
	48	71-3-1117
	49	71-3-1118
	50	Repealer
	51	Codification instruction
	52	Saving clause
503	1	2-18-601
	2	2-18-617
	3	2-18-1311
	4	Effective date
504	1	Department to conduct study of increasing reimbursement to medicaid direct-care service providers in order to provide employee health insurance — policy — pilot program — report to legislature — rulemaking
	2	Effective date
	3	Termination
505	1	7-16-2211
	2	7-16-2212
	3	7-16-2213
	4	7-16-2214
	5	7-16-2215
	6	7-16-2216
	7	7-16-2217
	8	7-16-2218
	9	7-16-2219
	10	7-6-2527
	11	7-16-2205 (Voided and replaced by sec. 13, Ch. 505)
	12	Codification instruction
	13	Coordination instruction
506	1	2-15-2029
	2	44-4-401

	3	44-4-402
	4	44-4-403
	5	44-4-404
	6	7-4-2905
	7	7-31-201
	8	7-31-202
	9	7-31-203
	10	7-32-201
	11	7-32-214
	12	7-32-303
	13	7-32-4112
	14	19-7-101
	15	41-5-1706
	16	44-4-301
	17	44-4-305 (Renumbered 41-5-1808)
	18	44-4-902
	19	46-23-1003
	20	Repealer
	21	Transition
	22	Notification to tribal governments
	23	Codification instruction — directions to code commissioner
	24	Saving clause
	25	Effective date
507	1	33-20-1501
	2	33-20-1502
	3	33-20-1503
	4	33-17-211
	5	33-17-214
	6	33-18-301
	7	Codification instruction
	8	Saving clause
	9	Effective date
508	1	13-35-401
	2	13-35-402
	3	13-35-403
	4	13-37-128
	5	Codification instruction
509	1	15-30-111
	2	15-62-207
	3	15-62-208
	4	Effective date
	5	Retroactive applicability
510	1	15-7-202
	2	Coordination instruction
	3	Effective date
	4	Applicability — retroactive applicability
511	1	41-3-425
	2	Effective date
512	1	7-15-4259
	2	70-30-102
	3	70-30-111
	4	70-30-322
513	1	85-5-107
	2	85-5-201
	3	85-5-204
	4	85-5-206
	5	Effective date
514	1	46-1-1201
	2	46-1-1202
	3	46-1-1203
	4	46-1-1204
	5	46-1-1211
	6	46-1-1212
	7	46-1-1213
	8	46-1-1214
	9	3-10-303
	10	Codification instruction
	11	Effective date
515	1	46-18-208
	2	46-18-204
	3	Codification instruction
	4	Effective date
516	1	16-3-211
	2	16-3-214
	3	16-3-301
	4	16-4-906
	5	16-6-104
	6	16-6-314
517	1	15-66-101
	2	15-66-102 (Voided and replaced by sec. 29, Ch. 475)
	3	15-66-201
	4	Sec. 20, Ch. 390, L. 2003
	5	Sec. 4, Ch. 606, L. 2005
	6	Sec. 7, Ch. 606, L. 2005
	7	Effective date
	8	Termination
518	1	33-28-101
	2	33-28-120
	3	33-28-310
	4	33-28-102
	5	33-28-104
	6	33-28-105
	7	33-28-106
	8	33-28-107
	9	33-28-108
	10	33-28-201
	11	33-28-202
	12	33-28-205
	13	33-28-206
	14	33-28-207
	15	33-28-301
	16	33-28-302
	17	33-28-303
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Enacted or Passed by the

FIFTY-NINTH LEGISLATURE
IN SPECIAL SESSION

Held at Helena, the Seat of Government
December 14 & 15, 2005

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

COMPILED BY MONTANA
LEGISLATIVE SERVICES DIVISION

OFFICERS AND MEMBERS OF THE MONTANA SENATE

2005

50 Members

27 Democrats 23 Republicans

OFFICERS

President.....Jon Tester
President Pro Tempore .....Dan Harrington
Majority Leader.....Jon Ellingson
Majority Whips.....Carolyn Squires, Trudi Schmidt
Minority Leader .....Bob Keenan
Minority Whips.....Corey Stapleton, Robert Story
Secretary of the Senate .....Bill Lombardi

MEMBERS

Name	Party	District	Preferred Mailing Address
Bales, Keith	(R)	20	HC 39 Box 33, Otter MT 59062-9703
Balyeat, Joe	(R)	34	6909 Rising Eagle Rd, Bozeman MT 59715-8621
Barkus, Greg	(R)	4	PO Box 2647, Kalispell MT 59903-2647
Black, Jerry	(R)	14	445 O'Haire Blvd, Shelby MT 59474-1950
Brueggeman, John	(R)	6	321 Lakeview Dr, Polson MT 59860-9317
Cobb, John	(R)	9	PO Box 388, Augusta MT 59410-0388
Cocchiarella, Vicki	(D)	47	535 Livingston Ave, Missoula MT 59801-8003
Cooney, Mike	(D)	40	713 Pyrite Court, Helena MT 59601-5877
Cromley, Brent	(D)	25	PO Box 2559, Billings MT 59103-2559
Curtiss, Aubyn	(R)	1	PO Box 216, Fortine MT 59918-0216
Ellingson, Jon	(D)	49	141 North Ave E, Missoula MT 59801-6011
Elliott, Jim	(D)	7	100 Trout Creek Rd, Trout Creek MT 59874-9609
Esp, John	(R)	31	PO Box 1024, Big Timber MT 59011-1024
Essmann, Jeff	(R)	28	PO Box 80945, Billings MT 59102-6525
Gallus, Steve	(D)	37	2319 Harvard Ave, Butte MT 59701-3854
Gebhardt, Kelly	(R)	23	PO Box 724, Roundup MT 59072-0724
Gillan, Kim	(D)	24	750 Judicial Ave, Billings MT 59105-2130
Grimes, Duane	(R)	39	4 Hole in the Wall, Clancy MT 59634-9516
Hansen, Ken (Kim)	(D)	17	PO Box 686, Harlem MT 59526-0686
Harrington, Dan	(D)	38	1201 N Excelsior Ave, Butte MT 59701-8505
Hawks, Bob	(D)	33	703 W Koch St, Bozeman MT 59715-4477
Keenan, Bob	(R)	5	PO Box 697, Bigfork MT 59911-0697
Kitzenberg, Sam	(R)	18	130 Bonnie St Apt 1, Glasgow MT 59230-2101
Laible, Rick	(R)	44	529 Moose Hollow Rd, Victor MT 59875-9303
Larson, Lane	(D)	22	1417 Cedar Canyon Rd, Billings MT 59101-6440
Laslovich, Jesse	(D)	43	112 Mountain View St, Anaconda MT 59711-1616
Lewis, Dave	(R)	42	5871 Collins Rd, Helena MT 59602-9584
Lind, Greg	(D)	50	PO Box 16720, Missoula MT 59808-6720
Mangan, Jeff	(D)	12	1223 7th Ave N, Great Falls MT 59401-1613
McGee, Dan	(R)	29	1925 Pinyon Dr, Laurel MT 59044-9381
Moss, Lynda	(D)	26	552 Highland Park Dr, Billings MT 59102-1046
O'Neil, Jerry	(R)	3	985 Walsh Rd, Columbia Falls MT 59912
Pease, Gerald	(D)	21	PO Box 556, Lodge Grass MT 59050-0556
Perry, Gary	(R)	35	3325 W Cedar Meadow Ln, Manhattan MT 59741-8240
Roush, Glenn	(D)	8	PO Box 185, Cut Bank MT 59427-0185

Ryan, Don	(D)	10	2101 7th Ave S, Great Falls MT 59405-2821
Schmidt, Trudi	(D)	11	4029 6th Ave S, Great Falls MT 59405-3746
Shockley, Jim	(R)	45	PO Box 608, Victor MT 59875-0608
Smith, Frank	(D)	16	PO Box 729, Poplar MT 59255-0729
Squires, Carolyn	(D)	48	2111 S 10th St W, Missoula MT 59801-3412
Stapleton, Corey	(R)	27	2015 Eastridge Dr, Billings MT 59102-7904
Steinbeisser, Don	(R)	19	RR 1 Box 3400, Sidney MT 59270-9620
Story, Robert	(R)	30	133 Valley Creek Rd, Park City MT 59063-8040
Tash, Bill	(R)	36	240 Vista Dr, Dillon MT 59725-3111
Tester, Jon	(D)	15	709 Son Ln, Big Sandy MT 59520-8443
Toole, Ken	(D)	41	PO Box 1462, Helena MT 59624-1462
Tropila, Joe	(D)	13	209 2nd St NW, Great Falls MT 59404-1301
Weinberg, Dan	(D)	2	575 Delrey Rd, Whitefish MT 59937-8042
Wheat, Mike	(D)	32	930 Stonegate Dr, Bozeman MT 59715-2109
Williams, Carol	(D)	46	PO Box 9176, Missoula MT 59807-9176

OFFICERS AND MEMBERS OF THE MONTANA HOUSE OF REPRESENTATIVES

2005

100 Members

50 Democrats 50 Republicans

OFFICERS

Speaker.....Gary Matthews
House Democratic Leader.....David Wanzenried
House Democratic Floor Leader.....John Parker
House Democratic Whips.....Bob Bergren, Gail Gutsche
House Republican Leader.....Roy Brown
House Republican Floor Leader.....Michael Lange
House Republican Whips .....Debby Barrett, Dennis Himmelberger
Chief Clerk of the House .....Marilyn Miller

MEMBERS

Name	Party	District	Preferred Mailing Address
Andersen, Joan	(R)	59	RR 1 Box 1012, Fromberg MT 59029-9701
Arntzen, Elsie	(R)	53	850 Senora Ave, Billings MT 59105-2051
Balyeat, John	(R)	100	4879 Scott Allen Dr, Missoula MT 59803-2793
Barrett, Debby	(R)	72	17600 MT Hwy 324, Dillon MT 59725-8031
Becker, Arlene	(D)	52	1440 Lewis Ave, Billings MT 59101-4240
Bergren, Bob	(D)	33	1132 26th Ave W, Havre MT 59501-8609
Bixby, Norma	(D)	41	PO Box 1165, Lame Deer MT 59043-1165
Branae, Gary	(D)	54	415 Yellowstone Ave, Billings MT 59101-1730
Brown, Dee	(R)	3	PO Box 444, Hungry Horse MT 59919-0444
Brown, Roy	(R)	49	PO Box 22273, Billings MT 59104-2273
Butcher, Ed	(R)	29	PO Box 89, Winifred MT 59489-0089
Buzzas, Rosalie (Rosie)	(D)	93	233 University Ave, Missoula MT 59801-4351
Caferro, Mary	(D)	80	PO Box 1036, Helena MT 59624-1036
Callahan, Tim	(D)	21	3409 5th Ave S, Great Falls MT 59405-3543
Campbell, Margarett	(D)	31	PO Box 228, Poplar MT 59255-0228
Clark, Paul	(D)	13	20 Fox Ln, Trout Creek MT 59874-9510
Cohenour, Jill	(D)	78	2610 Colt Dr, East Helena MT 59635-3442
Dickenson, Sue	(D)	25	620 Riverview Dr E, Great Falls MT 59404-1637
Dowell, Tim	(D)	8	46 West View Dr, Kalispell MT 59901-3364
Driscoll, Robyn	(D)	51	724 N 16th St, Billings MT 59101-0418
Eaton, Emelie	(D)	58	PO Box 159, Laurel MT 59044-0159
Everett, George	(R)	5	1344 Helena Flats Rd, Kalispell MT 59901-6548
Facey, Tom	(D)	95	418 Plymouth St, Missoula MT 59801-4133
Franklin, Eve	(D)	24	PO Box 6507, Great Falls MT 59406-6507
Furey, Kevin	(D)	91	1861 E Broadway St, Missoula MT 59802-4903
Gallik, Dave	(D)	79	1124 Billings Ave, Helena MT 59601-3505
Galvin-Halcro, Kathleen	(D)	26	101 Riverview Dr E, Great Falls MT 59404-1547
Glaser, Bill	(R)	44	1402 Indian Creek Rd, Huntley MT 59037-9338
Golie, George	(D)	20	316 20th Ave S, Great Falls MT 59405-4131
Grinde, Wanda	(D)	48	1910 Bannack Dr, Billings MT 59105-4236
Groesbeck, George	(D)	74	2214 Ottawa St Apt B, Butte MT 59701-6105
Gutsche, Gail	(D)	99	1530 Cooper St, Missoula MT 59802-2220
Hamilton, Robin	(D)	92	330 Daly Ave, Missoula MT 59801-4338
Harris, Chris	(D)	66	1511 W Babcock St, Bozeman MT 59715-4139
Hawk, Ray	(R)	90	NW 4878 Hoblitt Ln, Florence MT 59833-6832
Heinert, Ralph	(R)	1	PO Box 577, Libby MT 59923-0577
Hendrick, Gordon	(R)	14	PO Box 262, Superior MT 59872-0262
Henry, Teresa	(D)	96	204 Chestnut St, Missoula MT 59801-1809

Himmelberger, Dennis	(R)	47	PO Box 22272, Billings MT 59104-2272
Hiner, Cynthia	(D)	85	1027 Kentucky St, Deer Lodge MT 59722-2041
Jackson, Verdell	(R)	6	555 Wagner Ln, Kalispell MT 59901-8079
Jacobson, Hal	(D)	82	4813 US Hwy 12 W, Helena MT 59601-9694
Jayne, Joey	(D)	15	299 Lumpry Rd, Arlee MT 59821-9747
Jent, Larry	(D)	64	1201 S 3rd St, Bozeman MT 59715-5503
Jones, Llew	(R)	27	1102 4th Ave SW, Conrad MT 59425-1919
Jones, Bill	(R)	9	567 East Village Dr, Bigfork MT 59911-6152
Jopek, Mike	(D)	4	PO Box 4272, Whitefish MT 59937-4272
Juneau, Carol	(D)	16	PO Box 55, Browning MT 59417-0055
Kaufmann, Christine	(D)	81	825 Breckenridge St, Helena MT 59601-4433
Keane, Jim	(D)	75	2131 Wall St, Butte MT 59701-5527
Klock, Harry	(R)	83	PO Box 452, Harlowton MT 59036-0452
Koopman, Roger	(R)	70	811 S Tracy Ave, Bozeman MT 59715-5325
Lake, Bob	(R)	88	PO Box 2096, Hamilton MT 59840-2096
Lambert, Carol	(R)	39	PO Box 2, Broadus MT 59317-0002
Lange, Michael	(R)	55	208 Fair Park Dr, Billings MT 59102-5734
Lenhart, Ralph	(D)	38	PO Box 1225, Glendive MT 59330-1225
Lindeen, Monica	(D)	43	1626 Heath St, Huntley MT 59037-9137
MacLaren, Gary	(R)	89	429 Curlew Orchard Rd, Victor MT 59875-9519
Maedje, Rick	(R)	2	PO Box 447, Fortine MT 59918-0447
Malcolm, Bruce	(R)	61	2319 Hwy 89 S, Emigrant MT 59027-6023
Matthews, Gary	(D)	40	1708 Main St, Miles City MT 59301-3652
McAlpin, Dave	(D)	94	800 Woodworth Ave, Missoula MT 59801-7046
McGillvray, Tom	(R)	50	3642 Donna Dr, Billings MT 59102-1119
McKenney, Joe	(R)	18	500 Deer Dr, Great Falls MT 59404-3829
McNutt, Walt	(R)	37	110 12th Ave SW, Sidney MT 59270-3614
Mendenhall, Scott	(R)	77	214 Solomon Mountain Rd, Clancy MT 59634-9213
Milburn, Mike	(R)	19	276 Chestnut Valley Rd, Cascade MT 59421-8204
Morgan, Penny	(R)	57	3401 Waterloo Cir, Billings MT 59101-8000
Musgrove, John	(D)	34	810 8th St, Havre MT 59501-4127
Noennig, Mark	(R)	46	3441 Powderhorn Cir, Billings MT 59102-0332
Noonan, Art	(D)	73	1621 Whitman Ave, Butte MT 59701-5380
Olson, Alan	(R)	45	18 Halfbreed Creek Rd, Roundup MT 59072-6524
Olson, Bernie	(R)	10	161 Lakeside Blvd, Lakeside MT 59922-9723
Parker, John	(D)	23	PO Box 558, Great Falls MT 59403-0558
Peterson, Jim	(R)	30	RR 1 Box 2, Buffalo MT 59418-9501
Raser, Holly	(D)	98	4304 Spurgin Rd, Missoula MT 59804-4520
Rice, Diane	(R)	71	PO Box 216, Harrison MT 59735-0216
Ripley, Rick	(R)	17	8920 MT Hwy 200, Wolf Creek MT 59648-8639
Roberts, Don	(R)	56	5414 Walter Hagen Dr, Billings MT 59106-1007
Ross, John	(R)	60	129 N Stillwater Rd, Absarokee MT 59001-6235
Sales, Scott	(R)	68	5200 Bostwick Rd, Bozeman MT 59715-7721
Sesso, Jon	(D)	76	155 W Granite, Butte MT 59701-9256
Sinrud, John	(R)	67	284 Frontier Dr, Bozeman MT 59718-7975
Small-Eastman, Veronica	(D)	42	PO Box 262, Lodge Grass MT 59050-0262
Sonju, Jon	(R)	7	PO Box 2954, Kalispell MT 59903-2954
Stahl, Wayne	(R)	35	PO Box 345, Saco MT 59261-0345
Stoker, Ron	(R)	87	PO Box 1059, Darby MT 59829-1059
Taylor, Janna	(R)	11	PO Box 233, Dayton MT 59914-0233
Villa, Dan	(D)	86	1619 W Park Ave, Anaconda MT 59711-1831
Wagman, Pat	(R)	62	202 S 9th St, Livingston MT 59047-2906
Waitschies, Karl	(R)	36	PO Box A-18, Peerless MT 59253
Wanzenried, David	(D)	97	903 Sky Dr, Missoula MT 59804-3121
Ward, John	(R)	84	4525 Glass Dr, Helena MT 59602-9509
Warden, Bill	(R)	63	6507 Leverich Ln, Bozeman MT 59715-9535
Wells, Jack	(R)	69	150 Coulee Dr, Bozeman MT 59718-7717
Wilson, Bill	(D)	22	1305 2nd Ave N, Great Falls MT 59401-3217
Windham, Jeanne	(D)	12	894 Finley Point Rd, Polson MT 59860-9171
Windy Boy, Jonathan	(D)	32	PO Box 269, Box Elder MT 59521-0269
Wiseman, Brady	(D)	65	2 Haley Rd, Bozeman MT 59715-9525
Witt, John	(R)	28	2555 Russell Rd, Carter MT 59420-8230

TITLE CONTENTS

HOUSE AND SENATE BILLS

SENATE RESOLUTIONS

LAWS

Enacted by the

FIFTY-NINTH LEGISLATURE IN SPECIAL SESSION

Held at Helena, the Seat of Government
December 14 & 15, 2005

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

COMPILED BY MONTANA LEGISLATIVE SERVICES DIVISION

CHAPTER NO. 1

[HB 1]

AN ACT APPROPRIATING MONEY FOR THE PURPOSES SPECIFIED IN THE CALL FOR THE SPECIAL SESSION AND FOR OTHER PURPOSES RELATED TO THE ITEMS SPECIFIED IN THE CALL; APPROPRIATING MONEY FROM THE STATE GENERAL FUND TO THE DEPARTMENT OF ADMINISTRATION FOR A CONDITION AND NEEDS ASSESSMENT AND ENERGY AUDIT OF K-12 PUBLIC SCHOOL FACILITIES; APPROPRIATING MONEY FROM THE STATE GENERAL FUND TO THE OFFICE OF PUBLIC INSTRUCTION FOR DISTRIBUTION TO SCHOOL DISTRICTS FOR THE COSTS OF WEATHERIZATION OR DEFERRED MAINTENANCE, FOR ENERGY COST RELIEF, FOR INDIAN EDUCATION FOR ALL, FOR AT-RISK STUDENT PAYMENTS, FOR TRANSPORTATION PAYMENTS, AND FOR BASE AID; APPROPRIATING MONEY FROM THE GENERAL FUND TO THE MONTANA SCHOOL FOR THE DEAF AND BLIND AND TO THE DEPARTMENT OF CORRECTIONS; APPROPRIATING MONEY FROM THE GENERAL FUND TO THE TEACHERS' RETIREMENT SYSTEM PENSION TRUST FUND; APPROPRIATING MONEY FROM THE GENERAL FUND TO THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM PENSION TRUST FUND; AND PROVIDING EFFECTIVE DATES.

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

Section 1. Appropriations. (1) (a) There is appropriated $2.5 million from the general fund to the department of administration to be used through June 30, 2009, to pay for the costs of completing a condition and needs assessment and energy audit of K-12 public school facilities or for contracting with a private vendor to complete a condition and needs assessment and energy audit of K-12 public school facilities in the state.

(b) The department shall work in conjunction with the legislative finance committee to design the process for collecting and analyzing data, including data related to the total square footage, the percentage of the total square footage that is being utilized for educational programs, and the square footage per student, to be used in the facility condition and needs assessment and energy audit.

(c) On or before July 1, 2008, the department of administration shall report the findings and recommendations of the K-12 public school facility condition and needs assessment and energy audit to the appropriate committee of the legislature.

(2) (a) There is appropriated $23 million from the general fund to the office of public instruction to be distributed as follows to each school district to pay for the costs of weatherization or deferred maintenance in the district:

(i) $1,000 for each district; and

(ii) $153 for each ANB, calculated as provided in 20-9-311, in each district.

(b) Each district that receives money under subsection (2)(a):

(i) shall deposit the money in the miscellaneous programs fund;

(ii) may retain the money for a maximum of 3 years and shall return any unexpended balance to the state for deposit in the general fund; and

(iii) may use the money as a match for any other local, state, or federal money.

(c) A district may not transfer money received under this subsection (2) to another fund.

(3) (a) There is appropriated $2 million from the general fund to the office of public instruction for energy cost relief to be used for utilities or transportation only. The office of public instruction shall distribute the money to school districts on a per-ANB basis, calculated as provided in 20-9-311.

(b) A district receiving funds under this subsection (3) shall deposit the money in the miscellaneous programs fund and may not transfer money received under this subsection (3) to another fund.

(4) (a) There is appropriated $7 million from the general fund to the office of public instruction for Indian education for all to be allocated to districts on a per-ANB basis, calculated as provided in 20-9-311.

(b) A district receiving funds under this subsection (4) shall deposit the money in the miscellaneous programs fund and may not transfer money received under this subsection (4) to another fund.

(5) There is appropriated $28,668,278 from the general fund to the office of public instruction for BASE aid to public schools as provided for in Senate Bill No. 1.

(6) There is appropriated $5 million from the general fund to the office of public instruction for at-risk student payments, as provided for in Senate Bill No. 1.

(7) The following is appropriated from the general fund to provide funding for the quality educator, Indian education for all, and American Indian achievement gap components at the Montana school for the deaf and blind and Pine Hills and Riverside youth correctional facilities:

Montana school for the deaf and blind	$85,000
Department of corrections	$63,800

(8) There is appropriated $130,000 from the general fund to the office of public instruction for transportation payments.

(9) There is appropriated $100 million from the general fund to the teachers' retirement system pension trust fund.

(10) There is appropriated $25 million from the general fund to the public employees' retirement system pension trust fund.

Section 2. Contingent voidness. If Senate Bill No. 1 is not passed and approved, then [section 1(5) and (6)] are void.

Section 3. Effective dates. (1) Except as provided in subsection (2), [this act] is effective July 1, 2006.

(2) [Section 1(1), (3), (9), and (10) and this section] are effective on passage and approval.

Approved December 16, 2005

CHAPTER NO. 2

[HB 2]

AN ACT REQUIRING THE STATE ADMINISTRATION AND VETERANS' AFFAIRS INTERIM COMMITTEE TO CONSIDER THE ACTUARIAL AND FISCAL SOUNDNESS AND EQUITY OF THE STATE'S PUBLIC EMPLOYEE RETIREMENT SYSTEMS, REVIEW AND REPORT ON CERTAIN LEGISLATION RELATED TO PUBLIC EMPLOYEE RETIREMENT SYSTEMS, ESTABLISH PRINCIPLES OF SOUND FISCAL AND PUBLIC POLICY AS GUIDELINES FOR LEGISLATION AFFECTING PUBLIC EMPLOYEE RETIREMENT SYSTEMS, GENERALLY MONITOR PUBLIC EMPLOYEE RETIREMENT SYSTEMS AND LEGISLATION AFFECTING THE SYSTEMS, AND INFORM LEGISLATORS ABOUT ISSUES REGARDING PUBLIC EMPLOYEE RETIREMENT SYSTEMS; AUTHORIZING THE COMMITTEE TO REQUEST ASSISTANCE FROM STATE AGENCIES, INCLUDING BOARDS, POLITICAL SUBDIVISIONS, AND THE STATE PUBLIC EMPLOYEE RETIREMENT SYSTEMS; PROVIDING AN APPROPRIATION; AMENDING SECTION 5-5-228, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

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

Section 1. Section 5-5-228, MCA, is amended to read:

"5-5-228. State administration and veterans' affairs interim committee. *(1)* The state administration and veterans' affairs interim committee has administrative rule review, draft legislation review, program evaluation, and monitoring functions for the public employee retirement plans and for the following executive branch agencies and the entities attached to the agencies for administrative purposes:

~~(1)~~*(a)* department of administration;

~~(2)~~*(b)* department of military affairs; and

~~(3)~~*(c)* office of the secretary of state.

(2) The committee shall:

(a) consider the actuarial and fiscal soundness of the state's public employee retirement systems, based on reports from the teachers' retirement board, the public employees' retirement board, and the board of investments, and study and evaluate the equity and benefit structure of the state's public employee retirement systems;

(b) establish principles of sound fiscal and public policy as guidelines;

(c) as necessary, develop legislation to keep the retirement systems consistent with sound policy principles;

(d) solicit and review proposed statutory changes to any of the state's public employee retirement systems;

(e) report to the legislature on each legislative proposal reviewed by the committee. The report must include but is not limited to:

(i) a summary of the fiscal implications of the proposal;

(ii) an analysis of the effect that the proposal may have on other public employee retirement systems;

(iii) an analysis of the soundness of the proposal as a matter of public policy;

(iv) any amendments proposed by the committee; and

(v) the committee's recommendation on whether the proposal should be enacted by the legislature.

(f) attach the committee's report to any proposal that the committee considered and that is or has been introduced as a bill during a legislative session; and

(g) publish, for legislators' use, information on the state's public employee retirement systems.

(3) The committee may:

(a) specify the date by which proposals affecting a retirement system must be submitted to the committee for the review contemplated under subsection (2)(d); and

(b) request personnel from state agencies, including boards, political subdivisions, and the state public employee retirement systems, to furnish any information and render any assistance that the committee may request."

Section 2. Appropriation. (1) There is appropriated $5,000 from the state general fund to the legislative services division to be used to pay for the activities of the state administration and veterans' affairs interim committee in executing the provisions of 5-5-228.

(2) The appropriation in subsection (1) is a biennial appropriation for the fiscal biennium ending June 30, 2007.

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

Approved December 19, 2005

CHAPTER NO. 3

[HB 5]

AN ACT APPROPRIATING MONEY FOR THE OPERATION OF THE SPECIAL SESSION OF THE 59TH LEGISLATURE CONVENING DECEMBER 14, 2005, AND FOR OTHER RELATED LEGISLATIVE PURPOSES; PROVIDING EXPLICITLY FOR REVERSION OF EXCESS FUNDING; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

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

Section 1. Appropriations. The following amounts are appropriated from the general fund for the fiscal year ending June 30, 2006, for costs of the special legislative session of December 2005:

LEGISLATIVE BRANCH (1104)

1. Senate (25)	$14,538
2. House of Representatives (26)	33,019
3. Legislative Services Division (22)	17,649

Section 2. Reversion. Money appropriated in [section 1] that is not expended or obligated at the end of the fiscal year ending June 30, 2006, reverts to the general fund.

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

Approved December 19, 2005

CHAPTER NO. 4

[SB 1]

AN ACT GENERALLY REVISING THE LAWS GOVERNING SCHOOL FUNDING IN ACCORDANCE WITH THE MONTANA CONSTITUTIONAL REQUIREMENT THAT SCHOOL FUNDING BE BASED ON A DEFINITION OF THE BASIC SYSTEM OF FREE QUALITY PUBLIC ELEMENTARY AND SECONDARY SCHOOLS; PROVIDING FOR A QUALITY EDUCATOR PAYMENT AND A METHOD FOR CALCULATING FUNDING FOR THAT PAYMENT; PROVIDING FOR AN AT-RISK STUDENT PAYMENT AND A METHOD FOR CALCULATING FUNDING FOR THAT PAYMENT; PROVIDING FOR AN INDIAN EDUCATION FOR ALL PAYMENT AND A METHOD FOR CALCULATING FUNDING FOR THAT PAYMENT; PROVIDING FOR AN AMERICAN INDIAN STUDENT ACHIEVEMENT GAP PAYMENT AND A METHOD FOR CALCULATING FUNDING FOR THAT PAYMENT; DEFINING TOTAL QUALITY EDUCATOR PAYMENT, TOTAL AT-RISK STUDENT PAYMENT, TOTAL INDIAN EDUCATION FOR ALL PAYMENT, AND TOTAL AMERICAN INDIAN STUDENT ACHIEVEMENT GAP PAYMENT; RETAINING 3-YEAR AVERAGING FOR ANB; RETAINING INCREASES IN THE PER-ANB ENTITLEMENT AND THE BASIC ENTITLEMENT; INCREASING RATES FOR INDIVIDUAL TRANSPORTATION FROM 25 CENTS A MILE TO 35 CENTS A MILE; AMENDING SECTIONS 20-5-323, 20-7-102, 20-9-306, 20-9-311, 20-9-321, 20-9-344, AND 20-10-142, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE.

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

Section 1. Quality educator payment. (1) (a) The state shall provide a quality educator payment to:

(i) public school districts, as defined in 20-6-101 and 20-6-701;

(ii) special education cooperatives, as described in 20-7-451;

(iii) the Montana school for the deaf and blind, as described in 20-8-101; and

(iv) state youth correctional facilities, as defined in 41-5-103.

(b) A special education cooperative that has not met the requirements of 20-7-453 and 20-7-454 may not be funded under the provisions of this section except by approval of the superintendent of public instruction.

(2) (a) The quality educator payment for special education cooperatives must be distributed directly to those entities by the superintendent of public instruction.

(b) The quality educator payment for the Montana school for the deaf and blind must be distributed to the Montana school for the deaf and blind.

(c) The quality educator payment for Pine Hills and Riverside youth correctional facilities must be distributed to those facilities by the department of corrections.

(3) The quality educator payment is $2,000 times the number of full-time equivalent educators, as reported to the superintendent of public instruction for accreditation purposes in the previous school year, each of whom:

(a) holds a valid certificate under the provisions of 20-4-106 and is employed by an entity listed in subsection (1) in a position that requires an educator license in accordance with the administrative rules adopted by the board of public education; or

(b) (i) is a licensed professional under 37-8-405, 37-8-415, 37-11-301, 37-15-301, 37-23-201, 37-24-301, or 37-25-302; and

(ii) is employed by an entity listed in subsection (1) to provide services to students.

Section 2. At-risk student payment. (1) The state shall provide an at-risk student payment to public school districts, as defined in 20-6-101 and 20-6-701, for at-risk students, as defined in 20-1-101 and referred to in 20-9-309.

(2) The at-risk student payment must be distributed to public school districts by the office of public instruction in the same manner that the office of public instruction allocates the funds received under 20 U.S.C. 6332, et seq. The office of public instruction shall prorate payments to districts based upon the available appropriation.

(3) On or before September 15, 2010, the office of public instruction shall report to the governor and the legislature on the change in status of standardized test scores, graduation rates, and drop-out rates of at-risk students using fiscal year 2006 data as a baseline.

Section 3. Indian education for all payment. (1) The state shall provide an Indian education for all payment to public school districts, as defined in 20-6-101 and 20-6-701, to implement the provisions of Article X, section 1(2), of the Montana constitution and Title 20, chapter 1, part 5.

(2) The Indian education for all payment is the greater of $100 for each district or $20.40 for each ANB, calculated as provided in 20-9-311, for each fiscal year.

(3) The district shall deposit the payment in the general fund of the district.

Section 4. American Indian achievement gap payment. (1) The state shall provide an American Indian achievement gap payment to public school districts, as defined in 20-6-101 and 20-6-701, for the purpose of closing the educational achievement gap that exists between American Indian students and non-Indian students.

(2) (a) The American Indian achievement gap payment is $200 for each American Indian student enrolled in the district based on the count of regularly enrolled students on the first Monday in October of the prior school year as reported to the office of public instruction.

(b) A school district may not require a student to disclose the student's race.

(3) The district shall deposit the payment in the general fund of the district.

(4) On or before September 15, 2010, the office of public instruction shall report to the governor and the legislature on the change in status of standardized test scores, graduation rates, and drop-out rates of American Indian students using fiscal year 2006 data as a baseline.

Section 5. Section 20-5-323, MCA, is amended to read:

"20-5-323. Tuition and transportation rates. (1) Except as provided in subsections (2) through (5), whenever a child has approval to attend a school outside of the child's district of residence under the provisions of 20-5-320 or 20-5-321, the rate of tuition charged for a Montana resident student may not exceed 20% of the per-ANB maximum rate established in 20-9-306 for the year of attendance.

(2) The tuition for a child with a disability must be determined under rules adopted by the superintendent of public instruction for the calculation of tuition for special education pupils.

(3) The tuition rate for out-of-district placement pursuant to 20-5-321(1)(d) and (1)(e) for a student without disabilities who requires a program with costs that exceed the average district costs must be determined as the actual individual costs of providing that program according to the following:

(a) the district of attendance and the district, person, or entity responsible for the tuition payments shall approve an agreement with the district of attendance for the tuition cost;

(b) for a Montana resident student, 80% of the maximum per-ANB rate established in 20-9-306, received in the year for which the tuition charges are calculated, must be subtracted from the per-student program costs for a Montana resident student; and

(c) the maximum tuition rate paid to a district under this section may not exceed $2,500 per ANB.

(4) When a child attends a public school of another state or province, the amount of daily tuition may not be greater than the average annual cost for each student in the child's district of residence. This calculation for tuition purposes is determined by totaling all of the expenditures for all of the district budgeted funds for the preceding school fiscal year and dividing that amount by the October 1 enrollment in the preceding school fiscal year. For the purposes of this subsection, the following do not apply:

(a) placement of a child with a disability pursuant to Title 20, chapter 7, part 4;

(b) placement made in a state or province with a reciprocal tuition agreement pursuant to 20-5-314;

(c) an order issued under Title 40, chapter 4, part 2; or

(d) out-of-state placement by a state agency.

(5) When a child is placed by a state agency in an out-of-state residential facility, the state agency making the placement is responsible for the education costs resulting from the placement.

(6) The amount, if any, charged for transportation may not exceed the lesser of the average transportation cost for each student in the child's district of residence or ~~25~~ *35* cents a mile. The average expenditures for the district transportation fund for the preceding school fiscal year must be calculated by dividing the transportation fund expenditures by the October 1 enrollment for the preceding fiscal year."

Section 6. Section 20-7-102, MCA, is amended to read:

"20-7-102. (Temporary) 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 ~~every~~ *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(11)(c)(ii)~~ *20-9-306(14)(c)(ii)*. (Terminates June 30, 2007—sec. 25(2), Ch. 462, L. 2005.)

20-7-102. (Effective July 1, 2007) 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 ~~every~~ *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(10)(c)(ii)~~ *20-9-306(14)(c)(ii)*."

Section 7. Section 20-9-306, MCA, is amended to read:

"20-9-306. (Temporary) 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; and

(b) guaranteed tax base aid for an eligible district for any amount up to 35.3% of the basic entitlement, up to 35.3% of the total per-ANB entitlement budgeted in the general fund budget of a district, and 40% of the special education allowable cost payment.

(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, 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) $225,273 for each high school district;

(b) $20,275 for each elementary school district or K-12 district elementary program without an approved and accredited junior high school or middle school; and

(c) the prorated entitlement for each elementary school district or K-12 district elementary program with an approved and accredited junior high school or middle school, calculated as follows using either the current year ANB or the 3-year ANB provided for in 20-9-311:

(i) $20,275 times the ratio of the ANB for kindergarten through grade 6 to the total ANB of kindergarten through grade 8; plus

(ii) $225,273 times the ratio of the ANB for grades 7 and 8 to the total ANB of kindergarten through grade 8.

(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, and the greater of:

(a) 175% of special education allowable cost payments; or

(b) the ratio, expressed as a percentage, of the district's special education allowable cost expenditures to the district's special education allowable cost payment for the fiscal year that is 2 years previous, with a maximum allowable ratio of 200%.

(10) "Over-BASE budget levy" means the district levy in support of any general fund amount budgeted that is above the BASE budget and below the maximum general fund budget for a district.

(11) "Total per-ANB entitlement" means the district entitlement resulting from the following calculations and using either the current year ANB or the 3-year ANB provided for in 20-9-311:

(a) for a high school district or a K-12 district high school program, a maximum rate of $5,584 for the first ANB is 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 or middle school, a maximum rate of $4,366 for the first ANB is 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 or middle school, the sum of:

(i) a maximum rate of $4,366 for the first ANB for kindergarten through grade 6 is decreased at the rate of 20 cents per ANB for each additional ANB up through 1,000 ANB, with each ANB in excess of 1,000 receiving the same amount of entitlement as the 1,000th ANB; and

(ii) a maximum rate of $5,584 for the first ANB for grades 7 and 8 is 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. (Terminates June 30, 2006—sec. 25(1), Ch. 462, L. 2005.)

20-9-306. (Temporary—effective July 1, 2006) 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; ~~and~~

(b) guaranteed tax base aid for an eligible district for any amount up to 35.3% of the basic entitlement, up to 35.3% of the total per-ANB entitlement budgeted in the general fund budget of a district, and 40% of the special education allowable cost payment*;*

(c) the total quality educator payment;

(d) the total at-risk student payment;

(e) the total Indian education for all payment; and

(f) the total American Indian achievement gap payment.

(3) "BASE budget" means the minimum general fund budget of a district, which includes 80% of the basic entitlement, 80% of the total per-ANB entitlement, *100% of the total quality educator payment, 100% of the total at-risk student payment, 100% of the total Indian education for all payment, 100% of the total American Indian achievement gap payment,* and 140% of the special education allowable cost payment.

(4) "BASE budget levy" means the district levy in support of the BASE budget of a district, which may be supplemented by guaranteed tax base aid if the district is eligible under the provisions of 20-9-366 through 20-9-369.

(5) "BASE funding program" means the state program for the equitable distribution of the state's share of the cost of Montana's basic system of public elementary schools and high schools, through county equalization aid as provided in 20-9-331 and 20-9-333 and state equalization aid as provided in

20-9-343, in support of the BASE budgets of districts and special education allowable cost payments as provided in 20-9-321.

(6) "Basic entitlement" means:

(a) $230,199 for each high school district;

(b) $20,718 for each elementary school district or K-12 district elementary program without an approved and accredited junior high school or middle school; and

(c) the prorated entitlement for each elementary school district or K-12 district elementary program with an approved and accredited junior high school or middle school, calculated as follows using either the current year ANB or the 3-year ANB provided for in 20-9-311:

(i) $20,718 times the ratio of the ANB for kindergarten through grade 6 to the total ANB of kindergarten through grade 8; plus

(ii) $230,199 times the ratio of the ANB for grades 7 and 8 to the total ANB of kindergarten through grade 8.

(7) "Budget unit" means the unit for which the ANB of a district is calculated separately pursuant to 20-9-311.

(8) "Direct state aid" means 44.7% of the basic entitlement and 44.7% of the total per-ANB entitlement for the general fund budget of a district and funded with state and county equalization aid.

(9) "Maximum general fund budget" means a district's general fund budget amount calculated from the basic entitlement for the district, the total per-ANB entitlement for the district, *the total quality educator payment, the total at-risk student payment, the total Indian education for all payment, the total American Indian achievement gap payment,* and the greater of:

(a) 175% of special education allowable cost payments; or

(b) the ratio, expressed as a percentage, of the district's special education allowable cost expenditures to the district's special education allowable cost payment for the fiscal year that is 2 years previous, with a maximum allowable ratio of 200%.

(10) "Over-BASE budget levy" means the district levy in support of any general fund amount budgeted that is above the BASE budget and below the maximum general fund budget for a district.

(11) "Total American Indian achievement gap payment" means the payment resulting from multiplying $200 times the number of American Indian students enrolled in the district as provided in [section 4].

(12) "Total at-risk student payment" means the payment resulting from the distribution of any funds appropriated for the purposes of [section 2].

(13) "Total Indian education for all payment" means the payment resulting from multiplying $20.40 times the ANB of the district or $100 for each district, whichever is greater, as provided for in [section 3].

~~(11)~~*(14)* "Total per-ANB entitlement" means the district entitlement resulting from the following calculations and using either the current year ANB or the 3-year ANB provided for in 20-9-311:

(a) for a high school district or a K-12 district high school program, a maximum rate of $5,704 for the first ANB is 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 or middle school, a maximum rate of $4,456 for the first ANB is 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 or middle school, the sum of:

(i) a maximum rate of $4,456 for the first ANB for kindergarten through grade 6 is decreased at the rate of 20 cents per ANB for each additional ANB up through 1,000 ANB, with each ANB in excess of 1,000 receiving the same amount of entitlement as the 1,000th ANB; and

(ii) a maximum rate of $5,704 for the first ANB for grades 7 and 8 is decreased at the rate of 50 cents per ANB for each additional ANB for grades 7 and 8 up through 800 ANB, with each ANB in excess of 800 receiving the same amount of entitlement as the 800th ANB.

(15) "Total quality educator payment" means the payment resulting from multiplying $2,000 times the number of full-time equivalent educators as provided in [section 1]. (Terminates June 30, 2007—sec. 25(2), Ch. 462, L. 2005.)

20-9-306. (Effective July 1, 2007) 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; ~~and~~

(b) guaranteed tax base aid for an eligible district for any amount up to 35.3% of the basic entitlement, up to 35.3% of the total per-ANB entitlement budgeted in the general fund budget of a district, and 40% of the special education allowable cost payment*;*

(c) the total quality educator payment;

(d) the total at-risk student payment;

(e) the total Indian education for all payment; and

(f) the total American Indian achievement gap payment.

(3) "BASE budget" means the minimum general fund budget of a district, which includes 80% of the basic entitlement, 80% of the total per-ANB entitlement, *100% of the total quality educator payment, 100% of the total at-risk student payment, 100% of the total Indian education for all payment, 100% of the total American Indian achievement gap payment,* and ~~up to~~ 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) ~~$220,646~~ *$230,199* for each high school district;

(b) ~~$19,859~~ *$20,718* for each elementary school district or K-12 district elementary program without an approved and accredited junior high school or middle school; and

(c) the prorated entitlement for each elementary school district or K-12 district elementary program with an approved and accredited junior high school or middle school, calculated as follows *using either the current year ANB or the 3-year ANB provided for in 20-9-311*:

(i) ~~$19,859~~ *$20,718* times the ratio of the ANB for kindergarten through grade 6 to the total ANB of kindergarten through grade 8; plus

(ii) ~~$220,646~~ *$230,199* times the ratio of the ANB for grades 7 and 8 to the total ANB of kindergarten through grade 8.

(7) "Budget unit" means the unit for which the ANB of a district is calculated separately pursuant to 20-9-311.

~~(7)~~*(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.

~~(8)~~*(9)* "Maximum general fund budget" means a district's general fund budget amount calculated from the basic entitlement for the district, the total per-ANB entitlement for the district, *the total quality educator payment, the total at-risk student payment, the total Indian education for all payment, the total American Indian achievement gap payment,* and the greater of:

(a) 175% of special education allowable cost payments; or

(b) the ratio, expressed as a percentage, of the district's special education allowable cost expenditures to the district's special education allowable cost payment for the fiscal year that is 2 years previous, with a maximum allowable ratio of 200%.

~~(9)~~*(10)* "Over-BASE budget levy" means the district levy in support of any general fund amount budgeted that is above the BASE budget and below the maximum general fund budget for a district.

(11) "Total American Indian achievement gap payment" means the payment resulting from multiplying $200 times the number of American Indian students enrolled in the district as provided in [section 4].

(12) "Total at-risk student payment" means the payment resulting from the distribution of any funds appropriated for the purposes of [section 2].

(13) "Total Indian education for all payment" means the payment resulting from multiplying $20.40 times the ANB of the district or $100 for each district, whichever is greater, as provided for in [section 3].

~~(10)~~*(14)* "Total per-ANB entitlement" means the district entitlement resulting from the following calculations *and using either the current year ANB or the 3-year ANB provided for in 20-9-311*:

(a) for a high school district or a K-12 district high school program, a maximum rate of ~~$5,371~~ *$5,704* for the first ANB is 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 or middle school, a maximum rate of ~~$4,031~~ *$4,456* for the first ANB is 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 or middle school, the sum of:

(i) a maximum rate of ~~$4,031~~ *$4,456* for the first ANB for kindergarten through grade 6 is decreased at the rate of 20 cents per ANB for each additional ANB up through 1,000 ANB, with each ANB in excess of 1,000 receiving the same amount of entitlement as the 1,000th ANB; and

(ii) a maximum rate of ~~$5,371~~ *$5,704* for the first ANB for grades 7 and 8 is decreased at the rate of 50 cents per ANB for each additional ANB for grades 7 and 8 up through 800 ANB, with each ANB in excess of 800 receiving the same amount of entitlement as the 800th ANB.

(15) "Total quality educator payment" means the payment resulting from multiplying $2,000 times the number of full-time equivalent educators as provided in [section 1]."

Section 8. Section 20-9-311, MCA, is amended to read:

"20-9-311. (Temporary) Calculation of average number belonging (ANB) — 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 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; 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) Except as provided in subsection (5), for the purpose of calculating ANB, enrollment in an education program:

(i) from 181 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) 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 pupil in grades 1 through 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) In calculating the ANB for pupils enrolled in a program established under 20-7-117(1), enrollment in a program that provides 360 or more aggregate hours of pupil instruction per school year must be counted as one-half pupil for ANB purposes.

(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 prekindergarten 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 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) 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) 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) a school has not been accredited by the board of public education, 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 a Montana job corps program under an interlocal agreement with the district under 20-9-707.

(12) (a) For an elementary or high school district that has been in existence for 3 ~~or more~~ 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 (12)(a) and then combined.

(13) 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 (13)(a) by three. (Terminates June 30, 2007—sec. 25(2), Ch. 462, L. 2005.)

20-9-311. (Effective July 1, 2007) Calculation of average number belonging (ANB). (1) Average number belonging (ANB) must be computed 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 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; 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) Except as provided in subsection (5), for the purpose of calculating ANB, enrollment in an education program:

(i) from 181 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) 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 pupil in grades 1 through 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) In calculating the ANB for pupils enrolled in a program established under 20-7-117(1), enrollment in a program that provides 360 or more aggregate hours of pupil instruction per school year must be counted as one-half pupil for ANB purposes.

(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 prekindergarten 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 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 separately 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) 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) 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) a school has not been accredited by the board of public education, 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 a Montana job corps program under an interlocal agreement with the district under 20-9-707.

(12) (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 (12)(a) and then combined.

(13) 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 (13)(a) by three."

Section 9. Section 20-9-321, MCA, is amended to read:

"20-9-321. (Temporary) Allowable cost payment for special education. (1) As used in this section, "ANB" means the current year ANB.

(2) The 3-year average ANB provided for in 20-9-311~~(12)~~ does not apply to the calculation and distribution of state special education allowable cost payments provided for in this section.

(3) For the purpose of establishing the allowable cost payment for a current year special education program for a school district, the superintendent of public instruction shall determine the total special education payment to a school district, cooperative, or joint board for special education services formed under 20-3-361 prior to July 1, 1992, using the following factors:

(a) the district ANB student count as established pursuant to 20-9-311 and 20-9-313;

(b) a per-ANB amount for the special education instructional block grant;

(c) a per-ANB amount for the special education-related services block grant;

(d) an amount for cooperatives or joint boards meeting the requirements of 20-7-457, to compensate for the additional costs of operations and maintenance, travel, supportive services, recruitment, and administration; and

(e) any other data required by the superintendent of public instruction to administer the provisions of this section.

(4) (a) The total special education allocation must be distributed according to the following formula:

(i) 52.5% through instructional block grants;

(ii) 17.5% through related services block grants;

(iii) 25% to reimbursement of local districts; and

(iv) 5% to special education cooperatives and joint boards for administration and travel.

(b) Special education allowable cost payments outlined in subsection (4)(a) must be granted to each school district and cooperative with a special education program as follows:

(i) The instructional block grant limit prescribed in subsection (4)(a)(i) must be awarded to each school district, based on the district ANB and the per-ANB special education instructional amount.

(ii) The special education-related services block grant limit prescribed in subsection (4)(a)(ii) must be awarded to each school district that is not a cooperative member, based on the district ANB and the per-ANB special education-related services amount, or to a cooperative or joint board that meets the requirements of 20-7-457. The special education-related services block grant amount for districts that are members of approved cooperatives or a joint board must be awarded to the cooperatives or joint board.

(iii) If a district's allowable costs of special education exceed the total of the special education instructional and special education-related services block grant plus the required district match required by subsection (6), the district is eligible to receive at least a 40% reimbursement of the additional costs. To ensure that the total of reimbursements to all districts does not exceed 25% of the total special education allocation limit established in subsection (4)(a)(iii), reimbursement must be made to districts for amounts that exceed a threshold level calculated annually by the office of public instruction. The threshold level is calculated as a percentage amount above the sum of the district's block grants plus the required district match.

(iv) Of the amount distributed under subsection (4)(a)(iv), three-fifths must be distributed based on the ANB count of the school districts that are members of the special education cooperative or joint board and two-fifths must be distributed based on distances, population density, and the number of itinerant personnel under rules adopted by the superintendent of public instruction.

(5) The superintendent of public instruction shall adopt rules necessary to implement this section.

(6) A district shall provide a 25% local contribution for special education, matching every $3 of state special education instructional and special education-related services block grants with at least one local dollar. A district that is a cooperative member is required to provide the 25% match of the special education-related services grant amount to the special education cooperative.

(7) The superintendent of public instruction shall determine the actual district match based on the trustees' reports. Any unmatched portion reverts to the state and must be subtracted from the district's ensuing year's special education allowable cost payment.

(8) A district that demonstrates severe economic hardship because of exceptional special education costs may apply to the superintendent of public instruction for an advance on the reimbursement for the year in which the actual costs will be incurred. (Terminates June 30, 2007—sec. 25(2), Ch. 462, L. 2005.)

20-9-321. (Effective July 1, 2007) Allowable cost payment for special education. *(1) As used in this section, "ANB" means the current year ANB.*

(2) The 3-year average ANB provided for in 20-9-311 does not apply to the calculation and distribution of state special education allowable cost payments provided for in this section.

~~(1)~~*(3)* For the purpose of establishing the allowable cost payment for a current year special education program for a school district, the superintendent of public instruction shall determine the total special education payment to a school district, cooperative, or joint board for special education services formed under 20-3-361 prior to July 1, 1992, using the following factors:

(a) the district ANB student count as established pursuant to 20-9-311 and 20-9-313;

(b) a per-ANB amount for the special education instructional block grant;

(c) a per-ANB amount for the special education-related services block grant;

(d) an amount for cooperatives or joint boards meeting the requirements of 20-7-457, to compensate for the additional costs of operations and maintenance, travel, supportive services, recruitment, and administration; and

(e) any other data required by the superintendent of public instruction to administer the provisions of this section.

~~(2)~~*(4)* (a) The total special education allocation must be distributed according to the following formula:

(i) 52.5% through instructional block grants;

(ii) 17.5% through related services block grants;

(iii) 25% to reimbursement of local districts; and

(iv) 5% to special education cooperatives and joint boards for administration and travel.

(b) Special education allowable cost payments outlined in subsection ~~(2)(a)~~ *(4)(a)* must be granted to each school district and cooperative with a special education program as follows:

(i) The instructional block grant limit prescribed in subsection ~~(2)(a)(i)~~ *(4)(a)(i)* must be awarded to each school district, based on the district ANB and the per-ANB special education instructional amount.

(ii) The special education-related services block grant limit prescribed in subsection ~~(2)(a)(ii)~~ *(4)(a)(ii)* must be awarded to each school district that is not a cooperative member, based on the district ANB and the per-ANB special education-related services amount, or to a cooperative or joint board that meets the requirements of 20-7-457. The special education-related services block grant amount for districts that are members of approved cooperatives or a joint board must be awarded to the cooperatives or joint board.

(iii) If a district's allowable costs of special education exceed the total of the special education instructional and special education-related services block grant plus the required district match required by subsection ~~(4)~~ *(6)*, the district is eligible to receive at least a 40% reimbursement of the additional costs. To ensure that the total of reimbursements to all districts does not exceed 25% of the total special education allocation limit established in subsection ~~(2)(a)(iii)~~ *(4)(a)(iii)*, reimbursement must be made to districts for amounts that exceed a threshold level calculated annually by the office of public instruction. The threshold level is calculated as a percentage amount above the sum of the district's block grants plus the required district match.

(iv) Of the amount distributed under subsection ~~(2)(a)(iv)~~ *(4)(a)(iv)*, three-fifths must be distributed based on the ANB count of the school districts that are members of the special education cooperative or joint board and two-fifths must be distributed based on distances, population density, and the number of itinerant personnel under rules adopted by the superintendent of public instruction.

~~(3)~~*(5)* The superintendent of public instruction shall adopt rules necessary to implement this section.

~~(4)~~*(6)* A district shall provide a 25% local contribution for special education, matching every $3 of state special education instructional and special education-related services block grants with at least one local dollar. A district that is a cooperative member is required to provide the 25% match of the special education-related services grant amount to the special education cooperative.

~~(5)~~*(7)* The superintendent of public instruction shall determine the actual district match based on the trustees' reports. Any unmatched portion reverts to the state and must be subtracted from the district's ensuing year's special education allowable cost payment.

~~(6)~~*(8)* A district that demonstrates severe economic hardship because of exceptional special education costs may apply to the superintendent of public instruction for an advance on the reimbursement for the year in which the actual costs will be incurred."

Section 10. 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 ~~as~~ *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.

(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) ~~the~~ direct state aid ~~to each district~~*;*

(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;

(b) from December to April of the school fiscal year, *to each district* 10% of*:*

(i) ~~the~~ direct state aid ~~to each district~~*;*

(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;

(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*.

(6) The distribution provided for in subsection (5) must occur by the last working day of each month."

Section 11. Section 20-10-142, MCA, is amended to read:

"20-10-142. Schedule of maximum reimbursement for individual transportation. The following rates for individual transportation constitute the maximum reimbursement to districts for individual transportation from state and county sources of transportation revenue under the provisions of 20-10-145 and 20-10-146. These rates constitute the limitation of the budgeted amounts for individual transportation for the ensuing school fiscal year. The schedules provided in this section may not be altered by any authority other than the legislature. When the trustees contract with the parent or guardian of any eligible transportee to provide individual transportation for each day of school attendance, they shall reimburse the parent or guardian for actual miles transported on the basis of the following schedule:

(1) When a parent or guardian transports an eligible transportee or transportees from the residence of the parent or guardian to a school or to schools located within 3 miles of one another, the total reimbursement for each day of attendance is determined by multiplying the distance in miles between the residence and the school, or the most distant school if more than one, by 2, subtracting 6 miles from the product, and multiplying the difference by ~~25~~ *35* cents, provided that:

(a) if two or more eligible transportees are transported by a parent or guardian to two or more schools located within 3 miles of one another and if the schools are operated by different school districts, the total amount of the reimbursement must be divided equally between the districts;

(b) if two or more eligible transportees are transported by a parent or guardian to two or more schools located more than 3 miles from one another, the parent or guardian must be separately reimbursed for transporting the eligible transportee or transportees to each school;

(c) if a parent transports two or more eligible transportees to a school and a bus stop that are located within 3 miles of one another, the total reimbursement must be determined under the provisions of this subsection (1) and must be divided equally between the district operating the school and the district operating the bus;

(d) if a parent transporting two or more eligible transportees to a school or bus stop must, because of varying arrival and departure times, make more than one round-trip journey to the bus stop or school, the total reimbursement allowed by this section is limited to one round trip a day for each scheduled arrival or departure time;

(e) notwithstanding subsection (1)(a), (1)(b), (1)(c), or (1)(d), a reimbursement may not be less than ~~25~~ *35* cents a day.

(2) When the parent or guardian transports an eligible transportee or transportees from the residence to a bus stop of a bus route approved by the trustees for the transportation of the transportee or transportees, the total reimbursement for each day of attendance is determined by multiplying the distance in miles between the residence and the bus stop by 2, subtracting 6 miles from the product, and multiplying the difference by ~~25~~ *35* cents, provided that:

(a) if the eligible transportees attend schools in different districts but ride on one bus, the districts shall divide the total reimbursement equally; and

(b) if the parent or guardian is required to transport the eligible transportees to more than one bus, the parent or guardian must be separately reimbursed for transportation to each bus.

(3) When, because of excessive distances, impassable roads, or other special circumstances of isolation, the rates prescribed in subsection (1) or (2) would be an inadequate reimbursement for the transportation costs or would result in a physical hardship for the eligible transportee, a parent or guardian may request an increase in the reimbursement rate. A request for increased rates because of isolation must be made by the parent or guardian on the contract for individual transportation for the ensuing school fiscal year by indicating the special facts and circumstances that exist to justify the increase. Before an increased rate because of isolation may be paid to the requesting parent or guardian, the rate must be approved by the county transportation committee and the superintendent of public instruction after the trustees have indicated their approval or disapproval. Regardless of the action of the trustees and when approval is given by the committee and the superintendent of public instruction, the trustees shall pay the increased rate because of isolation. The increased rate is 1 1/2 times the rate prescribed in subsection (1).

(4) The state and county transportation reimbursement for an individual transportation contract may not exceed ~~$9.25~~ *$12.95* for each day of attendance for the first eligible transportee and ~~$6~~ *$8.40* for each day of attendance for each additional eligible transportee.

(5) When the isolated conditions of the household where an eligible transportee resides require an eligible transportee to live away from the household in order to attend school, the eligible transportee is eligible for the

room and board reimbursement. Approval to receive the room and board reimbursement must be obtained in the same manner prescribed in subsection (3). The per diem rate for room and board is ~~$9.25~~ *$12.95* for one eligible transportee and ~~$6~~ *$8.40* for each additional eligible transportee of the same household.

(6) When the individual transportation provision is to be satisfied by supervised home study or supervised correspondence study, the reimbursement rate is the cost of the study, provided that the course of instruction is approved by the trustees and supervised by the district."

Section 12. Codification instruction. [Sections 1 through 4] 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 1 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 band of Chippewa.

Section 14. Contingent voidness. If House Bill No. 1 is not passed and approved with an appropriation for BASE aid, then [this act] is void.

Section 15. Effective date — applicability. [This act] is effective July 1, 2006, and applies to school budgets for school fiscal years beginning on or after July 1, 2006.

Approved December 19, 2005

RESOLUTIONS

Passed by the

FIFTY-NINTH LEGISLATURE
IN SPECIAL SESSION

Held at Helena, the Seat of Government
December 14 & 15, 2005

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

COMPILED BY MONTANA
LEGISLATIVE SERVICES DIVISION

SENATE RESOLUTION NO. 1

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 C. BRUCE LOBLE AS CHIEF WATER JUDGE OF THE STATE OF MONTANA.

WHEREAS, Chief Justice Karla Gray of the Montana Supreme Court made the appointment, below designated, pursuant to an Order of the Court, dated June 20, 2005; and

WHEREAS, the appointment has been submitted to the Senate, to wit:

C. Bruce Loble as Chief Water Judge of the State of Montana, to serve a 4-year term commencing July 1, 2005, and ending June 30, 2009.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the December 2005 Special Session of the 59th 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 December 14, 2005

SENATE RESOLUTION NO. 2

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT MADE BY THE GOVERNOR AND SUBMITTED TO THE SENATE OF HONORABLE JAMES JEREMIAH SHEA AS WORKERS' COMPENSATION JUDGE.

WHEREAS, the Governor of the State of Montana made the appointment, below designated, on July 22, 2005; and

WHEREAS, the appointment has been submitted to the Senate, to wit:

James Jeremiah Shea as Workers' Compensation Judge for the State of Montana, for a 6-year term of office commencing September 7, 2005, and ending September 6, 2011.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the December 2005 Special Session of the 59th 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 December 14, 2005

SENATE RESOLUTION NO. 3

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 DECEMBER 6, 2005, 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, Joan Miles, 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 December 2005 Special Session of the 59th 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 December 14, 2005

TABLES

Code Sections 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

CODE SECTIONS AFFECTED

Title-Chapter-Section	Action	Chapter	Bill Number
5-5-228	amended	Ch. 2	HB 2
20-5-323	amended	Ch. 4	SB 1
20-7-102	amended	Ch. 4	SB 1
20-9-306	amended	Ch. 4	SB 1
20-9-311	amended	Ch. 4	SB 1
20-9-321	amended	Ch. 4	SB 1
20-9-327	enacted	Ch. 4	SB 1
20-9-328	enacted	Ch. 4	SB 1
20-9-329	enacted	Ch. 4	SB 1
20-9-330	enacted	Ch. 4	SB 1
20-9-344	amended	Ch. 4	SB 1
20-10-142	amended	Ch. 4	SB 1

SENATE BILL TO CHAPTER NUMBER

Bill Number	Chapter Number
SB 1	4

HOUSE BILL TO CHAPTER NUMBER

Bill Number	Chapter Number	Bill Number	Chapter Number
HB 1	1	HB 5	3
HB 2	2		

CHAPTER NUMBER TO BILL NUMBER

Chapter Number	Bill Number	Chapter Number	Bill Number
Ch. 1	HB 1	Ch. 3	HB 5
Ch. 2	HB 2	Ch. 4	SB 1

EFFECTIVE DATES BY CHAPTER NUMBER

Chapter Number	Bill Number	Effective Date
Ch. 1 §§ 1(1), (3), (9), and (10), and 3	HB 1	12/16/2005
§§ 1(2), (4)-(8), and 2		07/01/2006
Ch. 2	HB 2	12/19/2005
Ch. 3	HB 5	12/19/2005
Ch. 4	SB 1	07/01/2006

EFFECTIVE DATES BY DATE

Effective Date	Chapter Number	Bill Number
12/16/2005	Ch. 1	HB 1
	§§ 1(1), (3), (9), and (10), and 3	
12/19/2005	Ch. 2	HB 2
12/19/2005	Ch. 3	HB 5
07/01/2006	Ch. 1	HB 1
	§§ 1(2), (4)-(8), and 2	
07/01/2006	Ch. 4	SB 1

SESSION LAW TO CODE

Ch.	Sec.	MCA
1	1	Appropriations
	2	Contingent voidness
	3	Effective dates
2	1	5-5-228
	2	Appropriation
	3	Effective date
3	1	Appropriations
	2	Reversion
	3	Effective date
4	1	20-9-327
	2	20-9-328
	3	20-9-329
	4	20-9-330
	5	20-5-323
	6	20-7-102
	7	20-9-306
	8	20-9-311
	9	20-9-321
	10	20-9-344
	11	20-10-142
	12	Codification instruction
	13	Notification to tribal governments
	14	Contingent voidness
	15	Effective date — applicability

LAWS

Enacted by the

SIXTIETH LEGISLATURE
IN SPECIAL SESSION

Held at Helena, the Seat of Government
May 10, 2007, through May 15, 2007

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

COMPILED BY MONTANA
LEGISLATIVE SERVICES DIVISION

OFFICERS AND MEMBERS OF THE MONTANA SENATE

MAY 2007

50 Members

26 Democrats 24 Republicans

OFFICERS

President.....Mike Cooney
President Pro Tempore .....Dan Harrington
Majority Leader .....Carol Williams
Majority Whips .....Lane Larson, Lynda Moss
Minority Leader .....Corey Stapleton
Minority Whips .....Greg Barkus, Dan McGee
Secretary of the Senate .....John Mudd

MEMBERS

Name	Party	District	Preferred Mailing Address
Bales, Keith	(R)	20	HC 39 Box 33, Otter MT 59062-9703
Balyeat, Joe	(R)	34	6909 Rising Eagle Rd, Bozeman MT 59715-8621
Barkus, Gregory	(R)	4	PO Box 2647, Kalispell MT 59903-2647
Black, Jerry	(R)	14	445 O'Haire Blvd, Shelby MT 59474-1950
Brown, Roy	(R)	25	PO Box 22273, Billings MT 59104-2273
Brueggeman, John	(R)	6	321 Lakeview Dr, Polson MT 59860-9317
Cobb, John	(R)	9	PO Box 388, Augusta MT 59410-0388
Cocchiarella, Vicki	(D)	47	515 8th Ave, Helena MT 59601-3778
Cooney, Mike	(D)	40	713 Pyrite Court, Helena MT 59601-5877
Curtiss, Aubyn	(R)	1	PO Box 216, Fortine MT 59918-0216
Elliott, Jim	(D)	7	100 Trout Creek Rd, Trout Creek MT 59874-9609
Esp, John	(R)	31	PO Box 1024, Big Timber MT 59011-1024
Essmann, Jeff	(R)	28	2101 PO Box 80945, Billings MT 59108-0945
Gallus, Steve	(D)	37	2319 Harvard Ave, Butte MT 59701-3854
Gebhardt, Kelly	(R)	23	PO Box 724, Roundup MT 59072-0724
Gillan, Kim	(D)	24	750 Judicial Ave, Billings MT 59105-2130
Hansen, Ken (Kim)	(D)	17	PO Box 686, Harlem MT 59526-0686
Harrington, Dan	(D)	38	1201 N Excelsior Ave, Butte MT 59701-8505
Hawks, Bob	(D)	33	703 W Koch St, Bozeman MT 59715-4477
Jackson, Verdell	(R)	5	555 Wagner Ln, Kalispell MT 59901-8079
Jent, Larry	(D)	32	1201 S 3rd St, Bozeman MT 59715-5503
Juneau, Carol	(D)	8	PO Box 55, Browning MT 59417-0055
Kaufmann, Christine	(D)	41	825 Breckenridge St, Helena MT 59601-4433
Kitzenberg, Sam	(D)	18	130 Bonnie St Apt 1, Glasgow MT 59230-2101
Laible, Rick	(R)	44	PO Box 370, Darby MT 59829-0370
Larson, Lane	(D)	22	1417 Cedar Canyon Rd, Billings MT 59101-6440
Laslovich, Jesse	(D)	43	112 Mountain View St, Anaconda MT 59711-1616
Lewis, Dave	(R)	42	5871 Collins Rd, Helena MT 59602-9584
Lind, Greg	(D)	50	PO Box 16720, Missoula MT 59808-6720
McGee, Daniel	(R)	29	1925 Pinyon Dr, Laurel MT 59044-9381
Moss, Lynda	(D)	26	552 Highland Park Dr, Billings MT 59102-1046
Murphy, Terry	(R)	39	893 Boulder Cutoff Rd, Cardwell MT 59721
O'Neil, Jerry	(R)	3	985 Walsh Rd, Columbia Falls MT 59912-9044
Pease, Gerald	(D)	21	PO Box 556, Lodge Grass MT 59050-0556
Perry, Gary	(R)	35	3325 W Cedar Meadow Ln, Manhattan MT 59741-8240
Peterson, Jim	(R)	15	RR 1 Box 2, Buffalo MT 59418-9501
Ryan, Don	(D)	10	2101 7th Ave S, Great Falls MT 59405-2821
Schmidt, Trudi	(D)	11	4029 6th Ave S, Great Falls MT 59405-3746

Shockley, Jim	(R)	45	PO Box 608, Victor MT 59875-0608
Smith, Frank	(D)	16	PO Box 729, Poplar MT 59255-0729
Squires, Carolyn	(D)	48	2111 S 10th St W, Missoula MT 59801-3412
Stapleton, Corey	(R)	27	2015 Eastridge Dr, Billings MT 59102-7904
Steinbeisser, Donald	(R)	19	11918 County Rd 348, Sidney MT 59270-9620
Story, Robert	(R)	30	133 Valley Creek Rd, Park City MT 59063-8040
Tash, Bill	(R)	36	240 Vista Dr, Dillon MT 59725-3111
Tropila, Joseph	(D)	13	209 2nd St NW, Great Falls MT 59404-1301
Tropila, Mitch	(D)	12	PO Box 2286, Great Falls MT 59403-2286
Wanzenried, David	(D)	49	903 Sky Dr, Missoula MT 59804-3121
Weinberg, Dan	(D)	2	575 Delrey Rd, Whitefish MT 59937-8042
Williams, Carol	(D)	46	3533 Lincoln Hills Pt, Missoula MT 59802

OFFICERS AND MEMBERS OF THE MONTANA HOUSE OF REPRESENTATIVES

MAY 2007

100 Members

50 Republicans 49 Democrats 1 Constitutionalist

OFFICERS

Speaker ..... Scott Sales
Speaker Pro Tempore ..... Debby Barrett
Majority Leader ..... Michael Lange
Majority Whips ..... Tom McGillvray, Gary MacLaren
Minority Leader ..... John Parker
Deputy Minority Leader ..... Bob Bergren
Minority Floor Leader ..... Art Noonan
Minority Whips ..... Margarett Campbell, Dave McAlpin
Minority Caucus Leader ..... Dan Villa
Chief Clerk of the House ..... Marilyn Miller

MEMBERS

Name	Party	District	Preferred Mailing Address
Ankney, Duane	(R)	43	PO Box 2138, Colstrip MT 59323-2138
Arntzen, Elsie	(R)	53	850 Senora Ave, Billings MT 59105-2051
Augare, Shannon	(D)	16	PO Box 2031, Browning MT 59417-2031
Barrett, Debby	(R)	72	18580 MT Hwy 324, Dillon MT 59725-8031
Beck, Bill	(R)	6	PO Box 2049, Whitefish MT 59937-2049
Becker, Arlene	(D)	52	1440 Lewis Ave, Billings MT 59101-4240
Bergren, Bob	(D)	33	1132 26th Ave W, Havre MT 59501-8609
Bixby, Norma	(D)	41	PO Box 1165, Lame Deer MT 59043-1165
Blasdel, Mark	(R)	10	PO Box 291, Somers MT 59932-0291
Boggio, Scott	(R)	59	HC 50 Box 4754, Red Lodge MT 59068-4754
Branae, Gary	(D)	54	415 Yellowstone Ave, Billings MT 59101-1730
Butcher, Edward	(R)	29	PO Box 89, Winifred MT 59489-0089
Caferro, Mary	(D)	80	PO Box 1036, Helena MT 59624-1036
Callahan, Tim	(D)	21	728 36 Ave NE, Great Falls MT 59404-1132
Campbell, Margarett	(D)	31	PO Box 228, Poplar MT 59255-0228
Clark, Edith	(R)	28	PO Box 34, Sweetgrass MT 59484-0034
Cohenour, Jill	(D)	78	2610 Colt Dr, East Helena MT 59635-3442
Cordier, Douglas	(D)	3	1930 Tamarack Ln, Columbia Falls MT 59912-8816
Dickenson, Sue	(D)	25	620 Riverview Dr E, Great Falls MT 59404-1637
Driscoll, Robyn	(D)	51	724 N 16th St, Billings MT 59101-0418
Dutton, Ernie	(R)	56	2046 Mariposa Ln, Billings MT 59102-2347
Ebinger, Bob	(D)	62	128 S Yellowstone St, Livingston MT 59047-2634
Erickson, Ron	(D)	93	3250 Pattee Canyon Rd, Missoula MT 59803-1703
Everett, George	(R)	5	1344 Helena Flats Rd, Kalispell MT 59901-6548
Franklin, Eve	(D)	24	PO Box 6507, Great Falls MT 59406-6507
French, Julie	(D)	36	PO Box 356, Scobey MT 59263-0356
*Furey, Timothy	(D)	91	280 Hellgate Dr, Missoula MT 59802-8739
Gallik, Dave	(D)	79	1124 Billings Ave, Helena MT 59601-3505
Glaser, William	(R)	44	1402 Indian Creek Rd, Huntley MT 59037-9338
Grinde, Wanda	(D)	48	1910 Bannack Dr, Billings MT 59105-4236
Groesbeck, George	(D)	74	2044 Carolina Ave, Butte MT 59701-6025
Hamilton, Robin	(D)	92	330 Daly Ave, Missoula MT 59801-4338
Hands, Betsy	(D)	99	1337 Sherwood St, Missoula MT 59802-2301
Hawk, Ray	(R)	90	NW 4878 Hoblitt Ln, Florence MT 59833-6832
Heinert, Ralph	(R)	1	PO Box 577, Libby MT 59923-0577
Hendrick, Gordon	(R)	14	PO Box 262, Superior MT 59872-0262
Henry, Teresa	(D)	96	204 Chestnut St, Missoula MT 59801-1809

Hilbert, Edward	(R)	38	120 Hillcrest Ave, Glendive MT 59330-2815
Himmelberger, Dennis	(R)	47	PO Box 22272, Billings MT 59104-2272
Hiner, Cynthia	(D)	85	1027 Kentucky St, Deer Lodge MT 59722-2041
Hollenbaugh, Galen	(D)	81	907 N Ewing St, Helena MT 59601-3405
Ingraham, Pat	(R)	13	PO Box 1151, Thompson Falls MT 59873-1151
Jacobson, Hal	(D)	82	4813 US Hwy 12 W, Helena MT 59601-9694
Jayne, Joey	(D)	15	299 Lumpry Rd, Arlee MT 59821-9747
Jones, Llew	(R)	27	1102 4th Ave SW, Conrad MT 59425-1919
Jones, William	(R)	9	567 East Village Dr, Bigfork MT 59911-6152
Jopek, Mike	(D)	4	PO Box 4272, Whitefish MT 59937-4272
Jore, Rick	(C)	12	30488 Mount Harding Ln, Ronan MT 59864-9446
Kasten, Dave	(R)	30	113 Bob Fudge Rd, Brockway MT 59214-8706
Keane, Jim	(D)	75	2131 Wall St, Butte MT 59701-5527
Kerns, Krayton	(R)	58	1408 Golf Course Rd, Laurel MT 59044-3600
Klock, Harry	(R)	83	PO Box 308, Harlowton MT 59036-0308
Koopman, Roger	(R)	70	811 S Tracy Ave, Bozeman MT 59715-5325
Kottel, Deborah	(D)	20	6301 43rd St SW, Great Falls MT 59404-5249
Lake, Bob	(R)	88	PO Box 2096, Hamilton MT 59840-2096
Lambert, Carol	(R)	39	PO Box 2, Broadus MT 59317-0002
Lange, Michael	(R)	55	208 Fair Park Dr, Billings MT 59102-5734
MacLaren, Gary	(R)	89	429 Curlew Orchard Rd, Victor MT 59875-9519
Malcolm, Bruce	(R)	61	2319 Hwy 89 S, Emigrant MT 59027-6023
McAlpin, Dave	(D)	94	800 Woodworth Ave, Missoula MT 59801-7046
McChesney, Bill	(D)	40	316 Missouri Ave, Miles City MT 59301-4140
McGillvray, Tom	(R)	50	3642 Donna Dr, Billings MT 59102-1119
McNutt, Walter	(R)	37	110 12th Ave SW, Sidney MT 59270-3614
Mendenhall, Scott	(R)	77	214 Solomon Mountain Rd, Clancy MT 59634-9213
Milburn, Mike	(R)	19	276 Chestnut Valley Rd, Cascade MT 59421-8204
Morgan, Penny	(R)	57	3401 Waterloo Cir, Billings MT 59101-8000
Musgrove, John	(D)	34	810 8th St, Havre MT 59501-4127
Noonan, Art	(D)	73	1621 Whitman Ave, Butte MT 59701-5380
Nooney, Bill	(R)	100	PO Box 4892, Missoula MT 59806-4892
O'Hara, Jesse	(R)	18	2221 Holly Ct, Great Falls MT 59404-3562
Olson, Alan	(R)	45	18 Halfbreed Creek Rd, Roundup MT 59072-6524
Parker, John	(D)	23	PO Box 558, Great Falls MT 59403-0558
Peterson, Ken	(R)	46	424 48th St W, Billings MT 59106-2306
Phillips, Mike	(D)	66	615 S Black Ave, Bozeman MT 59715-5303
Pomnichowski, JP	(D)	63	222 Westridge Dr, Bozeman MT 59715-6025
Raser, Holly	(D)	98	4304 Spurgin Rd, Missoula MT 59804-4520
Reinhart, Michele	(D)	97	PO Box 5945, Missoula MT 59806-5945
Rice, Diane	(R)	71	PO Box 216, Harrison MT 59735-0216
Ripley, Rick	(R)	17	8920 MT Hwy 200, Wolf Creek MT 59648-8639
Ross, John	(R)	60	129 N Stillwater Rd, Absarokee MT 59001-6235
Sales, Scott	(R)	68	5200 Bostwick Rd, Bozeman MT 59715-7721
Sands, Diane	(D)	95	4487 Nicole Ct, Missoula MT 59803-2791
Sesso, Jon	(D)	76	155 W Granite, Butte MT 59701-9256
Sinrud, John	(R)	67	284 Frontier Dr, Bozeman MT 59718-7975
Small-Eastman, Veronica	(D)	42	PO Box 262, Lodge Grass MT 59050-0262
Sonju, Jon	(R)	7	PO Box 2954, Kalispell MT 59903-2954
Stahl, Wayne	(R)	35	PO Box 345, Saco MT 59261-0345
Stoker, Ron	(R)	87	PO Box 1059, Darby MT 59829-1059
Taylor, Janna	(R)	11	PO Box 233, Dayton MT 59914-0233
Thomas, Bill	(D)	26	1200 Adobe Dr, Great Falls MT 59404-3732
Van Dyk, Kendall	(D)	49	PO Box 441, Billings MT 59103-0441
Villa, Dan	(D)	86	1619 W Park Ave, Anaconda MT 59711-1831
Vincent, Chas	(R)	2	5957 Champion Rd, Libby MT 59923
Ward, John	(R)	84	4525 Glass Dr, Helena MT 59602-9509
Wells, Jack	(R)	69	150 Coulee Dr, Bozeman MT 59718-7717
Wilmer, Franke	(D)	64	7205 Lorelei Dr, Bozeman MT 59715-8925
Wilson, Bill	(D)	22	1305 2nd Ave N, Great Falls MT 59401-3217
Windy Boy, Jonathan	(D)	32	PO Box 269, Box Elder MT 59521-0269
Wiseman, Brady	(D)	65	3247 Gardenbrook Ln, Bozeman MT 59715-0686
Witte, Craig	(R)	8	131 Collier Ln, Kalispell MT 59901-4621

*Timothy Furey was appointed on May 9, 2007, to fill the seat of Kevin Furey, who was unable to be present at the May 2007 Special Session due to being called to active military duty.

TITLE CONTENTS

HOUSE AND SENATE BILLS

CHAPTER NO. 1

[SB 2]

AN ACT GENERALLY REVISING LAWS RELATING TO EDUCATION; ESTABLISHING A LOAN ASSISTANCE PROGRAM FOR AREAS WITH QUALIFIED EDUCATOR SHORTAGES; PROVIDING A SOURCE OF FUNDING FOR SCHOOL FACILITY IMPROVEMENTS; PROVIDING THAT MINERAL ROYALTIES PURCHASED THROUGH A LOAN FROM THE COAL SEVERANCE TAX PERMANENT FUND IN EXCESS OF THE AMOUNT NECESSARY TO REPAY THE LOAN BE TRANSFERRED FROM THE GUARANTEE ACCOUNT TO A SCHOOL FACILITY IMPROVEMENT ACCOUNT; PROVIDING FULL-TIME ANB FUNDING TO PUBLIC SCHOOL DISTRICTS FOR OPTIONAL ENROLLMENT OF STUDENTS IN A FULL-TIME KINDERGARTEN PROGRAM OFFERED BY A DISTRICT; PROVIDING STARTUP COSTS FOR FULL-TIME KINDERGARTEN; CHANGING THE METHOD FOR CALCULATING THE BASIC ENTITLEMENT FOR APPROVED AND ACCREDITED JUNIOR HIGH AND MIDDLE SCHOOLS; INCREASING THE QUALITY EDUCATOR PAYMENT AND EXPANDING ELIGIBLE INDIVIDUALS; PROVIDING INFLATIONARY INCREASES TO SCHOOLS; INCREASING THE PERCENTAGE OF GUARANTEED TAX BASE AID; PROHIBITING DIVERSION OF INDIAN EDUCATION FOR ALL FUNDS; REVISING THE GOVERNOR'S POSTSECONDARY SCHOLARSHIP PROGRAM; AUTHORIZING ONE-TIME-ONLY PAYMENTS TO SCHOOLS FOR PURPOSES OF CAPITAL INVESTMENT AND DEFERRED MAINTENANCE CONTINGENT ON THE AVAILABILITY OF FUNDS; PROVIDING A DISTRIBUTION MECHANISM FOR ONE-TIME-ONLY INDIAN EDUCATION FOR ALL MONEY; AMENDING SECTIONS 17-6-340, 20-1-301, 20-3-205, 20-7-117, 20-9-306, 20-9-311, 20-9-313, 20-9-314, 20-9-327, 20-9-329, 20-9-330, 20-9-366, 20-9-622, 20-26-602, AND 20-26-603, MCA; REPEALING SECTIONS 20-26-611, 20-26-612, AND 20-26-613, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE.

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

Section 1. Quality educator loan assistance program. There is a quality educator loan assistance program administered by the board of regents through the office of the commissioner of higher education. The program must provide for the direct repayment of educational loans of eligible quality educators in accordance with policies and procedures adopted by the board of regents in accordance with [sections 1 through 6].

Section 2. Definitions. For purposes of [sections 1 through 6], unless the context requires otherwise, the following definitions apply:

(1) "Education cooperative" means a cooperative of Montana public schools as described in 20-7-451.

(2) "Educational loans" means all loans made pursuant to a federal loan program, except federal parent loans for undergraduate students (PLUS) loans, as provided in 20 U.S.C. 1078-2.

(3) "Federal loan program" means educational loans authorized by 20 U.S.C. 1071, et seq., 20 U.S.C. 1087a, et seq., and 20 U.S.C. 1087aa, et seq.

(4) (a) "Quality educator" means a full-time equivalent educator, as reported to the superintendent of public instruction for accreditation purposes in the previous school year, who:

(i) holds a valid certificate under the provisions of 20-4-106 and is employed by an entity listed in subsection (4)(b) in a position that requires an educator license in accordance with administrative rules adopted by the board of public education; or

(ii) is a licensed professional under 37-8-405, 37-8-415, 37-11-301, 37-15-301, 37-17-302, 37-22-301, 37-23-201, 37-24-301, or 37-25-302 and is employed by an entity listed in subsection (4)(b) of this section to provide services to students.

(b) For purposes of subsection (4)(a), an entity means:

(i) a school district;

(ii) an education cooperative;

(iii) the Montana school for the deaf and blind, as described in 20-8-101;

(iv) the Montana youth challenge program; and

(v) a state youth correctional facility, as defined in 41-5-103.

(5) "School district" means a public school district, as provided in 20-6-101 and 20-6-701.

Section 3. Critical quality educator shortages. (1) The board of public education, in consultation with the office of public instruction, shall identify:

(a) specific schools that are impacted by critical quality educator shortages; and

(b) within the schools identified in subsection (1)(a), the specific quality educator licensure or endorsement areas that are impacted by critical quality educator shortages.

(2) The board of public education shall publish an annual report listing the schools and the licensure or endorsement areas identified as impacted by critical quality educator shortages, explaining the reasons that specific schools and licensure or endorsement areas have been identified and providing information regarding any success in retention.

(3) Quality educators working at schools identified in subsection (1) are eligible for repayment of all or part of the quality educator's outstanding educational loans existing at the time of application in accordance with the eligibility and award criteria established under [sections 1 through 6].

Section 4. Loan repayment assistance. Loan repayment assistance may be provided on behalf of a quality educator who:

(1) is employed in an identified school described in [section 3(1)]; and

(2) has an educational loan that is not in default and that has a minimum unpaid current balance of at least $1,000 at the time of application.

Section 5. Loan repayment assistance documentation. (1) A quality educator shall submit an application for loan repayment assistance to the board of regents in accordance with policies and procedures adopted by the board of regents. The application must include official verification or proof of the applicant's total unpaid accumulated educational loan debt and other documentation required by the board of regents that is necessary for verification of the applicant's eligibility.

(2) A quality educator is eligible for loan repayment assistance for up to a maximum of 4 years. The total annual loan repayment assistance for an eligible quality educator may not exceed $3,000. The board of regents may require an eligible quality educator to provide documentation that the quality educator has exhausted repayment assistance from other federal, state, or local loan forgiveness, discharge, or repayment incentive programs.

(3) The board of regents may remit payment of the loan on behalf of the quality educator in accordance with the requirements of [sections 1 through 6] and policies and procedures adopted by the board of regents.

Section 6. Funding — priorities. (1) If the funding for [sections 1 through 6] in any year is less than the total amount for which Montana quality educators qualify, the board of regents shall provide preference in the award of loan repayment assistance to quality educators working in the specific schools that are most impacted by quality educator shortages identified as provided in [section 3].

(2) [Sections 1 through 6] may not be construed to require the provision of loan repayment assistance without an express appropriation for that purpose. [Sections 1 through 6] may not be construed to require loan repayment assistance for school years prior to [the effective date of this section].

Section 7. Section 17-6-340, MCA, is amended to read:

"17-6-340. Purchase of permanent fund mineral estate. The department of natural resources and conservation may purchase the mineral production rights held by the public school fund established in Article X, section 2, of the Montana constitution for fair market value. If the department of natural resources and conservation purchases mineral production rights, any royalty payments received by the board that are not used to reimburse the coal severance tax trust fund for the loan used for purchasing the mineral production rights must be deposited in the guarantee account provided for in 20-9-622 *and transferred to the school facility improvement account provided for in [section 8]*."

Section 8. School facility improvement account. There is a school facility improvement account in the state special revenue fund provided for in 17-2-102. The purpose of the account is to provide money to schools to implement the recommendations of the school facility condition and needs assessment and energy audit conducted pursuant to section 1, Chapter 1, Special Laws of December 2005, for:

(1) major deferred maintenance;

(2) improving energy efficiency in school facilities; or

(3) critical infrastructure in school districts.

Section 9. Section 20-1-301, MCA, is amended to read:

"20-1-301. School fiscal year. (1) The school fiscal year begins on July 1 and ends on June 30. At least the minimum aggregate hours defined in subsection (2) must be conducted during each school fiscal year, except that 1,050 aggregate hours of pupil instruction for graduating seniors may be sufficient ~~or a minimum of 360 aggregate hours of pupil instruction must be conducted for a kindergarten program, as provided in 20-7-117~~.

(2) The minimum aggregate hours required by grade are:

(a) 360 hours for a half-time kindergarten program or 720 hours for a full-time kindergarten program, as provided in 20-7-117;

~~(a)~~*(b)* 720 hours for grades 1 through 3; and

~~(b)~~*(c)* 1,080 hours for grades 4 through 12.

(3) For any elementary or high school district that fails to provide for at least the minimum aggregate hours, as listed in subsections (1) and (2), the superintendent of public instruction shall reduce the direct state aid for the district for that school year by two times an hourly rate, as calculated by the office of public instruction, for the aggregate hours missed."

Section 10. Section 20-3-205, MCA, is amended to read:

"20-3-205. Powers and duties. (1) The county superintendent has general supervision of the schools of the county within the limitations prescribed by this title and shall perform the following duties or acts:

(a) determine, establish, and reestablish trustee nominating districts in accordance with the provisions of 20-3-352, 20-3-353, and 20-3-354;

(b) administer and file the oaths of members of the boards of trustees of the districts in the county in accordance with the provisions of 20-3-307;

(c) register the teacher or specialist certificates or emergency authorization of employment of any person employed in the county as a teacher, specialist, principal, or district superintendent in accordance with the provisions of 20-4-202;

(d) file a copy of the audit report for a district in accordance with the provisions of 20-9-203;

(e) classify districts in accordance with the provisions of 20-6-201 and 20-6-301;

(f) keep a transcript of the district boundaries of the county;

(g) fulfill all responsibilities assigned under the provisions of this title regulating the organization, alteration, or abandonment of districts;

(h) act on any unification proposition and, if approved, establish additional trustee nominating districts in accordance with 20-6-312 and 20-6-313;

(i) estimate the average number belonging (ANB) of an opening school in accordance with the provisions of 20-6-502, 20-6-503, 20-6-504, or 20-6-506;

(j) process and, when required, act on school isolation applications in accordance with the provisions of 20-9-302;

(k) complete the budgets, compute the budgeted revenue and tax levies, file final budgets and budget amendments, and fulfill other responsibilities assigned under the provisions of this title regulating school budgeting systems;

(l) submit an annual financial report to the superintendent of public instruction in accordance with the provisions of 20-9-211;

(m) monthly, unless otherwise provided by law, order the county treasurer to apportion state money, county school money, and any other school money subject to apportionment in accordance with the provisions of 20-9-212, 20-9-347, 20-10-145, or 20-10-146;

(n) act on any request to transfer average number belonging (ANB) in accordance with the provisions of ~~20-9-313(3)~~ *20-9-313(1)(c)*;

(o) calculate the estimated budgeted general fund sources of revenue in accordance with the general fund revenue provisions of the general fund part of this title;

(p) compute the revenue and compute the district and county levy requirements for each fund included in each district's final budget and report the computations to the board of county commissioners in accordance with the provisions of the general fund, transportation, bonds, and other school funds parts of this title;

(q) file and forward bus driver certifications, transportation contracts, and state transportation reimbursement claims in accordance with the provisions of 20-10-103, 20-10-143, or 20-10-145;

(r) for districts that do not employ a district superintendent or principal, recommend library book and textbook selections in accordance with the provisions of 20-7-204 or 20-7-602;

(s) notify the superintendent of public instruction of a textbook dealer's activities when required under the provisions of 20-7-605 and otherwise comply with the textbook dealer provisions of this title;

(t) act on district requests to allocate federal money for indigent children for school food services in accordance with the provisions of 20-10-205;

(u) perform any other duty prescribed from time to time by this title, any other act of the legislature, the policies of the board of public education, the policies of the board of regents relating to community college districts, or the rules of the superintendent of public instruction;

(v) administer the oath of office to trustees without the receipt of pay for administering the oath;

(w) keep a record of official acts, preserve all reports submitted to the superintendent under the provisions of this title, preserve all books and instructional equipment or supplies, keep all documents applicable to the administration of the office, and surrender all records, books, supplies, and equipment to the next superintendent;

(x) within 90 days after the close of the school fiscal year, publish an annual report in the county newspaper stating the following financial information for the school fiscal year just ended for each district of the county:

(i) the total of the cash balances of all funds maintained by the district at the beginning of the year;

(ii) the total receipts that were realized in each fund maintained by the district;

(iii) the total expenditures that were made from each fund maintained by the district; and

(iv) the total of the cash balances of all funds maintained by the district at the end of the school fiscal year; and

(y) hold meetings for the members of the trustees from time to time at which matters for the good of the districts must be discussed.

(2) (a) When a district in one county annexes a district in another county, the county superintendent of the county where the annexing district is located shall perform the duties required by this section.

(b) When two or more districts in more than one county consolidate, the duties required by this section must be performed by the county superintendent designated in the same manner as other county officials in 20-9-202."

Section 11. Section 20-7-117, MCA, is amended to read:

"20-7-117. Five-year-old schooling and preschool programs. (1) The trustees of an elementary district ~~shall~~ *shall* establish or make available a *kindergarten* program capable of accommodating, at a minimum, all the children in the district who will be 5 years old on or before September 10 of the school year for which the program is to be conducted or who have been enrolled by special permission of the board of trustees. The *kindergarten* program*, which the trustees may designate as either a half-time or full-time program,* must be an integral part of the elementary school and must be financed and governed accordingly, provided that to be eligible for inclusion in the calculation of ANB pursuant to 20-9-311, a child must have reached ~~the age of~~ 5 *years of age* on or before September 10 of the school year covered by the calculation or have been enrolled by special permission of the board of trustees. *A kindergarten program must meet the minimum aggregate hour requirements established in 20-1-301. A kindergarten program that is designated as a full-time program must allow a parent, guardian, or other person who is responsible for the enrollment of a child in school, as provided in 20-5-102, to enroll the child half-time.*

(2) The trustees of an elementary school district may establish and operate a free preschool program for children between the ages of 3 and 5 years. When preschool programs are established, they must be an integral part of the elementary school and must be governed accordingly. Financing of preschool programs may not be supported by money available from state equalization aid."

Section 12. Section 20-9-306, MCA, is amended to read:

"20-9-306. Definitions. As used in this title, unless the context clearly indicates otherwise, the following definitions apply:

(1) "BASE" means base amount for school equity.

(2) "BASE aid" means:

(a) direct state aid for 44.7% of the basic entitlement and 44.7% of the total per-ANB entitlement for the general fund budget of a district;

(b) guaranteed tax base aid for an eligible district for any amount up to 35.3% of the basic entitlement, up to 35.3% of the total per-ANB entitlement budgeted in the general fund budget of a district, and 40% of the special education allowable cost payment;

(c) the total quality educator payment;

(d) the total at-risk student payment;

(e) the total Indian education for all payment; and

(f) the total American Indian achievement gap payment.

(3) "BASE budget" means the minimum general fund budget of a district, which includes 80% of the basic entitlement, 80% of the total per-ANB entitlement, 100% of the total quality educator payment, 100% of the total at-risk student payment, 100% of the total Indian education for all payment, 100% of the total American Indian achievement gap payment, and 140% of the special education allowable cost payment.

(4) "BASE budget levy" means the district levy in support of the BASE budget of a district, which may be supplemented by guaranteed tax base aid if the district is eligible under the provisions of 20-9-366 through 20-9-369.

(5) "BASE funding program" means the state program for the equitable distribution of the state's share of the cost of Montana's basic system of public elementary schools and high schools, through county equalization aid as provided in 20-9-331 and 20-9-333 and state equalization aid as provided in 20-9-343, in support of the BASE budgets of districts and special education allowable cost payments as provided in 20-9-321.

(6) "Basic entitlement" means:

(a) ~~$230,199~~ for each high school district*:*

(i) $236,552 for fiscal year 2008; and

(ii) $243,649 for each succeeding fiscal year;

(b) ~~$20,718~~ for each elementary school district or K-12 district elementary program without an approved and accredited junior high school*, 7th and 8th grade program,* or middle school*:*

(i) $21,290 for fiscal year 2008;

(ii) $21,922 for each succeeding fiscal year; and

(c) ~~the prorated entitlement~~ 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~~, calculated as follows using either the current year ANB or the 3-year ANB provided for in 20-9-311~~:

(i) ~~$20,718 times the ratio of the ANB~~ for kindergarten through grade 6 ~~to the total ANB of kindergarten through grade 8~~ *elementary program:*

(A) $21,290 for fiscal year 2008; and

(B) $21,922 for each succeeding fiscal year; plus

(ii) ~~$230,199 times the ratio of the ANB for grades 7 and 8 to the total ANB of kindergarten through grade 8~~ *for an approved and accredited junior high school program, 7th and 8th grade program, or middle school:*

(A) $60,275 for fiscal year 2008; and

(B) $62,083 for each succeeding fiscal year.

(7) "Budget unit" means the unit for which the ANB of a district is calculated separately pursuant to 20-9-311.

(8) "Direct state aid" means 44.7% of the basic entitlement and 44.7% of the total per-ANB entitlement for the general fund budget of a district and funded with state and county equalization aid.

(9) "Maximum general fund budget" means a district's general fund budget amount calculated from the basic entitlement for the district, the total per-ANB entitlement for the district, the total quality educator payment, the total at-risk student payment, the total Indian education for all payment, the total American Indian achievement gap payment, and the greater of:

(a) 175% of special education allowable cost payments; or

(b) the ratio, expressed as a percentage, of the district's special education allowable cost expenditures to the district's special education allowable cost payment for the fiscal year that is 2 years previous, with a maximum allowable ratio of 200%.

(10) "Over-BASE budget levy" means the district levy in support of any general fund amount budgeted that is above the BASE budget and below the maximum general fund budget for a district.

(11) "Total American Indian achievement gap payment" means the payment resulting from multiplying $200 times the number of American Indian students enrolled in the district as provided in 20-9-330.

(12) "Total at-risk student payment" means the payment resulting from the distribution of any funds appropriated for the purposes of 20-9-328.

(13) "Total Indian education for all payment" means the payment resulting from multiplying $20.40 times the ANB of the district or $100 for each district, whichever is greater, as provided for in 20-9-329.

(14) "Total per-ANB entitlement" means the district entitlement resulting from the following calculations and using either the current year ANB or the 3-year ANB provided for in 20-9-311:

(a) for a high school district or a K-12 district high school program, a maximum rate of ~~$5,704~~ *$5,861 for fiscal year 2008 and $6,037 for each succeeding fiscal year* for the first ANB, ~~is~~ 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 ~~$4,456~~ *$4,579 for fiscal year 2008 and $4,716 for each succeeding fiscal year* for the first ANB, ~~is~~ 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 ~~$4,456~~ *$4,579 for fiscal year 2008 and $4,716 for each succeeding fiscal year* for the first ANB for kindergarten through grade 6, ~~is~~ decreased at the rate of 20 cents per ANB for each additional ANB up through 1,000 ANB, with each ANB in excess of 1,000 receiving the same amount of entitlement as the 1,000th ANB; and

(ii) a maximum rate of ~~$5,704~~ *$5,861 for fiscal year 2008 and $6,037 for each succeeding fiscal year* for the first ANB for grades 7 and 8, ~~is~~ decreased at the rate of 50 cents per ANB for each additional ANB for grades 7 and 8 up through 800 ANB, with each ANB in excess of 800 receiving the same amount of entitlement as the 800th ANB.

(15) "Total quality educator payment" means the payment resulting from multiplying ~~$2,000~~ *$3,036 for fiscal year 2008 and $3,042 for each succeeding fiscal year* times the number of full-time equivalent educators as provided in 20-9-327."

Section 13. Section 20-9-311, MCA, is amended to read:

"20-9-311. (Temporary) Calculation of average number belonging (ANB) — three-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 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; 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) ~~Except as provided in subsection (5), for~~ *For* the purpose of calculating ANB, enrollment in an education program:

(i) from ~~181~~ *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) 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 pupil in ~~grades 1~~ *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) ~~In calculating the ANB for pupils enrolled in a program established under 20-7-117(1), enrollment in a program that provides 360 or more aggregate hours of pupil instruction per school year must be counted as one-half pupil for ANB purposes.~~ *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 ~~prekindergarten~~ *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 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) 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) 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) a school has not been accredited by the board of public education, 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 a Montana job corps program under an interlocal agreement with the district under 20-9-707.

(12) (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 (12)(a) and then combined.

(13) 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 (13)(a) by three. (Terminates June 30, 2007—sec. 25(2), Ch. 462, L. 2005.)

20-9-311. (Effective July 1, 2007) Calculation of average number belonging (ANB) — three-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 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; 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) ~~Except as provided in subsection (5), for~~ *For* the purpose of calculating ANB, enrollment in an education program:

(i) from ~~181~~ *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) 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 pupil in ~~grades 1~~ *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) ~~In calculating the ANB for pupils enrolled in a program established under 20-7-117(1), enrollment in a program that provides 360 or more aggregate hours of pupil instruction per school year must be counted as one-half pupil for ANB purposes.~~ *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 ~~prekindergarten~~ *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 *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 ~~separately~~ *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) 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) 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) a school has not been accredited by the board of public education, 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 a Montana job corps program under an interlocal agreement with the district under 20-9-707.

(12) (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 (12)(a) and then combined.

(13) 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 (13)(a) by three."

Section 14. Section 20-9-313, MCA, is amended to read:

"20-9-313. Circumstances under which regular average number belonging may be increased. *(1)* The average number belonging of a school,

calculated in accordance with the ANB formula prescribed in 20-9-311, may be increased when:

~~(1)~~*(a)* the opening of a new elementary school or the reopening of an elementary school has been approved in accordance with 20-6-502. The average number belonging for the school must be established by the county superintendent and approved, disapproved, or adjusted by the superintendent of public instruction.

~~(2)~~*(b)* the opening or reopening of a high school or a branch of the county high school has been approved in accordance with 20-6-503, 20-6-504, or 20-6-505. The average number belonging for the high school must be established by the county superintendent's estimate, after an investigation of the probable number of pupils that will attend the high school.

~~(3)~~*(c)* a district anticipates an increase in the average number belonging due to the closing of a private or public school in the district or a neighboring district. The estimated increase in average number belonging must be established by the trustees and the county superintendent and approved, disapproved, or adjusted by the superintendent of public instruction no later than the fourth Monday in June.

~~(4)~~*(d)* a district anticipates an unusual enrollment increase in the ensuing school fiscal year. The increase in average number belonging must be based on estimates of increased enrollment approved by the superintendent of public instruction and must be computed in the manner prescribed by 20-9-314.

~~(5)~~*(e)* for the initial year of operation of a *kindergarten* program established under 20-7-117(1), the ANB to be used for budget purposes is ~~the same as~~*:*

(i) one-half the number of 5-year-old children residing in the district as of September 10 of the preceding school year, either as shown on the official school census or as determined by some other procedure approved by the superintendent of public instruction*, for the purpose implementing a half-time kindergarten program as provided in 20-1-301*; or

(ii) the number of 5-year-old children residing in the district as of September 10 of the preceding school year, either as shown on the official school census or as determined by some other procedure approved by the superintendent of public instruction, for the purpose of implementing a full-time kindergarten program as provided in 20-1-301; or

~~(6)~~*(f)* a high school district provides early graduation for a student who completes graduation requirements in less than eight semesters or the equivalent amount of secondary school enrollment. The increase must be established by the trustees as though the student had attended to the end of the school fiscal year and must be approved, disapproved, or adjusted by the superintendent of public instruction.

(2) This section does not apply to the expansion of a half-time kindergarten program to a full-time kindergarten program."

Section 15. Section 20-9-314, MCA, is amended to read:

"20-9-314. (Temporary) 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(4)~~ *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 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 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 average number belonging for the ensuing ANB calculation period. After approving an estimate, with or without adjustment, the superintendent of public instruction shall:

(a) determine the percentage by which the estimated enrollment exceeds the enrollment used for the budgeted ANB; 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 greater than 6%.

(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.

(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 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 enrollment.

(c) 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). (Terminates June 30, 2007—sec. 25(2), Ch. 462, L. 2005.)

20-9-314. (Effective July 1, 2007) 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(4)~~ *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 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 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 average number belonging for the ensuing ANB calculation period. After approving an estimate, with or without adjustment, the superintendent of public instruction shall:

(a) determine the percentage ~~increase~~ by which the estimated enrollment ~~increase~~ exceeds the ~~current~~ enrollment *used for the budgeted ANB*; 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) 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 ~~current~~ 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.

(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 average number belonging used for BASE funding program and entitlement calculations~~ *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 ~~average number belonging~~ *enrollment in place of the estimated 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 16. Section 20-9-327, MCA, is amended to read:

"20-9-327. Quality educator payment. (1) (a) The state shall provide a quality educator payment to:

(i) public school districts, as defined in 20-6-101 and 20-6-701;

(ii) special education cooperatives, as described in 20-7-451;

(iii) the Montana school for the deaf and blind, as described in 20-8-101; and

(iv) state youth correctional facilities, as defined in 41-5-103.

(b) A special education cooperative that has not met the requirements of 20-7-453 and 20-7-454 may not be funded under the provisions of this section except by approval of the superintendent of public instruction.

(2) (a) The quality educator payment for special education cooperatives must be distributed directly to those entities by the superintendent of public instruction.

(b) The quality educator payment for the Montana school for the deaf and blind must be distributed to the Montana school for the deaf and blind.

(c) The quality educator payment for Pine Hills and Riverside youth correctional facilities must be distributed to those facilities by the department of corrections.

(3) The quality educator payment is ~~$2,000 times~~ *calculated as provided in 20-9-306, using* the number of full-time equivalent educators, as reported to the superintendent of public instruction for accreditation purposes in the previous school year, each of whom:

(a) holds a valid certificate under the provisions of 20-4-106 and is employed by an entity listed in subsection (1) in a position that requires an educator license in accordance with the administrative rules adopted by the board of public education; or

(b) (i) is a licensed professional under 37-8-405, 37-8-415, 37-11-301, 37-15-301, *37-17-302, 37-22-301,* 37-23-201, 37-24-301, or 37-25-302; and

(ii) is employed by an entity listed in subsection (1) to provide services to students."

Section 17. Section 20-9-329, MCA, is amended to read:

"20-9-329. Indian education for all payment. (1) The state shall provide an Indian education for all payment to public school districts, as defined in 20-6-101 and 20-6-701, to implement the provisions of Article X, section 1(2), of the Montana constitution and Title 20, chapter 1, part 5.

(2) The Indian education for all payment is ~~the greater of $100 for each district or $20.40 for each ANB,~~ calculated as provided in ~~20-9-311, for each fiscal year~~ *20-9-306 and is a component of the BASE budget of the district.*

(3) The district shall deposit the payment in the general fund of the district.

(4) A public school district that receives an Indian education for all payment may not divert the funds to any purpose other than curriculum development, providing curriculum and materials to students, and providing training to teachers about the curriculum and materials. A public school district shall file an annual report with the office of public instruction, in a form prescribed by the superintendent of public instruction, that specifies how the Indian education for all funds were expended."

Section 18. Section 20-9-330, MCA, is amended to read:

"20-9-330. American Indian achievement gap payment. (1) The state shall provide an American Indian achievement gap payment to public school districts, as defined in 20-6-101 and 20-6-701, for the purpose of closing the educational achievement gap that exists between American Indian students and non-Indian students.

(2) (a) The American Indian achievement gap payment is ~~$200 for each~~ *calculated as provided in 20-9-306, using the number of* American Indian ~~student~~ *students* enrolled in the district based on the count of regularly enrolled students on the first Monday in October of the prior school year as reported to the office of public instruction.

(b) A school district may not require a student to disclose the student's race.

(3) The district shall deposit the payment in the general fund of the district.

(4) On or before September 15, 2010, the office of public instruction shall report to the governor and the legislature on the change in status of standardized test scores, graduation rates, and drop-out rates of American Indian students using fiscal year 2006 data as a baseline."

Section 19. Section 20-9-366, MCA, is amended to read:

"20-9-366. Definitions. As used in 20-9-366 through 20-9-371, the following definitions apply:

(1) "County retirement mill value per elementary ANB" or "county retirement mill value per high school ANB" means the sum of the taxable valuation in the previous year of all property in the county divided by 1,000, with the quotient divided by the total county elementary ANB count or the total county high school ANB count used to calculate the elementary school districts' and high school districts' current year total per-ANB entitlement amounts.

(2) (a) "District guaranteed tax base ratio" for guaranteed tax base funding for the BASE budget of an eligible district means the taxable valuation in the previous year of all property in the district divided by the sum of the district's current year BASE budget amount less direct state aid and the state special education allowable cost payment.

(b) "District mill value per ANB", for school facility entitlement purposes, means the taxable valuation in the previous year of all property in the district divided by 1,000, with the quotient divided by the ANB count of the district used to calculate the district's current year total per-ANB entitlement amount.

(3) "Facility guaranteed mill value per ANB", for school facility entitlement guaranteed tax base purposes, means the sum of the taxable valuation in the previous year of all property in the state, multiplied by 140% and divided by 1,000, with the quotient divided by the total state elementary ANB count or the total state high school ANB count used to calculate the elementary school

districts' and high school districts' current year total per-ANB entitlement amounts.

(4) (a) "Statewide elementary guaranteed tax base ratio" or "statewide high school guaranteed tax base ratio", for guaranteed tax base funding for the BASE budget of an eligible district, means the sum of the taxable valuation in the previous year of all property in the state, multiplied by ~~175%~~ *193%* and divided by the total sum of either the state elementary school districts' or the high school districts' current year BASE budget amounts less total direct state aid.

(b) "Statewide mill value per elementary ANB" or "statewide mill value per high school ANB", for school retirement guaranteed tax base purposes, means the sum of the taxable valuation in the previous year of all property in the state, multiplied by 121% and divided by 1,000, with the quotient divided by the total state elementary ANB count or the total state high school ANB amount used to calculate the elementary school districts' and high school districts' current year total per-ANB entitlement amounts."

Section 20. Section 20-9-622, MCA, is amended to read:

"20-9-622. Guarantee account. (1) There is a guarantee account in the state special revenue fund. The guarantee account is intended to:

(a) stabilize the long-term growth of the permanent fund; and

(b) maintain a constant and increasing distributable revenue stream. All realized capital gains and all distributable revenue must be deposited in the guarantee account. Except as provided in subsections (2) and (3), the guarantee account is statutorily appropriated, as provided in 17-7-502, for distribution to school districts through school equalization aid as provided in 20-9-343.

(2) As long as a portion of the coal severance tax loan authorized in section 8, Chapter 418, Laws of 2001, is outstanding, the department of natural resources and conservation shall monthly transfer from the guarantee account to the general fund an amount that represents the amount of interest income that would be earned from the investment of the amount of the loan that is currently outstanding. *When the loan is fully paid, all mineral royalties deposited in the guarantee account must be transferred to the school facility improvement account pursuant to 17-6-340.*

(3) The revenue distributed through 20-9-534 must be used for the purposes of 20-9-533."

Section 21. Section 20-26-602, MCA, is amended to read:

"20-26-602. Governor's postsecondary scholarship program — duties of council — duties of board. (1) There is a governor's postsecondary scholarship program administered by the board through the office of the commissioner of higher education with assistance from ~~a three-member~~ *the* council ~~created in 2-15-1524~~.

~~(2) The council shall review the lists and applications submitted in accordance with procedures adopted by the board pursuant to 20-26-611. From those lists and applications, the council shall prepare and submit a final list of qualified scholarship recipients to the board. Following consultation with the council, the board shall pay for scholarships awarded to qualified recipients.~~

~~(3) The board may accept donations from public or private sources and shall distribute these funds to the scholarship program and in accordance with the criteria determined by the board in consultation with the council.~~

~~(4) Funds from public sources may not be used to pay for scholarships to students enrolled in Montana private colleges.~~

~~(5) Funds from private sources must be deposited into an account in the state special revenue fund established in 17-2-102 to be used by the board to pay for scholarships for students enrolled in postsecondary institutions or, when designated by the donor, in Montana private colleges.~~

(2) The purpose of the governor's postsecondary scholarship program is to provide scholarships on the basis of need and merit to Montana residents towards the cost of attendance at 2-year and 4-year postsecondary institutions and to allocate some of the scholarships to specific areas of study that promote economic development or address critical workforce shortage areas in Montana.

(3) The council shall gather information and make recommendations for the board to consider in the board's adoption of policies and procedures under this part. The recommendations must attempt to promote efficient administration of the governor's postsecondary scholarship program.

(4) After consideration of the council's recommendations pursuant to subsection (3), the board shall adopt policies and procedures for administration of the governor's postsecondary scholarship program consistent with this part.

(5) Subject to available funding, scholarships must be awarded on an annual basis to qualified recipients pursuant to policies adopted by the board. The board may delegate to Montana high schools and postsecondary institutions the authority to review scholarship applications and select scholarship recipients."

Section 22. Section 20-26-603, MCA, is amended to read:

"20-26-603. Definitions. As used in this part, the following definitions apply:

(1) "Accredited" means a school that is accredited by the board of public education pursuant to 20-7-102.

~~(2) "At-large student" means a Montana resident who meets the admission requirements established by board policy or by the admissions office of a Montana private college.~~

~~(3)~~*(2)* "Board" means the board of regents of higher education created by Article X, section 9(2), of the Montana constitution.

~~(4) "Certificate program" or "certificate" means a program generally completed in 1 academic year that requires less than 60 credits and that is not a self-supporting, customized training course or the certificate awarded for completion of the program.~~

~~(5)~~*(3)* "Council" means the governor's postsecondary scholarship advisory council created in 2-15-1524.

~~(6)~~*(4)* "Montana private college" means a nonprofit private educational institution as defined in 15-30-163(3)(b).

~~(7) "Nontraditional student" means a first-time student who enters a postsecondary institution or Montana private college more than 3 years after high school graduation. As used in this subsection, "first-time student" means a student who is attending a postsecondary institution to receive a first certificate or associate or baccalaureate degree.~~

~~(8)~~*(5)* "Postsecondary institution" means:

(a) a unit of the Montana university system, as defined in 20-25-201;

(b) a Montana community college, defined and organized as provided in 20-15-101; or

(c) an accredited tribal community college located in the state of Montana.

~~(9)~~*(6)* "Scholarship" means a payment toward ~~tuition and mandatory fees, excluding room and board~~ *the cost of attendance at a qualifying postsecondary institution*, rounded up to the nearest dollar.

~~(10)~~*(7)* "Title IV" refers to Title IV of the Higher Education Act of 1965, as amended."

Section 23. Types and amounts of scholarships — criteria. (1) Scholarships must be awarded under the governor's postsecondary scholarship program in accordance with the requirements of this section and criteria established by board policy and procedures pursuant to 20-26-602 and this section.

(2) Scholarships must be awarded on the basis of merit or need. Scholarships may be for either $1,000 or $2,000. Merit-based and need-based scholarships must be awarded in approximately equal monetary amounts.

(3) A merit-based scholarship must be awarded to at least one graduate of every accredited high school in Montana, including accredited nonpublic high schools.

(4) A portion of the money appropriated for need-based scholarships must be designated for applicants planning to attend 2-year postsecondary institutions or 2-year programs at 4-year postsecondary institutions and who plan to focus on specific areas of study that promote economic development or address current or projected critical workforce shortage areas in Montana, such as technology, health sciences, or trades, as provided under policies established by the board pursuant to 20-26-602.

Section 24. Eligibility requirements — renewals — limited appeals. (1) Scholarships must be awarded under the governor's postsecondary scholarship program in accordance with the eligibility requirements of this section and pursuant to policies and procedures established by the board pursuant to 20-26-602 and this section.

(2) To be eligible to receive a scholarship, a student must be a Montana resident eligible for in-state tuition as determined by board policy.

(3) To be eligible to receive a merit-based scholarship, a student must have attained a minimum grade point average or numerical score on a standardized college admission test as prescribed by board policy.

(4) To be eligible to receive a need-based scholarship, a student must complete the standard free application for federal student aid form and the student's expected family contributions may not exceed the cost of attendance at the postsecondary institution that the student expects to attend.

(5) Scholarships must be awarded to students seeking their first certificate or their 2-year or 4-year degree at a postsecondary institution.

(6) Scholarships may be renewed in accordance with board policy. The policy must include proof of satisfactory academic performance.

(7) Scholarships may be terminated in accordance with board policy.

(8) The board shall establish policies and procedures:

(a) to allow a student to transfer from one postsecondary institution to another without loss of the scholarship; and

(b) to ensure compliance with [section 25(3)] if a student transfers from a postsecondary institution to a Montana private college.

(9) A scholarship recipient's right to receive other financial aid, awards, and scholarships may be limited as required by federal or state law or board policy.

(10) A student is ineligible to receive a scholarship under the provisions of this part if the student:

(a) has been awarded a Montana university system honor scholarship;

(b) has failed to meet the federal Title IV selective service registration requirements;

(c) is in default on a Title IV or state of Montana educational loan or owes a refund to a federal Title IV or state of Montana student financial aid program; or

(d) is incarcerated. Upon release, the student may begin receiving scholarship payments if the student meets all other eligibility requirements. If approved by the board, credits earned during incarceration may be counted toward eligibility.

(11) (a) Except as provided in subsection (11)(b), scholarship awards are not subject to appeal.

(b) A student may appeal the termination of a scholarship based on extenuating circumstances in accordance with board policy.

Section 25. Public and private sources of funding — restrictions on use — accounting. (1) The board may accept donations from public or private sources and shall distribute those funds in accordance with this part.

(2) Except when a donor of private funds designates that scholarship funds must be given to students attending a private college, scholarship awards are determined solely by the board or an entity designated by the board pursuant to board policy adopted under 20-26-602.

(3) Funds from public sources may not be used to pay for scholarships for students enrolled in Montana private colleges.

(4) Funds from private sources must be deposited into an account in the state special revenue fund established in 17-2-102 to pay for scholarships for students enrolled in postsecondary institutions or, when designated by the donor, in Montana private colleges.

(5) Each postsecondary institution or Montana private college that receives scholarship payments shall prepare and submit to the board, in accordance with procedures and policies established by the board, a report of the postsecondary institution's or Montana private college's administration of the scholarships and a complete accounting of scholarship funds.

(6) Funds from a scholarship may not be used to pay for remedial or college-preparatory course work.

(7) Except for funds donated from private sources, the obligation for funding the governor's postsecondary scholarship program is an obligation of the state. This section may not be construed to require the board to provide scholarships to an eligible student without an appropriation to the board for the purposes of this part. Funds from private sources may not be used as an offset to general fund appropriations.

Section 26. Capital investment and deferred maintenance one-time-only payment — definition — funding. (1) For fiscal year 2008, there is a one-time-only school unit payment to each school district based upon the calculated number of school units within the school district as provided in subsection (3). The one-time-only school unit payment may be used by schools for capital investments and deferred maintenance.

(2) (a) For the purposes of this section, "school unit" means, subject to subsection (2)(b):

(i) 800 ANB for a high school district;

(ii) 250 ANB for the K-6 ANB of an elementary district with an approved junior high school, 7th and 8th grade program, or middle school;

(iii) 250 ANB for the K-8 ANB of an elementary district without an approved junior high school, 7th and 8th grade program, or middle school; and

(iv) 450 for the 7th and 8th grade ANB of an elementary district with an approved junior high school, 7th and 8th grade program, or middle school.

(b) Each school district must receive a payment for at least one school unit. A district with ANB greater than the applicable number described in subsection (2)(a) must receive an additional unit calculated by dividing the current year ANB by the appropriate number in subsection (2)(a) and rounding that number up to the nearest tenth.

(3) The capital investment and deferred maintenance one-time-only school unit payment is calculated by dividing the one-time-only appropriation for capital investment and deferred maintenance as provided in House Bill No. 2, not to exceed $30 million, by the number of school units in the state. The office of public instruction shall distribute the calculated total one-time-only school unit payment to each school district based upon the number of school units in each school district according to the schedule provided in 20-9-344. School districts must deposit the money in the miscellaneous programs fund to be used for capital investment and deferred maintenance. Money may be retained by the district and spent for the purposes authorized in this section over a period of 10 years, after which, if the money is not spent, it must be reverted to the state general fund.

Section 27. Distribution of funds for kindergarten. Money appropriated to the office of public instruction for startup costs for full-time kindergarten in the 2009 biennium must be distributed based on the kindergarten enrollment in school fiscal year 2007 to all school districts that the trustees of which have designated, prior to July 1, 2012, will offer a full-time kindergarten program in accordance with 20-7-117. The school district shall deposit the money in the miscellaneous programs fund and shall use the money for startup costs associated with the development of a full-time kindergarten program. Money remaining with the office of public instruction on July 1, 2012, for school districts that have not indicated their intent to participate in the full-time kindergarten program must be reverted to the state general fund.

Section 28. Distribution of one-time-only money for Indian education for all. Money appropriated from the general fund as one-time-only money in the 2009 biennium to the office of public instruction for Indian education for all must be allocated to districts on a per-ANB basis, calculated as provided in 20-9-311, with a minimum of $500 for each district. A district receiving funds under this section shall deposit the money in the miscellaneous programs fund and may not transfer the money to another fund.

Section 29. Repealer. Sections 20-26-611, 20-26-612, and 20-26-613, MCA, are repealed.

Section 30. Codification instruction. (1) [Sections 1 through 6] are intended to be codified as an integral part of Title 20, chapter 4, and the provisions of Title 20, chapter 4, apply to [sections 1 through 6].

(2) [Section 8] 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 8].

(3) [Sections 23 through 25] are intended to be codified as an integral part of Title 20, chapter 26, part 6, and the provisions of Title 20, chapter 26, part 6, apply to [sections 23 through 25].

Section 31. Effective date. [This act] is effective July 1, 2007.

Section 32. Applicability. [This act] applies to school district budgets for fiscal years beginning on or after July 1, 2007.

Approved May 17, 2007

CHAPTER NO. 2

[HB 3]

AN ACT PROVIDING PROPERTY TAX INCENTIVES FOR NEW INVESTMENT IN THE CONVERSION, TRANSPORT, MANUFACTURING RELATED TO, AND RESEARCH AND DEVELOPMENT OF RENEWABLE ENERGY, NEW TECHNOLOGY ENERGY, AND CLEAN COAL ENERGY AND CARBON DIOXIDE EQUIPMENT AND FACILITIES; PROVIDING PROPERTY TAX ABATEMENTS FOR CERTAIN RENEWABLE ENERGY, NEW TECHNOLOGY ENERGY, AND CLEAN COAL ENERGY-RELATED PROPERTY; ALLOWING A PROPERTY TAX EXEMPTION, UNDER CERTAIN CONDITIONS, FOR LAND ADJACENT TO TRANSMISSION LINES; CREATING A NEW CLASS OF PROPERTY TAXES FOR CERTAIN PIPELINES AND CARBON DIOXIDE EQUIPMENT AND FACILITIES; CREATING A NEW CLASS OF PROPERTY FOR CERTAIN DIRECT-CURRENT CONVERTER STATION PROPERTY; REVISING CLASS FOURTEEN PROPERTY TO INCLUDE TAXATION OF CERTAIN RENEWABLE ENERGY, NEW TECHNOLOGY ENERGY, CLEAN COAL ENERGY FACILITIES, CARBON CAPTURE EQUIPMENT, AND TRANSMISSION LINES; AMENDING SECTIONS 15-6-141 AND 15-6-157, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

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

Section 1. Short title. [This act] may be cited as the "Jobs and Energy Development Incentives Act".

Section 2. Policy. It is the policy of the state of Montana that the tax classifications, rates, abatements, and exemptions in [sections 2 through 8] and amendments made by [this act in 15-6-141 and 15-6-157] are to be strictly limited to new investments that qualify under the standards established in [sections 2 through 8] and amendments made by [this act in 15-6-141 and 15-6-157]. The provisions of [sections 2 through 8] and amendments made by [this act in 15-6-141 and 15-6-157] do not apply to any previously existing properties or to any new investments or property that does not qualify under [sections 2 through 8] and amendments made by [this act in 15-6-141 and

15-6-157]. It is also the policy of the state of Montana that the classifications, rates, abatements, and exemptions in [sections 2 through 8] and amendments made by [this act in 15-6-141 and 15-6-157] are to encourage investment in energy development that is consistent with maintaining a clean and healthful environment and that may not otherwise occur without [sections 2 through 8] and amendments made by [this act in 15-6-141 and 15-6-157]. [Sections 2 through 8] and amendments made by [this act in 15-6-141 and 15-6-157] are not to be interpreted as a precedent for reducing the taxation of any other property in the state or for affecting the use of any property valuation method for tax purposes established under law to meet the standards of the Montana constitution and law. The department of environmental quality and the department of revenue are directed to administer and interpret [sections 2 through 8] and amendments made by [this act in 15-6-141 and 15-6-157] strictly in accordance with this policy. Any ambiguities in [sections 2 through 8] and amendments made by [this act in 15-6-141 and 15-6-157] are to be resolved in favor of the strict reading of this policy.

Section 3. Definitions. As used in [sections 1 through 6], unless the context requires otherwise, the following definitions apply:

(1) "Biodiesel" has the meaning provided in 15-70-301.

(2) "Biodiesel production facility" means improvements and personal property used for the production and onsite storage of biodiesel.

(3) "Biogas" means methane gas produced through controlled biochemical processes in which bacteria digest animal, municipal, or other organic wastes in an oxygen-free environment. The term includes naturally occurring methane gas formed underground in landfills.

(4) "Biogas production facility" means improvements and personal property used for the production of biogas and the generation of electricity at the facility.

(5) "Biomass" means any renewable organic matter, including dedicated energy crops and trees, agricultural food and feed crops, agricultural crop wastes and residues, wood wastes and residues, aquatic plants, animal wastes, municipal wastes, and other organic waste materials.

(6) "Biomass gasification" means a technology that uses a thermochemical process to convert biomass into a low-Btu or medium-Btu gas for the purpose of producing electricity, methane gas, transportation fuels, or chemicals. The technology includes the pretreatment of biomass feedstock involving drying, pulverizing, and screening.

(7) "Biomass gasification facility" means improvements and personal property used for the production of fuel or chemicals and the generation of electricity from biomass at the facility.

(8) "Carbon sequestration" means the long-term storage of carbon dioxide from a plant or facility that produces or captures carbon dioxide, as defined in [section 7], in geologic formations, including but not limited to deep saline formations, basalt or oil shale formations, depleted oil and gas reservoirs, unmineable coal beds, and closed-loop enhanced oil recovery operations.

(9) "Clean advanced coal research and development equipment" means equipment used primarily for research and development of emerging methods for pollution control, carbon capture, and carbon sequestration. The term includes equipment used for research and development of effective and efficient removal of various pollutants and the capture, storage, transportation,

compression, and injection of carbon dioxide from coal combustion utility and industrial facilities and advanced coal conversion facilities.

(10) "Coal gasification" means a process that converts coal into a synthesis gas composed of carbon monoxide, hydrogen, and other gases. The coal gasification process includes the reaction of coal feedstock, prepared in either a dry or slurried form, with steam and oxygen at high temperature and pressure in a reducing atmosphere. The synthesis gas is then used to produce electricity, liquid fuels, methane gas, or chemicals.

(11) "Coal gasification facility" means improvements and personal property used for coal gasification that is used for the production of fuel or chemicals or the generation of electricity, or any combination of those things, at the facility. The term includes a coal-to-liquid facility or an integrated gasification combined cycle facility.

(12) "Coal-to-liquid facility" means improvements and personal property used for the production of synthetic liquid fuels from coal. The term includes a facility that uses the Fischer-Tropsch process, or other processes, to convert synthesis gas produced by coal gasification into liquid fuel.

(13) "Commencement of construction" means initiation of onsite fabrication, erection, or installation of, but not limited to, the following:

(a) building supports or foundations;

(b) laying of underground pipework; or

(c) construction of storage structures.

(14) "Ethanol" means nominally anhydrous ethyl alcohol that has been denatured as specified in 27 CFR, parts 20 and 21, and that meets the standards for ethanol adopted pursuant to 82-15-103.

(15) "Ethanol production facility" means improvements and personal property used for the production and onsite storage of ethanol made from cellulose or other nonfoodstuff materials.

(16) "Geothermal facility" means improvements and personal property used for the production of electricity from geothermal sources.

(17) "Integrated gasification combined cycle facility" means improvements and personal property of an electrical generation facility that uses a coal gasification process and routes synthesis gas to a combustion turbine to generate electricity and captures the heat from the combustion to drive a steam turbine to produce more electricity. The facility may also use incidental amounts of natural gas or other fuels in the combustion turbine.

(18) "Renewable energy" includes the following:

(a) solar energy;

(b) wind energy;

(c) geothermal energy;

(d) energy from the conversion of biomass;

(e) energy from biogas;

(f) energy from fuel cells that do not require a petroleum-based fuel;

(g) energy from waste heat; and

(h) cellulosic ethanol.

(19) (a) "Renewable energy manufacturing facility" means improvements and personal property used by a facility with its principal business being the manufacturing of material, component parts, systems, or similar equipment for use in facilities that convert renewable energy into forms of energy useful to people, including electricity. The term includes facilities for manufacturing of electric motor vehicles or hybrid electric motor vehicles.

(b) For purposes of subsection (19)(a), "principal business" means a renewable energy manufacturing facility with at least 50%, by value, of its annual production suitable for sale as renewable energy material, component parts, systems, or similar equipment.

(20) "Renewable energy research and development equipment" means equipment used primarily for research and development of the efficient use of renewable energy sources. The term includes equipment used for research and development of electric motor vehicles or hybrid electric motor vehicles.

Section 4. Energy production or development — tax abatement — eligibility. (1) A facility listed in subsection (3), clean advanced coal research and development equipment, and renewable energy research and development equipment may qualify for an abatement of property tax liability pursuant to [sections 2 through 6].

(2) (a) If the abatement is granted for a facility listed in subsection (3), the qualifying facility must be assessed at 50% of its taxable value for the qualifying period.

(b) If the abatement is granted for clean advanced coal research and development equipment or renewable energy research and development equipment, the qualifying equipment, up to the first $1 million of the value of equipment at a facility, must be assessed at 50% of its taxable value for the qualifying period. There is no abatement for any portion of the value of equipment at a facility in excess of $1 million.

(c) The abatement applies to all mills levied against the qualifying facility or equipment.

(3) Subject to subsections (4) and (5), the following facilities or property may qualify for the abatement allowed under [sections 2 through 6]:

(a) biodiesel production facilities;

(b) biogas production facilities;

(c) biomass gasification facilities;

(d) coal gasification facilities for which carbon dioxide from the coal gasification process is sequestered;

(e) ethanol production facilities;

(f) geothermal facilities;

(g) renewable energy manufacturing facilities;

(h) clean advanced coal research and development equipment and renewable energy research and development equipment;

(i) a natural gas combined cycle facility that offsets a portion of the carbon dioxide produced through carbon credit offsets;

(j) transmission lines and associated equipment and structures classified in 15-6-157;

(k) converter stations classified under [section 8];

(l) carbon sequestration equipment as defined in [section 7]; and

(m) pipelines classified under [section 7].

(4) (a) In order to qualify for the abatement under [sections 2 through 6], a facility listed in subsection (3) must meet the following requirements:

(i) commencement of construction of the facility must occur after June 1, 2007; and

(ii) the standard prevailing rate of wages for heavy construction, as provided in 18-2-401(13)(a), must be paid during the construction phase of the facility.

(b) In order to qualify for the abatement under [sections 2 through 6], clean advanced coal research and development equipment and renewable energy research and development equipment must be placed into service after June 30, 2007.

(c) For the facility to qualify under subsection (3)(d), the carbon dioxide produced from the gasification process must be sequestered at a rate that is practically obtainable but may not be less than 65%.

(d) Integrated gasification combined cycle facilities for which a permit under Title 75, chapter 2, is applied for after December 31, 2014, do not qualify under subsection (3)(d).

(e) To qualify under subsection (3)(i), the facility shall offset carbon dioxide emissions by the percentage determined in [section 6].

(5) To qualify for an abatement, the facility or clean advanced coal research and development equipment and renewable energy research and development equipment must be certified as provided in [section 5].

(6) Upon termination of the qualifying period, the abatement ceases and the property for which the abatement had been granted must be assessed at 100% of its taxable value.

(7) For the purposes of this section, "qualifying period" means the construction period and the first 15 years after the facility commences operation or the clean advanced coal research and development equipment or renewable energy research and development equipment is purchased. The total time of the qualifying period may not exceed 19 years.

Section 5. 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 [section 4] or rules adopted under [section 6]. 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 [sections 2 through 6] continues.

(2) The department of environmental quality shall identify and track compliance with [sections 2 through 6] in the use of certified property. The department may revoke a certification for failure to maintain substantial compliance with eligibility requirements in [section 4] or with rules adopted

pursuant to [section 6]. 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 [section 7]. 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 [sections 2 through 6].

(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 or to a hearing under Title 2, chapter 4, part 6.

Section 6. Rules. (1) The department of revenue shall adopt rules for the implementation of [sections 2 through 6], including the valuation of qualifying property and administration of property certified under [section 5] or classified under 15-6-157 or [section 7].

(2) The department of environmental quality shall adopt rules necessary for certification, compliance, and revocation of certificates, as provided in [section 5], and for classification as class fourteen property, as provided in 15-6-157, or class fifteen property, as provided in [section 7]. The rules may include specifying procedures, including timeframes for certification application, and definitions necessary to identify property for certification and compliance. The percentage of the carbon dioxide produced by a facility that is to be sequestered or offset must be based on technology that is practically obtainable as determined by the department.

Section 7. Class fifteen property — description — taxable percentage. (1) Class fifteen property includes:

(a) carbon dioxide pipelines certified by the department of environmental quality under [section 5] for the transportation of carbon dioxide for the purposes of sequestration or for use in closed-loop enhanced oil recovery operations;

(b) qualified liquid pipelines certified by the department of environmental quality under [section 5];

(c) carbon sequestration equipment;

(d) equipment used in closed-loop enhanced oil recovery operations; and

(e) all property of pipelines, including pumping and compression equipment, carrying products other than carbon dioxide, that originate at facilities specified in 15-6-157(1), with at least 90% of the product carried by the pipeline originating at facilities specified in 15-6-157(1) and terminating at an existing pipeline or facility.

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

(a) "Carbon dioxide pipeline" means a pipeline that transports carbon dioxide from a plant or facility that produces or captures carbon dioxide to a carbon sequestration point, including a closed-loop enhanced oil recovery operation.

(b) "Carbon sequestration" means the long-term storage of carbon dioxide from a carbon dioxide pipeline in geologic formations, including but not limited

to deep saline formations, basalt or oil shale formations, depleted oil and gas reservoirs, unmineable coal beds, and closed-loop enhanced oil recovery operations.

(c) "Carbon sequestration equipment" means the equipment used for carbon sequestration, including equipment used to inject carbon dioxide at the carbon sequestration point and equipment used to retain carbon dioxide in the sequestration location.

(d) "Carbon sequestration point" means the location where the carbon dioxide is to be confined for sequestration.

(e) "Closed-loop enhanced oil recovery operation" means all oil production equipment, as described in 15-6-138(1)(c), owned by an entity that owns or operates an operation that, after construction, installation, and testing has been completed and the full enhanced oil recovery process has been commenced, injects carbon dioxide to increase the amount of crude oil that can be recovered from a well and retains as much of the injected carbon dioxide as practicable, but not less than 85% of the carbon dioxide injected each year absent catastrophic or unforeseen occurrences.

(f) "Liquid pipeline" means a pipeline that is dedicated to using 90% of its pipeline capacity for transporting fuel or methane gas from a coal gasification facility, biodiesel production facility, biogas production facility, or ethanol production facility.

(g) "Plant or facility that produces or captures carbon dioxide" means a facility that produces a flow of carbon dioxide that can be sequestered or used in a closed-loop enhanced oil recovery operation. This does not include wells from which the primary product is carbon dioxide.

(3) Class fifteen property does not include a carbon dioxide pipeline, liquid pipeline, or closed-loop enhanced oil recovery operation for which, during construction, the standard prevailing wages for heavy construction, as provided in 18-2-401(13)(a), were not paid during the construction phase.

(4) Class fifteen property is taxed at 3% of its market value.

Section 8. Class sixteen property — description — taxable percentage. (1) Class sixteen property includes high-voltage direct-current converter stations that are constructed in a location and manner so that the converter station can direct power to two different regional power grids.

(2) Class sixteen property does not include property described in subsection (1) for which the standard prevailing rate of wages for heavy construction, as provided in 18-2-401(13)(a), was not paid during the construction phase.

(3) (a) The department shall determine whether to certify that the property meets the criteria of subsection (1).

(b) If the department finds that a certification previously granted was based on an application that the applicant knew was false or fraudulent, the property must be placed in class nine under 15-6-141. If the application was fraudulent, the applicant may be liable for additional taxes, penalty, and interest from the time that the certification was in effect.

(4) Class sixteen property is taxed at 2.25% of its market value.

Section 9. Exemption for land adjacent to transmission line right-of-way easement — application — limitations. (1) Subject to the conditions of this section, for tax years beginning after December 31, 2007, there

is allowed an exemption from property taxes for land that is within 660 feet on either side of the midpoint of a transmission line right-of-way or easement.

(2) (a) An owner or operator of a transmission line shall apply to the department for an exemption under this section on a form provided by the department. The application must include a legal description and a digitized certificate of survey prepared by a surveyor registered with the board of professional engineers and professional land surveyors provided for in 2-15-1763 of the property in the county for which the exemption is sought and other information required by the department. A separate application must be made for each county in which an exemption is sought.

(b) An application for an exemption that would be in effect for the tax year and subsequent tax years must be filed with the department by March 1 in the tax year that the exemption is sought.

(3) (a) The owner or operator of a transmission line shall inform the department of any change in ownership of the land or other circumstances that may affect the eligibility of the land for the exemption. The department shall determine whether any changes have occurred that affect the eligibility of the land for the exemption.

(b) The exemption allowed under this section does not apply to:

(i) the boundaries of an incorporated or unincorporated city or town;

(ii) a platted and filed subdivision;

(iii) tracts of land used for residential, commercial, or industrial purposes; or

(iv) the 1 acre of land beneath improvements on land described in 15-6-133(1)(c) and 15-7-206(2).

(4) For the purposes of this section, "transmission line" means an electric line with a design capacity of 30 megavoltamperes or greater that is constructed after January 1, 2007.

Section 10. Section 15-6-141, MCA, is amended to read:

"15-6-141. Class nine property — description — taxable percentage. (1) Class nine property includes:

(a) centrally assessed allocations of an electric power company or centrally assessed allocations of an electric power company that owns or operates transmission or distribution facilities or both, including, if congress passes legislation that allows the state to tax property owned by an agency created by congress to transmit or distribute electrical energy, allocations of properties constructed, owned, or operated by a public agency created by congress to transmit or distribute electrical energy produced at privately owned generating facilities, not including rural electric cooperatives. However, rural electric cooperatives' property, except wind generation facilities classified under 15-6-157, used for the sole purpose of serving customers representing less than 95% of the electric consumers located within the incorporated limits of a city or town of more than 3,500 persons in which a centrally assessed electric power company also owns property or serving an incorporated municipality with a population that is greater than 3,500 persons formerly served by a public utility that after January 1, 1998, received service from the facilities of an electric cooperative is included. For purposes of this subsection (1)(a), "property used for the sole purpose" does not include a headquarters, office, shop, or other similar facility.

(b) allocations for centrally assessed natural gas companies having a major distribution system in this state; and

(c) centrally assessed companies' allocations except:

(i) electrical generation facilities classified under 15-6-156 ~~and wind generation facilities~~*;*

(ii) all property classified under 15-6-157;

(iii) all property classified under [sections 7 and 8];

~~(ii)~~*(iv)* property owned by cooperative rural electric and cooperative rural telephone associations and classified under 15-6-135;

~~(iii)~~*(v)* property owned by organizations providing telephone communications to rural areas and classified under 15-6-135;

~~(iv)~~*(vi)* railroad transportation property included in 15-6-145;

~~(v)~~*(vii)* airline transportation property included in 15-6-145; and

~~(vi)~~*(viii)* telecommunications property included in 15-6-156.

(2) Class nine property is taxed at 12% of market value."

Section 11. Section 15-6-157, MCA, is amended to read:

"15-6-157. Class fourteen property — description — taxable percentage. (1) Class fourteen property includes:

(a) wind generation facilities of a centrally assessed electric power company;

(b) wind generation facilities owned or operated by an exempt wholesale generator or an entity certified as an exempt wholesale generator pursuant to section 32 of the Public Utility Holding Company Act of 1935, 15 U.S.C. 79z-5a;

(c) noncentrally assessed wind generation facilities owned or operated by any electrical energy producer;

(d) wind generation facilities owned or operated by cooperative rural electric associations described under 15-6-137*;*

(e) all property of a biodiesel production facility, as defined in [section 3], that has commenced construction after June 1, 2007;

(f) all property of a biogas production facility, as defined in [section 3], that has commenced construction after June 1, 2007;

(g) all property of a biomass gasification facility, as defined in [section 3];

(h) all property of a coal gasification facility, as defined in [section 3], except for property in subsection (1)(k) of this section, that sequesters carbon dioxide;

(i) all property of an ethanol production facility, as defined in [section 3], that has commenced construction after June 1, 2007;

(j) all property of a geothermal facility, as defined in [section 3];

(k) all property of an integrated gasification combined cycle facility, as defined in [section 3], that sequesters carbon dioxide, as required by [section 4(4)(c)];

(l) all property or a portion of the property of a renewable energy manufacturing facility, as defined in [section 3], that has commenced construction after June 1, 2007;

(m) all property of a natural gas combined cycle facility;

(n) equipment that is used to capture and to prepare for transport carbon dioxide that will be sequestered or injected for the purpose of enhancing the recovery of oil and gas, other than that equipment at coal combustion plants of the types that are generally in commercial use as of December 31, 2007, that commence construction after December 31, 2007;

(o) high-voltage direct-current transmission lines and associated equipment and structures, including converter stations and interconnections, other than property classified under [section 8], that:

(i) originate in Montana with a converter station located in Montana east of the continental divide that is constructed after July 1, 2007;

(ii) are certified under the Montana Major Facility Siting Act; and

(iii) provide access to energy markets for Montana electrical generation facilities listed in this section that commenced construction after June 1, 2007;

(p) all property of electric transmission lines, including substations, that originate at facilities specified in this subsection (1), with at least 90% of electricity carried by the line originating at facilities specified in this subsection (1) and terminating at an existing transmission line or substation that has commenced construction after June 1, 2007;

(q) the qualified portion of an alternating current transmission line and its associated equipment and structures, including interconnections, that has commenced construction after June 1, 2007.

(2) (a) The qualified portion of an alternating current transmission line in subsection (1)(q) is that percentage, as determined by the department of environmental quality, of rated transmission capacity of the line contracted for on a firm basis by buyers or sellers of electricity generated by facilities specified in subsection (1) that are located in Montana.

(b) The department of revenue shall classify the total value of an alternating current transmission line in accordance with the determination made by the department of environmental quality pursuant to subsection (2)(a).

(c) The owner of property described under this subsection (2) shall disclose the location of the generation facilities specified in subsection (1) and information sufficient to demonstrate that there is a firm contract for transmission capacity available throughout the year. For purposes of the initial qualification, the owner is not required to disclose financial terms and conditions of contracts beyond that needed for classification.

~~(2)~~*(3)* Class fourteen property does not include ~~wind generation~~ facilities:

(a) at which the standard prevailing rate of wages for heavy construction, as provided in 18-2-401(13)(a), was not paid during the construction phase; or

(b) that are exempt under 15-6-225.

~~(3)~~*(4)* For the purposes of this section, "wind generation facilities" means any combination of a physically connected wind turbine or turbines, associated prime movers, and other associated property, including appurtenant land and improvements and personal property, that are normally operated together to produce electric power from wind.

(5) (a) The department of environmental quality shall determine whether to certify that a transmission line meets the criteria of either subsection (1)(o), (1)(p), or (1)(q), as applicable, based on an application provided for in [section 5]. The department of environmental quality shall review the certification 10 years

after the line is operational, and if the property no longer meets the requirements of either subsection (1)(o), (1)(p), or (1)(q), the certification must be revoked.

(b) If the department of revenue finds that a certification previously granted was based on an application that the applicant knew was false or fraudulent, the property must be placed in class nine under 15-6-141. If the application was fraudulent, the applicant may be liable for additional taxes, penalty, and interest from the time that the certification was in effect.

~~(4)~~*(6)* Class fourteen property is taxed at 3% of its market value."

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. Codification instruction. (1) [Sections 2 through 6] are intended to be codified as an integral part of Title 15, and the provisions of Title 15 apply to [sections 2 through 6].

(2) [Sections 7 and 8] are intended to be codified as an integral part of Title 15, chapter 6, part 1, and the provisions of Title 15, chapter 6, part 1, apply to [sections 7 and 8].

(3) [Section 9] is intended to be codified as an integral part of Title 15, chapter 6, part 2, and the provisions of Title 15, chapter 6, part 2, apply to [section 9].

Section 14. 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 15. Effective date. [This act] is effective on passage and approval.

Approved May 25, 2007

CHAPTER NO. 3

[HB 4]

AN ACT APPROPRIATING MONEY FOR CAPITAL PROJECTS AND INFORMATION TECHNOLOGY CAPITAL PROJECTS FOR THE BIENNIUM ENDING JUNE 30, 2009; 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 FOR A TRANSFER OF FUNDS FROM THE STATE GENERAL FUND TO THE FISH, WILDLIFE, AND PARKS CAPITAL PROJECTS ACCOUNT; PROVIDING FOR A TRANSFER OF FUNDS FROM THE STATE GENERAL FUND TO THE LONG-RANGE INFORMATION TECHNOLOGY PROGRAM ACCOUNT; PROVIDING FOR THE DEVELOPMENT AND ACQUISITION OF NEW INFORMATION TECHNOLOGY SYSTEMS FOR THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES, THE DEPARTMENT OF ADMINISTRATION, AND THE JUDICIAL BRANCH; PROVIDING FOR THE REAPPROPRIATION OF LONG-RANGE INFORMATION TECHNOLOGY CAPITAL PROJECT FUNDS; REQUIRING APPROVAL OF PROJECT AND SECURITY PLANS FOR CERTAIN PROJECTS; REVISING CAPITAL PROJECTS AUTHORIZED FOR THE BIENNIUM ENDING JUNE 30, 2007;

APPROPRIATING STATE GENERAL FUND MONEY FROM THE SALE OF THE MISSOULA ARMORY; APPROPRIATING MONEY FROM THE STATE GENERAL FUND FOR OPERATING EXPENSES ASSOCIATED WITH INFORMATION TECHNOLOGY PROJECTS AND ENERGY CONSERVATION PROJECTS IN STATE BUILDINGS; REQUIRING PAYMENT OF ENERGY COST SAVINGS TO A SPECIAL REVENUE ACCOUNT; PROHIBITING TELECOMMUNICATIONS AND INFORMATION SERVICES COMPETITION; AMENDING SECTION 2, CHAPTER 560, LAWS OF 2005; REPEALING SECTION 8, CHAPTER 560, LAWS OF 2005; 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 19], unless otherwise stated, the following definitions apply:

(1) "Authority only" means approval provided by the legislature to expend money that does not require an appropriation, including grants, donations, auxiliary funds, proprietary funds, and university funds.

(2) "Capital project" means the acquisition of land or improvements or the planning, capital construction, renovation, furnishing, or major repair projects authorized in [sections 1 through 19].

(3) "Chief information officer" has the meaning provided in 2-17-506.

(4) "Information technology" has the meaning provided in 2-17-506.

(5) "Information technology capital project" means a group of interrelated information technology activities that are planned and executed in a structured sequence to create a unique product or service.

(6) "LRBP" means the long-range building program account in the capital projects fund type.

(7) "LRITP" means the long-range information technology program account in the capital projects fund type.

(8) "Other funding sources" means money other than LRBP money, including special revenue fund money, that accrues to an agency under the provisions of law.

Section 2. Capital project appropriations and authorizations. The following money is appropriated for the indicated capital projects from the indicated sources to the department of administration. Funds not requiring legislative appropriation are included for the purpose of authorization. The department of administration is authorized to transfer the appropriations and authority among the necessary fund types for these projects:

Agency/Project	LRBP Fund Revenue	State Special Revenue	Federal Special Sources	Other Funding	Authority Only	Total
MONTANA SCHOOL FOR THE DEAF AND BLIND						
Replace Boiler	600,000					600,000
Cottage Improvement					372,000	372,000
Authority only funds consist of federal special revenue, donations, and grants.						
DEPARTMENT OF ADMINISTRATION						
Roof Repairs and Replacements, Statewide	3,000,000	392,160	68,040			3,460,200

Code/Deferred Maintenance Projects, Statewide	2,300,000				2,300,000
Hazardous Materials Abatement, Statewide	500,000				500,000
Code/Deferred Maintenance Projects, Capitol Complex				550,000	550,000
Authority only funds consist of general services division internal service funds.					
Upgrade Fire Protection Systems, Statewide	500,000				500,000
Fire Protection Measures, Capitol Complex				500,000	500,000
Authority only funds consist of general services division internal service funds.					
Upgrade State Environmental Laboratory, Helena	1,000,000	1,000,000			2,000,000
Repair/Preserve Building Envelopes, Statewide	1,500,000				1,500,000
Campus Infrastructure Projects, Statewide	1,000,000				1,000,000
Mechanical System Improvements, Capitol Complex				1,900,000	1,900,000
Authority only funds consist of general services division internal service funds.					
Deferred Maintenance, Phase 2, MT Law Enforcement Academy	500,000				500,000
New Classroom Building, MT Law Enforcement Academy	3,750,000				3,750,000
Enterprise System Services Centers	10,500,000		4,000,000		14,500,000
Other funds consist of capitol land grant funds.					
Campus Master Planning, Statewide	400,000			250,000	650,000
Authority only funds consist of general services division internal service funds.					
Challenge Grant for Super Computer, UM-MT Tech	259,000			7,000,000	7,259,000
Authority only funds may include federal special revenue, donations, grants, and higher education funds.					
DEPARTMENT OF CORRECTIONS					
Housing Unit Upgrades, MT State Prison	1,200,000				1,200,000
Expand Work Dorm, MT State Prison	2,500,000				2,500,000
Expand Food Service Capacity, MT State Prison	1,637,000			293,000	1,930,000
Authority only funds consist of proprietary funds.					
DEPARTMENT OF FISH, WILDLIFE, AND PARKS					
Hatchery Maintenance	500,000				500,000
Administrative Facilities Repair and Maintenance	800,000				800,000

DEPARTMENT OF MILITARY AFFAIRS				
Readiness Center, Miles City	2,480,000	7,510,970		9,990,970
Armed Forces Reserve Center, Missoula		30,903,968		30,903,968
Construct Female Showers and Latrines	290,000	290,000		580,000
Montana State Veterans' Cemetery Expansion		1,206,000		1,206,000
Disaster and Emergency Services Mobile Command Post	172,500			172,500
MONTANA UNIVERSITIES AND COLLEGES				
Code Compliance/Deferred Maintenance, MT University System	3,600,000			3,600,000
Systems Improvements, MT-Tech College of Technology	925,000			925,000
Steam Distribution System Upgrades, Phase 2, UM-Missoula	2,000,000		1,000,000	3,000,000
Authority only funds consist of auxiliary funds.				
Renovate Clapp Building, UM-Missoula	821,000			821,000
Renovate Armory Gym, MSU-Northern	400,000		3,250,000	3,650,000
Authority only funds consist of auxiliary funds.				
Renovate Main Hall, UM-Western	4,500,000			4,500,000
Renovate McMullen Hall, MSU-Billings	1,924,500			1,924,500
Stabilize Masonry, MSU-Bozeman	2,600,000			2,600,000
Classroom/Laboratory Upgrades, MT University System	2,000,000			2,000,000
Utility Infrastructure Improvements, MSU-Bozeman	500,000		50,000	550,000
Authority only funds consist of auxiliary funds.				
Supplement UM-Helena College of Technology Expansion	4,500,000		135,000	4,635,000
Authority only funds consist of auxiliary funds.				
Supplement Great Falls College of Technology Addition	3,000,000			3,000,000
Supplement Billings College of Technology Expansion	2,217,000			2,217,000
COT Long-Range Planning, UM-Missoula	500,000			500,000
Auto Tech Center Design, MSU-Northern	800,000			800,000
Renovate Gaines Hall, MSU-Bozeman	28,500,000			28,500,000

Law School Addition, UM-Missoula	4,200,000	5,050,000	9,250,000

Authority only funds may include federal special revenue, donations, grants, and higher education funds.

Augment Petroleum, Bureau of Mines and Geology, UM-MT Tech	5,200,000		5,200,000
School of Journalism Building, UM-Missoula	500,000		500,000
Increase Authority, Museum of the Rockies, MSU-Bozeman		3,500,000	3,500,000

Authority only funds may include federal special revenue, donations, grants, and higher education funds.

School of Education Building, UM-Missoula		7,500,000	7,500,000

Authority only funds may include federal special revenue, donations, grants, and higher education funds.

New Parking Structure, UM-Missoula		5,000,000	5,000,000

Authority only funds may include federal special revenue, auxiliary, donations, grants, and higher education funds.

Montana Agricultural Extension Services			
Research Centers and Farms	5,000,000	1,250,000	6,250,000

Authority is granted to Montana state university in the indicated amounts for the purpose of making capital improvements to the designated facilities.

Authority only funds may include any type of nonstate funding.

Animal Bioscience Facility, MSU-Bozeman	3,570,000		3,570,000
DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES			
Receiv. Hospital Renovat., MT State Hospital, Warm Springs	5,800,000		5,800,000
Renovate/Improve Support Services, MT State Hospital	4,500,000		4,500,000
MT Mental Health Nursing Care Center Improvements, Lewistown	750,000		750,000
Montana Veterans' Home Improvements		1,413,000	1,413,000
Improve Campus, MT State Hospital, Warm Springs	1,280,000		1,280,000
DEPARTMENT OF TRANSPORTATION			
Equipment Storage Buildings, Statewide		2,700,000	2,700,000
DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION			
Code/Deferred Maintenance and Small Projects, DNRC Unit Campuses, Statewide	750,000		750,000
Co-locate DNRC/DEQ, Kalispell	3,500,000		3,500,000
Consolidate DNRC Divisions, Missoula	2,000,000		2,000,000

Building Addition, Billings Oil and Gas Office	750,000		750,000
DEPARTMENT OF JUSTICE			
Purchase Forensic Science Lab Building	7,250,000		7,250,000

Section 3. Fund transfers. (1) Subject to subsection (4), there is transferred from the state general fund $63,057,942 in fiscal year 2008 and $63,057,942 in fiscal year 2009 to the long-range building program account in the capital projects fund type for the projects enumerated in [section 2].

(2) Subject to subsection (4), there is transferred from the state general fund $5 million in fiscal year 2008 and $5 million in fiscal year 2009 to the fish, wildlife, and parks capital projects account in the capital projects fund type for the projects enumerated in [section 5].

(3) Subject to subsection (4), the following amounts are transferred from the state general fund to the LRITP in the capital projects fund type:

(a) $11,653,900 for fiscal year 2008; and

(b) $29,265,100 for fiscal year 2009.

(4) In order to maintain an adequate ending fund balance, if at any time during the 2009 biennium the office of budget and program planning projects a 2009 biennium unreserved ending general fund balance of less than $100 million, the office of budget and program planning may direct the department of administration to reduce the fund transfers in subsections (1) through (3). The department of administration shall transfer the funds on a schedule approved by the office of budget and program planning that enables the statewide management goals for cash flow and for fund balance. On occasions when reductions in transfers appear imminent, the office of budget and program planning may notify the legislative finance committee and seek input from the committee into the reduction plan. If the projected unreserved general fund ending fund balance increases at a later point in the biennium, the fund transfers may be increased back up to the original authorized level. The office of budget and program planning may not direct fund transfers to be reduced below the level of encumbrance obligations made against the appropriation at the time of the reduction.

(5) There is transferred from the general fund to the LRITP $2,909,470 in fiscal year 2008 to be used for the projects in [section 16].

Section 4. Capital improvements. (1) The following money is appropriated to the department of fish, wildlife, and parks in the indicated amounts for the purpose of making capital improvements to statewide facilities. Funds not requiring legislative appropriation are included for the purpose of authorization:

Agency/Project	LRBP Fund	State Special Revenue	Federal Special Revenue	Other Funding Sources	Authority Only	Total
Future Fisheries		1,314,000				1,314,000
Fishing Access Site Maintenance		350,000				350,000
Fishing Access Site Protection		800,000				800,000
Community Fishing Ponds		50,000				50,000

Upland Game Bird Program		1,258,000			1,258,000
Wildlife Habitat Maintenance		1,200,000			1,200,000
Migratory Bird Stamp Program		360,000			360,000
Bighorn Sheep		250,000			250,000
Parks Program	500,000	4,950,000	2,300,000		7,750,000
Grant Programs/Federal Projects		320,000	2,800,000		3,120,000

(2) Authority is granted to the university of Montana in the indicated amount for the purpose of making capital improvements to campus facilities. Authority only funds may include federal special revenue, donations, grants, and higher education funds. All costs for the operations and maintenance of any new improvements constructed under this authorization must be paid by the university of Montana with nonstate revenue.

Agency/Project	LRBP Fund	State Special Revenue	Federal Special Revenue	Other Funding Sources	Authority Only	Total
General Spending Authority, UM-All Campuses					4,000,000	4,000,000

(3) Authority is granted to Montana state university in the indicated amount for the purpose of making capital improvements to campus facilities. Authority only funds may include federal special revenue, donations, grants, and higher education funds. All costs for the operations and maintenance of any new improvements constructed under this authorization must be paid by Montana state university with nonstate revenue.

Agency/Project	LRBP Fund	State Special Revenue	Federal Special Revenue	Other Funding Sources	Authority Only	Total
General Spending Authority, MSU-All Campuses					5,000,000	5,000,000

(4) The following money is appropriated to the department of military affairs in the indicated amount for the purpose of making capital improvements to statewide facilities. All costs for the operation and maintenance of any new improvements constructed with these funds must be paid by the department of military affairs with nonstate revenue.

Agency/Project	LRBP Fund	State Special Revenue	Federal Special Revenue	Other Funding Sources	Authority Only	Total
Federal Spending Authority			2,000,000			2,000,000

(5) The following money is appropriated to the department of transportation in the indicated amounts for the purpose of making capital improvements as indicated:

Agency/Project	LRBP Fund	State Special Revenue	Federal Special Revenue	Other Funding Sources	Authority Only	Total
Statewide Maintenance Repair and Small Projects		1,050,000				1,050,000
US Highway 93 Projects		26,000,000				26,000,000

(6) The following money is appropriated to the department of commerce, Montana heritage preservation and development commission, in the indicated amount for the purpose of making capital improvements to facilities located in Virginia City and Nevada City:

Agency/Project	LRBP Fund	State Special Revenue	Federal Special Revenue	Other Funding Sources	Authority Only	Total
Historic Preservation and Supporting Improvements, Virginia and Nevada Cities	2,000,000					2,000,000

(7) The following money is appropriated to the department of commerce in the indicated amount for a grant to assist in the site development and project planning at the cowboy hall of fame:

Agency/Project	LRBP Fund	State Special Revenue	Federal Special Revenue	Other Funding Sources	Authority Only	Total
Grant to the Cowboy Hall of Fame				500,000		500,000

Other funds consist of one-time-only state general fund money.

Section 5. Land acquisition appropriations. The following money is appropriated to the department of fish, wildlife, and parks in the indicated amounts for purposes of land acquisition, land leasing, easement purchase, or development agreement:

Agency/Project	LRBP Fund	State Special Revenue	Federal Special Revenue	Other Funding Sources	Authority Only	Total
Fishing Access Site Acquisition		460,000	100,000			560,000
Habitat Montana		6,180,000				6,180,000
Access Montana				10,000,000		10,000,000

Other funds consist of fish, wildlife, and parks capital projects funds.

The department of fish, wildlife, and parks shall give highest priority consideration to the acquisition of the Culbertson overlook and the south half of Brush Lake in the access Montana initiative.

Section 6. Dams. (1) The following money is appropriated to the department of fish, wildlife, and parks in the indicated amount for department dams:

Agency/Project	LRBP Fund	State Special Revenue	Federal Special Revenue	Other Funding Sources	Authority Only	Total
FWP Dams Repair		100,000				100,000

(2) In accordance with 85-1-101, the department of natural resources and conservation shall coordinate and manage the projects.

Section 7. Bridges. The following money is appropriated to the department of natural resources and conservation in the indicated amount for department bridge projects:

Agency/Project	LRBP Fund	State Special Revenue	Federal Special Revenue	Other Funding Sources	Authority Only	Total
Bridge Replacement/Repair		750,000				750,000

Section 8. Transfer of appropriations. The department of fish, wildlife, and parks and the department of transportation are authorized to transfer the appropriations and authority in [sections 4 through 6] among the necessary fund types for these projects.

Section 9. Capital land grant revenue. The appropriation of $4 million in capitol land grant revenue to the department of administration for the enterprise system services centers is the last priority for the use of these funds during the 2009 biennium and is dependent upon the availability of revenue. If necessary, the department of administration, architecture and engineering division, shall reduce the project in scope or phase as capitol land grant revenue becomes available.

Section 10. 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 other funding sources.

Section 11. Capital projects — contingent funds. If a capital project is financed, in whole or in part, with appropriations contingent upon the receipt of other funding sources, the department of administration may not let the project for bid until the agency has submitted a financial plan for approval by the director of the department of administration. A financial plan may not be approved by the director if:

(1) the level of funding provided under the financial plan deviates substantially from the funding level provided in [sections 2 through 7] 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 2009 biennium long-range building program presented to the 60th legislature.

Section 12. Review by department of environmental quality. The department of environmental quality shall review capital projects authorized in [sections 2 through 7] for potential inclusion in the state building energy conservation program under Title 90, chapter 4, part 6. When a review shows that a capital project will result in energy improvements, that project must be submitted to the energy conservation program for funding consideration. Funding provided under the energy conservation program guidelines must be used to offset or add to the authorized funding for the project, and the amount will be dependent on the annual utility savings resulting from the facility improvement. Agencies must be notified of potential funding after the review.

Section 13. Department of military affairs projects. (1) All proceeds derived from the sale of the national guard armory located in Missoula must be deposited in the general fund. Up to $3.5 million of those proceeds is appropriated to the department of military affairs to pay the costs associated with the sale of the armory, to lease or otherwise provide replacement space for soldiers until a new facility is complete, and for the purchase of land for the new Missoula armed forces reserve center.

(2) If the department of military affairs is able to obtain 100% federal funding for the new readiness center at Miles City in [section 2], the federal special revenue fund appropriation for that project is increased to up to $14 million and the LRBP fund appropriation is reduced by up to $2.48 million. Of the LRBP funds released from this project as a result of the additional federal

funds, $80,000 is appropriated to the department of military affairs for facility improvements at the Montana military museum and $2.4 million must be transferred to the state general fund.

Section 14. Information technology appropriations and authorizations. (1) All business application systems funded under this section must have a plan approved by the chief information officer for the design, definition, creation, storage, and security of the data associated with the application system. The security aspects of the plan must address but are not limited to authentication and granting of system privileges, safeguards against unauthorized access to or disclosure of sensitive information, and, consistent with state records retention policies, plans for the removal of sensitive data from the system when it is no longer needed. It is the intent of this subsection that specific consideration be given to the potential sharing of data with other state agencies in the design, definition, creation, storage, and security of the data.

(2) Funds may not be released for the project until the chief information officer and budget director approve the plans described in subsection (1).

(3) The following money is appropriated to the department of administration for the indicated information technology capital projects:

Agency/Project	LRITP	Federal Special Revenue	Total
DEPARTMENT OF ADMINISTRATION			
Network Upgrades	2,042,000		2,042,000
University Research Network	568,000		568,000
Public Safety Radio Consortium	4,595,000		4,595,000
Public Safety Radio Interoperability	3,500,000		3,500,000
DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES			
TANF Eligibility System	7,625,000	8,600,000	16,225,000
CHIMES System (Completion)	550,000	550,000	1,100,000
Food Stamps System	6,535,000	6,535,000	13,070,000
Child and Adult Protective Services (CAPS) System	15,204,000	11,946,000	27,150,000
ICD 10 (Medicaid Disease Codes)	300,000	2,700,000	3,000,000

(4) There is appropriated to the department of administration $5.618 million from the state general fund in the 2009 biennium for the operating costs associated with the network upgrades, the university research network, and the public safety radio consortium projects listed in subsection (3). If this appropriation is not fully expended for operating costs, then the remaining amount of the appropriation may be used to complete the network upgrades expansion and public safety radio consortium projects in subsection (3).

Section 15. Restrictions on information technology appropriations. The network upgrades and the university research network appropriations are restricted by the following conditions:

(1) The network upgrades appropriation may not be used to acquire, operate, or maintain unused fiber-optic facilities in competition with the private sector. The network upgrades project must be performed by contracted services pursuant to Title 18, chapter 4.

(2) The university research network, part of a national research network infrastructure, serves entities within and outside this state. The Montana

university system shall use the university research network infrastructure only for the purpose of supporting the research and education missions of the Montana university system. The Montana university system may not use the university research network infrastructure for traditional internet, voice, video, or other telecommunications services beyond those required for research networks.

(3) The Montana university system or any entity associated with the university system may not resell any portion of the university research network to nonuniversity entities other than research collaborators.

(4) The university research network may not replace any telecommunications network services that are provided by the department of administration to any state agency, city, county, consolidated government, or school district under Title 2, chapter 17, part 5.

(5) The Montana university system shall provide a comprehensive biennial report of the university research network activities for the biennium beginning July 1, 2007, to the legislature in its next regular session as provided in 5-11-210 and shall submit to a biennial audit of the university research network activities beginning with the biennium beginning July 1, 2009.

Section 16. Judicial branch information technology capital projects appropriation. (1) There is appropriated to the supreme court $2,909,470 from the LRITP for case management improvements and courtroom technology improvements in the judicial branch.

(2) Before encumbering any funds appropriated in subsection (1), the office of court administrator shall submit a project and security plan, as described in [section 14(1)], to the chief information officer. The chief information officer shall promptly review the plan and, if necessary, make timely recommendations to the office of court administrator regarding implementation of the plan.

(3) As part of the annual report to the law and justice interim committee and house appropriations subcommittee required under 3-1-702, the office of court administrator shall include an update on the implementation of projects funded under this section.

(4) There is appropriated to the judicial branch $1,025,530 from the state general fund in the 2009 biennium for operating costs associated with the judicial branch information technology project in subsection (1). If this appropriation is not fully expended for operating costs, then the remaining amount of the appropriation may be used to complete the judicial branch project in subsection (1).

Section 17. Legislative consent. The appropriations authorized in [sections 1 through 13] constitute legislative consent for the capital projects contained in [sections 1 through 13] within the meaning of 18-2-102.

Section 18. Reappropriation of long-range information technology capital project funds. The remaining balances for long-range information technology capital projects previously approved by the legislature and identified as long-range information technology capital projects in an appropriation act are reappropriated for the purposes of the original appropriation until the projects are completed.

Section 19. Approval required. Amounts appropriated by the legislature to executive branch agencies, other than the university system, for long-range information technology capital projects may not be encumbered until project

and security plans are approved by the chief information officer and the budget director if the legislature directs these approvals as a condition on the appropriations in the bill making the appropriations.

Section 20. Section 2, Chapter 560, Laws of 2005, is amended to read:

"**Section 2. Capital projects appropriations and authorizations.** (1) Subject to [section 9(2)], the following money is appropriated for the indicated capital projects from the indicated sources to the department of administration. Funds not requiring legislative appropriation are included for the purpose of authorization. The department of administration is authorized to transfer either or both the appropriations and authority among the necessary fund types for these projects:

Agency/Project	LRBP		Other Funding Sources
MONTANA SCHOOL FOR THE DEAF AND BLIND			
Facility Improvements, Montana School for the Deaf and Blind	$398,000		
DEPARTMENT OF ADMINISTRATION			
Roof Repair and Replacement, Statewide	3,076,242	$206,500	Federal Special Revenue
Repair/Preserve Building Exteriors, Statewide	497,500		
Window Repairs and Replacement, Statewide	1,268,625		
Deferred Maintenance, Montana Law Enforcement Academy	761,175		
Hazardous Materials Abatement, Statewide	497,500		
Code/Deferred Maintenance Projects, Statewide	1,255,989	90,000	Federal Special Revenue
Repair Deteriorated Campus Infrastructure, Statewide	547,250		
Major Maintenance and Repairs to State Capitol	497,500		
Upgrade Fire Alarm Systems, Statewide	398,000		
Repair Elevators, Capitol Complex	796,000		
Upgrade 1100 North Last Chance Gulch	1,201,960		
DPHHS Commodity Warehouse Expansion, Helena		2,000,000	Federal Special Revenue
Public Restrooms, Virginia City and Nevada City	99,450		
Public Safety Learning Center, Montana Law Enforcement Academy		3,450,000	Federal Special Revenue
Long-range Building Program Funding Interim Project	8,000		
~~Capitol Annex or Alternatives Feasibility Study~~		~~500,000~~	~~Capitol Land Grant Funds~~

MONTANA HISTORICAL SOCIETY			
Montana Historical Society Building, Helena		30,000,000	Donations and Grants

Authority is granted to the department of administration in the indicated amount for the construction of a new historical society building.

DEPARTMENT OF CORRECTIONS			
Improve Water System, Montana State Prison	124,375		
Improve High-Side Kitchen Ventilation, Montana State Prison	116,714		
Improve Perimeter Security, Montana State Prison	1,393,000		
DEPARTMENT OF FISH, WILDLIFE, AND PARKS			
Hatchery Maintenance, Statewide		575,000	State Special Revenue
		575,000	Federal Special Revenue
Rose Creek Hatchery		1,700,000	State Special Revenue
Fort Peck Storage/Office Space		50,000	State Special Revenue
		150,000	Federal Special Revenue
Administrative Facilities Repair, Maintenance and Improvements		800,000	State Special Revenue
DEPARTMENT OF MILITARY AFFAIRS			
Federal Spending Authority		2,100,000	Federal Special Revenue
Western Montana Veterans' Cemetery, Missoula		3,200,000	Federal Special Revenue
Montana State Veterans' Cemetery Columbarium, Fort Harrison		500,000	Federal Special Revenue
MONTANA UNIVERSITIES AND COLLEGES			
ADA/Code/Deferred Maintenance Projects, Montana University System	1,393,000		
Upgrade Steam Distribution System, UM-Missoula	5,905,325	3,060,000	Auxiliary Funds
Upgrade HVAC Systems, Pershing and Brockman Halls, MSU-Northern	521,380		
Heating System Improvements, Academic Center and McMullen Halls, MSU-Billings	243,775		
Mining and Geology Building Mechanical System Renovation, UM-Butte	915,400		
Upgrade Health Sciences HVAC System, Phase 2, UM-Missoula	965,150		
Renovate Domestic Water Distribution System, UM-Dillon	182,185		
Classroom/Laboratory Upgrades, Montana University System	995,000		
Facility Repairs and Improvements, MSU-Billings	542,275		
Heating Plant Phase 3, MSU-Bozeman	945,250		
Renovate HVAC Systems, Science Complex 3rd and 4th Floors, UM-Missoula	606,950		

Water/Sewer System Repairs and Maintenance, MSU-Bozeman	248,750	250,000	Auxiliary Funds
Upgrade Primary Electrical Distribution, MSU-Bozeman	746,250	750,000	Auxiliary Funds
Facility Repairs and Improvements, MSU-Agricultural Experiment Stations	477,600		
MSU-Agricultural Experiment Station Projects	646,750		
Campus Improvements, MSU-Northern	636,800	300,000	Auxiliary Funds
New Construction, Consolidate Campus, UM-Missoula College of Technology		24,500,000	Federal Special Revenue, Donations, Grants, and Higher Education Funds

Authority is granted to the department of administration in the indicated amount for the purpose of constructing a new university of Montana-Missoula college of technology.

Native American Study Center, UM-Missoula	2,500,000	Federal Special Revenue, Donations, Grants, and Higher Education Funds

Authority is granted to the department of administration in the indicated amount for the purpose of constructing the Native American center. This authority augments $3,500,000 of existing authority for this capital improvement.

New Gallery Space, UM-Missoula	6,000,000	Federal Special Revenue, Donations, Grants, and Higher Education Funds

Authority is granted to the department of administration in the indicated amount for the purpose of constructing new gallery space.

New Forestry Complex, UM-Missoula	20,000,000	Federal Special Revenue, Donations, Grants, and Higher Education Funds

Authority is granted to the department of administration in the indicated amount for the purpose of constructing the new forestry complex.

MBMG/Petroleum Building, UM-Tech, Butte	5,400,000	Federal Special Revenue, Donations, Grants, and Higher Education Funds

Authority is granted to the department of administration in the indicated amount for the purpose of constructing the MBMG/petroleum building.

Research Lab Facility, UM-Missoula	3,000,000	Federal Special Revenue, Donations, Grants, and Higher Education Funds

Authority is granted to the department of administration in the indicated amount for the purpose of constructing the research lab facility. Any increase in costs for the operations and maintenance of the research lab facility must be paid by the university of Montana with nonstate revenue.

Law Building ADA Improvements/Renovation/Expansion, UM-Missoula	500,000	

This state money augments $5,000,000 of existing authority for this project.

School of Journalism Building, UM-Missoula	500,000	

This state money augments $12,000,000 of existing authority for this project.

VisComm Black Box Theater, MSU-Bozeman	2,750,000	Federal Special Revenue, Donations, Grants, and Higher Education Funds

Authority is granted to the department of administration in the indicated amount for the purpose of constructing the new viscomm black box theater.

Animal Bioscience Building, MSU-Bozeman	7,500,000	Federal Special Revenue, Donations, Grants, and Higher Education Funds

Authority is granted to the department of administration in the indicated amount for the purpose of constructing the new animal bioscience building. This authority augments $5,000,000 of existing authority for this capital improvement.

Museum of the Rockies, MSU-Bozeman	12,000,000	Federal Special Revenue, Donations, Grants, and Higher Education Funds

Authority is granted to the department of administration in the indicated amount for the purpose of constructing improvements to the museum of the rockies.

Native American Student Center, MSU-Bozeman	8,000,000	Federal Special Revenue, Donations, Grants, and Higher Education Funds

Authority is granted to the department of administration in the indicated amount for the purpose of constructing the new Native American student center.

DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES

Facility Improvements, Montana State Hospital, Warm Springs	592,523		
Facility Improvements, Montana Developmental Center, Boulder	218,044		
Demolish Abandoned Buildings, Public Health and Human Services	1,741,250		
Stabilize Old Administration Building, Montana Developmental Center, Boulder	179,100		
Housing for High-Risk Behaviors	2,529,290		
Special Care Unit Renovations, Eastern Montana Veterans' Home, Glendive		475,000	State Special Revenue
Facility Renovation and Improvements, Montana Veterans' Home, Columbia Falls		465,000	State Special Revenue
Construct Chapel, Montana State Hospital, Warm Springs		350,000	Donations and Grants

Authority is granted to the department of administration in the indicated amount for the purpose of constructing the chapel at the Montana state hospital in Warm Springs.

DEPARTMENT OF TRANSPORTATION

Equipment Storage Buildings, Statewide	635,000	State Special Revenue
Chiller/Cooling Towers Replacement, Helena Headquarters	350,000	State Special Revenue
Office Addition, Billings	500,000	State Special Revenue

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

Replace Clearwater Unit Fire Cache	248,750		

OFFICE OF THE GOVERNOR

Historic and Cultural Properties
Interim Study 20,000

(2) (a) For the purpose of constructing a privately funded chapel at the Montana state hospital in Warm Springs, the department of administration may waive, in whole or in part, the requirements pertaining to:

(i) bidding and bonding for state building projects in Title 18;

(ii) labor requirements in Title 18; and

(iii) contractor registration in Title 39.

(b) The waiver pursuant to subsection (2)(a) may be exercised in the following circumstances:

(i) to obtain the volunteer services and donated materials from members of the public, civic organizations, and other entities;

(ii) to obtain the compensated services of contractors who are donating significant amounts of labor, time, and materials; and

(iii) to meet the terms and conditions for receipt of major sums of money from private or public funding sources, including individual donations.

(3) (a) For the purpose of selling the Jocko fish hatchery to the Confederated Salish and Kootenai tribes and in exchange for constructing and improving the fish hatchery at the Rose Creek hatchery, the department of fish, wildlife, and parks may waive, in whole or in part, the requirements pertaining to:

(i) public bids for land disposal in 87-1-209(3); and

(ii) the real property trust fund in 87-1-601.

(b) The waiver pursuant to subsection (3)(a) may be exercised only under the circumstances described in subsection (3)(a). The waiver does not affect the department's requirement to obtain full market value pursuant to Article X, section 11, of the Montana constitution."

Section 21. Appropriation. There is appropriated from the state general fund to the department of environmental quality for the 2009 biennium $3 million to be used to fund the costs of acquiring, constructing, and installing energy saving equipment, systems, and improvements in existing state buildings, structures, and facilities by the energy conservation program. The funds may be used only to fund projects for which the department of environmental quality determines that energy cost savings from the project will equal or exceed the costs of the project, including the costs of the investment-grade energy audit on and design of the project, within 15 years after installation or construction.

Section 22. Energy conservation repayment account. (1) There is an energy conservation repayment account in the state special revenue fund established in 17-2-102.

(2) There must be deposited in the energy conservation repayment account:

(a) the amount of energy costs saved as a result of the acquisition, installation, and construction of energy saving equipment, systems, or improvements in state buildings, facilities, or structures using general fund appropriations to the energy conservation program until total payments to the account for a project equal the cost of the project, including the cost of the investment grade energy audit on the project and the design of the project; and

(b) interest earned on the account.

(3) Money in the energy conservation repayment account is available to the department of environmental quality by appropriation to fund the costs of the energy conservation program.

Section 23. Repealer. Section 8, Chapter 560, Laws of 2005, is repealed.

Section 24. Codification instruction. (1) [Sections 18 and 19] are intended to be codified as an integral part of Title 2, chapter 17, part 5, and the provisions of Title 2, chapter 17, part 5, apply to [sections 18 and 19].

(2) [Section 22] is intended to be codified as an integral part of Title 90, chapter 4, part 6, and the provisions of Title 90, chapter 4, part 6, apply to [section 22].

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 on passage and approval.

Approved May 25, 2007

CHAPTER NO. 4

[HB 6]

AN ACT GENERALLY REVISING THE LAWS APPLICABLE TO THE LEGISLATURE AND LEGISLATORS; DEFINING MAJORITY LEADER, MAJORITY PARTY, MINORITY LEADER, AND MINORITY PARTY; PROVIDING OPTIONS FOR APPOINTING LEGISLATORS TO A COMMITTEE, SUBCOMMITTEE, OR OTHER ENTITY; AMENDING SECTIONS 2-2-135, 2-15-212, 2-15-246, 2-15-1019, 2-15-2110, 5-1-103, 5-2-221, 5-5-211, 5-11-101, 5-11-305, 5-12-202, 5-13-202, 5-16-101, 13-37-102, 53-2-1203, 53-10-203, AND 75-6-231, 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. Terms relating to legislature. (1) Unless the context requires otherwise, the following definitions apply in the Montana Code Annotated:

(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 in a house of the legislature, subject to subsection (2).

(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 in a house of the legislature, subject to subsection (2).

(2) If there are an equal number of members of each party in a house of the legislature, then the majority party is the party of the president of the senate or the speaker of the house and the minority party is the other party with an equal number of members.

Section 2. Appointments. (1) (a) Whenever a legislative appointing authority is required or authorized to appoint more than one legislative member of the majority party to a committee, subcommittee, or other statutorily recognized or authorized entity, the appointing authority may appoint a member of a party other than the majority party.

(b) Whenever a legislative appointing authority is required or authorized to appoint more than one legislative member of the minority party to a committee, subcommittee, other statutorily recognized or authorized entity, the appointing authority may, if requested by the minority leader, appoint a member of a party other than the minority party or majority party instead of a member of the minority party.

(2) (a) Whenever an elected state official, as defined in 5-7-102, is required or authorized to appoint more than one legislative member of the majority party to a statutorily recognized or authorized entity, the elected state official may, if requested by the senate president for a senate appointee or if requested by the speaker of the house for a house appointee, appoint a member of a party other than the majority party instead of a member of the majority party.

(b) Whenever an elected state official, as defined in 5-7-102, is required or authorized to appoint more than one legislative member of the minority party to a statutorily recognized or authorized entity, the elected state official may, if requested by the senate minority leader for a senate appointee or if requested by the house minority leader for a house appointee, appoint a member of a party other than the minority party or majority party instead of a member of the minority party.

(3) If a vacancy occurs in the membership of a committee, subcommittee, or statutorily recognized or authorized entity because of the resignation or disqualification of a member appointed under the provisions of subsection (1) or (2), the appointing authority authorized or required to make an appointment to fill the vacancy is subject to the provisions of subsections (1) and (2).

(4) If an individual appointed under subsection (1) or (2) is not a member of either the majority party or minority party and resigns from or is otherwise disqualified from serving, the appointing authority shall fill the vacancy under the provisions of subsection (1) or (2) as if the appointment were an initial appointment, and the appointing authority is not required to fill the vacancy with an individual who is a member of the same party of which the individual whose resignation or disqualification caused the vacancy.

Section 3. Section 2-2-135, MCA, is amended to read:

"2-2-135. Ethics committees. (1) Each house of the legislature shall establish an ethics committee. ~~The~~ *Subject to [section 2], the* committee must consist of two members of ~~each political~~ *the majority party and two members of the minority* party. The committees may meet jointly. Each committee shall educate members concerning the provisions of this part concerning legislators and may consider conflicts between public duty and private interest as provided in 2-2-112. The joint committee may consider matters affecting the entire legislature.

(2) Pursuant to Article V, section 10, of the Montana constitution, the legislature is responsible for enforcement of the provisions of this part concerning legislators."

Section 4. Section 2-15-212, MCA, is amended to read:

"2-15-212. Reserved water rights compact commission. (1) There is created a reserved water rights compact commission. In negotiations, the commission is acting on behalf of the governor.

(2) ~~Commissioners~~ *Subject to [section 2], commissioners* are appointed as follows:

(a) two members of the house of representatives appointed by the speaker, ~~each from a different political~~ *one from the majority party and one from the minority* party;

(b) two members of the senate appointed by the president, ~~each from a different political~~ *one from the majority party and one from the minority* party;

(c) four members designated by the governor; and

(d) one member designated by the attorney general.

(3) Legislative members of the commission are entitled to receive compensation and expenses as provided in 5-2-301 for each day actually spent on commission business. Other members are entitled to salary and expenses as state employees.

(4) The commission is attached to the department of natural resources and conservation for administrative purposes only, as prescribed in 2-15-121, unless inconsistent with the provisions of Title 85, chapter 2, part 7. A sufficient and appropriate staff must be assigned to serve the commission within the budget established by the legislature. The commission staff is a principal unit within the department, and the commission shall direct and assign the staff.

(5) Members are appointed for 4-year terms and may be reappointed. A legislative member position is vacant if the person no longer serves in the legislature. The position of a member appointed by the governor or attorney general is vacant if that person is elected to the legislature. A vacancy must be filled in the manner of the original appointment."

Section 5. Section 2-15-246, MCA, is amended to read:

"2-15-246. Rail service competition council. (1) There is a rail service competition council consisting of the following members:

(a) the director of the department of agriculture provided for in 2-15-3001;

(b) the director of the department of transportation provided for in 2-15-2501;

(c) the director of the department of revenue provided for in 2-15-1301;

(d) the chief business development officer of the office of economic development provided for in 2-15-218;

(e) six people appointed by the governor with the following qualifications:

(i) one person with substantial knowledge and experience related to Class I railroads;

(ii) one person with substantial knowledge and experience related to Class II railroads;

(iii) one person who is a farm commodity producer in the state of Montana and who has substantial knowledge and experience related to transportation of farm commodities;

(iv) one person with substantial knowledge and experience in the trucking industry in the state of Montana;

(v) one person with substantial knowledge and experience related to transportation for the mineral industry in the state of Montana; and

(vi) one person with substantial knowledge and experience related to transportation for the wood products industry in the state of Montana; and

(f) *subject to [section 2],* two members, one from ~~each political~~ *the majority party and one from the minority* party and one from each house of the legislature, from the economic affairs interim committee established in 5-5-223, selected by the presiding officer of the economic affairs interim committee with the concurrence of the vice presiding officer.

(2) The rail service competition council shall perform the following duties:

(a) promote rail service competition in the state of Montana that results in reliable and adequate service at reasonable rates;

(b) develop a comprehensive and coordinated plan to increase rail service competition in the state of Montana;

(c) reevaluate the state's railroad taxation practices to ensure reasonable competition while minimizing any transfer of tax burden. The reevaluation of the state's railroad taxation practices should include but is not limited to a reevaluation of property taxes, taxes that minimize highway damage, special fuel taxes, and corporate tax rates.

(d) develop various means to assist Montanans impacted by high rates and poor rail service;

(e) analyze the feasibility of developing legal structures to facilitate growth of producer transportation investment cooperatives and rural transportation infrastructure authorities;

(f) provide advice and recommendations to the department of transportation on the department's activities under 60-11-113 through 60-11-116;

(g) coordinate efforts and develop cooperative partnerships with other states and federal agencies to promote rail service competition; and

(h) act as the state's liaison in working with Class I railroads to promote rail service competition.

(3) The council shall cooperate with and report to any standing or interim legislative committee that is assigned to study or has oversight duties for rail service competition issues.

(4) The council must be compensated, reimbursed, and otherwise governed by the provisions of 2-15-122.

(5) The council is attached for administrative purposes only to the governor's office, which may assist the council by providing staff and budgetary, administrative, and clerical services that the council or its presiding officer requests.

(6) Staffing and other resources may be provided to the council only from state and nonstate resources donated to the council and from direct appropriations by each legislature."

Section 6. Section 2-15-1019, MCA, is amended to read:

"2-15-1019. Board of directors of state compensation insurance fund — legislative liaisons. (1) There is a board of directors of the state compensation insurance fund.

(2) The board is allocated to the department for administrative purposes only as prescribed in 2-15-121. However, the board may employ its own staff.

(3) The board may provide for its own office space and the office space of the state fund.

(4) The board consists of seven members appointed by the governor. The executive director of the state fund is an ex officio nonvoting member.

(5) At least four of the seven members shall represent state fund policyholders and may be employees of state fund policyholders. At least four members of the board shall represent private, for-profit enterprises. One of the seven members may be a licensed insurance producer. A member of the board may not:

(a) except for the licensed insurance producer member, represent or be an employee of an insurance company that is licensed to transact workers' compensation insurance under compensation plan No. 2; or

(b) be an employee of a self-insured employer under compensation plan No. 1.

(6) A member is appointed for a term of 4 years. The terms of board members must be staggered. A member of the board may serve no more than two 4-year terms. A member shall hold office until a successor is appointed and qualified.

(7) The members must be appointed and compensated in the same manner as members of a quasi-judicial board as provided in 2-15-124, except that the requirement that at least one member be an attorney does not apply.

(8) There must be two legislative liaisons to the board consisting of members of the economic affairs interim committee provided for in 5-5-223. ~~The~~ *Subject to [section 2], the* presiding officer of the economic affairs interim committee shall appoint the liaisons from ~~two separate political parties~~ *the majority party and the minority party* at the first interim committee meeting.

(9) Legislative liaisons shall serve from appointment through each even-numbered calendar year.

(10) A legislative liaison may:

(a) attend board meetings; and

(b) receive board meeting agendas and information relating to agenda items from the staff of the state fund.

(11) Legislative liaisons appointed pursuant to subsection (8) are entitled to compensation and expenses, as provided in 5-2-302, to be paid by the economic affairs interim committee."

Section 7. Section 2-15-2110, MCA, is amended to read:

"2-15-2110. Small business compliance assistance advisory council. (1) There is a small business compliance assistance advisory council.

(2) The council consists of seven members, as follows:

(a) two members that are not owners or representatives of owners of small business stationary sources, appointed by the governor to represent the general public;

(b) four members that are owners or representatives of owners of small business stationary sources and who are not legislators, one to be appointed by the majority *leader* and minority ~~leadership~~ *leader* of the house of

representatives and one to be appointed by the majority *leader* and minority ~~leadership~~ *leader* of the senate; and

(c) one member that is a representative of the department of environmental quality, appointed by the director of that department.

(3) Appointed members shall serve for terms of 3 years.

(4) The provisions of 2-15-122(5) through (8) apply to the council and its members."

Section 8. Section 5-1-103, MCA, is amended to read:

"5-1-103. Vacancy on commission. (1) ~~In the event~~ *If* a vacancy occurs on the commission, the appointing authority of the vacated seat shall designate a successor.

(2) ~~In the event~~ *If* the appointing authority at the time a vacancy occurs is of ~~the opposite~~ *a different* political party than that of the appointing authority that made the appointment that is vacant, the majority *leader* or minority leader of the same political party as the appointing authority that made the original appointment of the commissioner whose position is vacated shall designate the successor."

Section 9. Section 5-2-221, MCA, is amended to read:

"5-2-221. Officers and employees of the senate and house of representatives. (1) The officers of the senate include a president, a president pro tempore, a majority ~~floor~~ leader, a minority ~~floor~~ leader, a majority whip, and a minority whip.

(2) The officers of the house of representatives include a speaker, a speaker pro tempore, a majority ~~floor~~ leader, a minority ~~floor~~ leader, a majority whip, and a minority whip.

(3) The president and president pro tempore of the senate and the speaker and speaker pro tempore of the house ~~shall~~ *must* be elected by the house of which they are a member.

(4) The majority ~~floor~~ leader, minority ~~floor~~ leader, majority whip, and minority whip of the senate and house ~~shall~~ *must* be elected by their respective caucuses.

(5) A secretary of the senate, sergeant at arms, and chaplain ~~shall~~ *must* be appointed by the president subject to confirmation by the senate, and a chief clerk of the house, sergeant at arms, and chaplain ~~shall~~ *must* be appointed by the speaker subject to confirmation by the house."

Section 10. Section 5-5-211, MCA, is amended to read:

"5-5-211. Appointment and composition of interim committees. (1) Senate interim committee members must be appointed by the committee on committees.

(2) House interim committee members must be appointed by the speaker of the house.

(3) Appointments to interim committees must be made by the time of adjournment of the legislative session.

(4) A legislator may not serve on more than two interim committees unless no other legislator is available or is willing to serve.

(5) (a) Subject to *[section 2] and* subsection (5)(b) *of this section*, the composition of each interim committee must be as follows:

(i) four members of the house, ~~no more than~~ two ~~of whom may be of one political~~ *from the majority party and two from the minority* party; and

(ii) four members of the senate, ~~no more than~~ two ~~of whom may be of one political~~ *from the majority party and two from the minority* party.

(b) If the committee workload requires, the legislative council may request the appointing authority to appoint one or two additional interim committee members from ~~each political~~ *the majority party and the minority* party.

(6) The membership of the interim committees must be provided for by legislative rules. The rules must identify the committees from which members are selected, and the appointing authority shall attempt to select not less than 50% of the members from the standing committees that consider issues within the jurisdiction of the interim committee. In making the appointments, the appointing authority shall take into account term limits of members so that committee members will be available to follow through on committee activities and recommendations in the next legislative session.

(7) An interim committee or the environmental quality council may create subcommittees. Nonlegislative members may serve on a subcommittee. Unless the person is a full-time salaried officer or employee of the state or a political subdivision of the state, a nonlegislative member appointed to a subcommittee is entitled to salary and expenses to the same extent as a legislative member. If the appointee is a full-time salaried officer or employee of the state or of a political subdivision of the state, the appointee is entitled to reimbursement for travel expenses as provided for in 2-18-501 through 2-18-503."

Section 11. Section 5-11-101, MCA, is amended to read:

"5-11-101. Appointment and composition of council. (1) There is a legislative council. Subject to subsection ~~(3)~~ *(2)*, the legislative council consists of:

(a) the speaker of the house, the minority leader of the house, and, *subject to [section 2],* four members chosen by the speaker of the house, ~~no more than~~ two ~~of whom may be of the same political~~ *from the majority party and two from the minority* party; and

(b) the president of the senate, the minority leader of the senate, and, *subject to [section 2],* four members chosen by the committee on committees, ~~no more than~~ two ~~of whom may be of the same political~~ *from the majority party and two from the minority* party.

~~(2) No more than three members of each house may be of the same political party.~~

~~(3)~~*(2)* If a legislator is or would be a member of the legislative council by virtue of a legislative leadership position and the legislator will not serve in the following legislative session because of term limits, the legislator may designate another member of the same house and the same political party to serve on the legislative council in the legislator's place."

Section 12. Section 5-11-305, MCA, is amended to read:

"5-11-305. Legislative council appointments to interstate, international, and intergovernmental entities. (1) Unless otherwise provided by law, the legislative council shall appoint legislators to serve as

members of appropriate interstate, international, and intergovernmental entities.

(2) The president of the senate, the speaker of the house, the minority leader of the senate, and the minority leader of the house may recommend nominees for the legislative council's consideration in making appointments to interstate, international, and intergovernmental entities.

(3) If the legislative council appoints more than one legislator to participate as a member in an interstate, international, or intergovernmental entity, ~~no more than 50% of~~ the number of legislators appointed ~~may be~~ from ~~one political~~ *the majority party and the minority* party *must be equal.*

(4) If funds are available that the legislative council has the authority to expend, the legislative council, as the appropriate funding authority, may authorize that a legislator appointed as a member to an interstate, international, or intergovernmental entity be compensated, as provided in 5-2-302, for salary and expenses associated with participating in an entity-sponsored activity.

(5) If a vacancy occurs in membership to an interstate, international, or intergovernmental entity, appointment to fill the vacancy must be made in the same manner as the original appointment.

(6) The legislative council shall make appointments to any policy committee established by the Pacific Northwest economic region as provided in 5-11-707(2)."

Section 13. Section 5-12-202, MCA, is amended to read:

"5-12-202. Appointment of members. (1) The legislative finance committee consists of:

(a) four members of the senate finance and claims committee appointed by the ~~chairman~~ *presiding officer*;

(b) *subject to [section 2],* two members of the senate appointed at large by the committee on committees;

(c) four members of the house of representatives appropriations committee appointed by the ~~chairman~~ *presiding officer*; and

(d) *subject to [section 2],* two members of the house appointed at large by the speaker.

(2) These members ~~shall~~ *must* be appointed before the end of each legislative session. ~~No more than three~~ *Three* members of each house, two committee members and one at-large member, ~~may~~ *must* be from the ~~same political~~ *majority party and the other three members appointed from that house must be from the minority* party."

Section 14. Section 5-13-202, MCA, is amended to read:

"5-13-202. Appointment and term of members — officers — vacancies. (1) The legislative audit committee consists of six members of the senate and six members of the house of representatives appointed before the end of each regular session in the same manner as standing committees of the respective houses are appointed. ~~No more than three~~ *Subject to [section 2], three* of the appointees of each house ~~may~~ *must* be members of the ~~same political~~ *majority party and three of the appointees of each house must be members of the minority* party.

(2) A member of the committee shall serve until the member's term of office as a legislator ends or until a successor is appointed, whichever occurs first.

(3) The committee shall elect one of its members as presiding officer and other officers as it considers necessary.

(4) A vacancy on the committee occurring when the legislature is not in session ~~shall~~ *must* be filled by the selection of a member of the legislature by the remaining members of the committee. If there is a vacancy on the committee at the beginning of a legislative session because a member's term of office as a legislator has ended, a member of the same political party must be appointed in the same manner as the original appointment, no later than the 10th legislative day, to serve until a successor is appointed under subsection (1)."

Section 15. Section 5-16-101, MCA, is amended to read:

"5-16-101. Appointment and composition. The environmental quality council consists of 17 members as follows:

(1) the governor or the governor's designated representative is an ex officio member of the council and shall participate in council meetings as a nonvoting member;

(2) six members of the senate and six members of the house of representatives appointed before the 50th legislative day in the same manner as standing committees of the respective houses are appointed. ~~No more than three~~ *Subject to [section 2], three* of the appointees of each house ~~may~~ *must* be members of the ~~same political~~ *majority party and three appointees of each house must be members of the minority* party.

(3) four members of the general public. Two public members must be appointed by the speaker of the house with the consent of the house minority leader, and two must be appointed by the president of the senate with the consent of the senate minority leader."

Section 16. Section 13-37-102, MCA, is amended to read:

"13-37-102. Creation of office — removal. (1) There is a commissioner of political practices who is appointed by the governor, subject to confirmation by a majority of the senate. A four-member selection committee composed of the speaker of the house, the president of the senate, and the minority ~~floor~~ leaders of both houses of the legislature shall submit to the governor a list of not less than two or more than five names of individuals for the governor's consideration. A majority of the members of the selection committee shall agree upon each nomination.

(2) The individual selected to serve as commissioner may be removed by the governor prior to the expiration of the term only for incompetence, malfeasance, or neglect of duty. The governor's decision to remove the commissioner must be stated in writing, and the sufficiency of the governor's stated causes for removing the commissioner is subject to judicial review."

Section 17. Section 53-2-1203, MCA, is amended to read:

"53-2-1203. State workforce investment board — membership — duties. (1) There is a state workforce investment board.

(2) The state board consists of:

(a) the governor or a person designated by the governor to act on behalf of the governor;

(b) *subject to [section 2],* two members of the house of representatives, ~~each~~ *one* from ~~a different political~~ *the majority party and one from the minority* party, and two members of the senate, ~~each~~ *one* from ~~a different political~~ *the majority party and one from the minority* party, appointed by the presiding officer of each respective chamber; and

(c) individuals appointed by the governor, including:

(i) representatives of businesses located in Montana who:

(A) are owners of businesses, chief executive or operating officers, and other business executives or employers with optimum policymaking or hiring authority, including business members of local boards; and

(B) represent businesses with employment opportunities that reflect the employment opportunities in Montana;

(ii) chief elected officials of local government;

(iii) representatives of labor organizations;

(iv) representatives of individuals and organizations who have experience with respect to youth activities;

(v) representatives of individuals and organizations who have experience and expertise in the delivery of workforce investment activities;

(vi) representatives of the state agencies who are responsible for the programs and activities that are carried out by the one-stop centers, including but not limited to:

(A) the department of labor and industry;

(B) the department of public health and human services;

(C) the office of the commissioner of higher education; and

(D) the office of public instruction; and

(vii) other representatives that the governor may designate.

(3) The selection and appointment of members of the state board must follow the nominating provisions of section 111 of the Act (29 U.S.C. 2821).

(4) The governor shall appoint enough individuals described in subsection (2)(c)(i) so that those persons compose a majority of the membership of the state board.

(5) The governor shall consider the special needs of Montana's hard-to-serve Indian population and the state's relationship with tribal governments when making appointments to the state board.

(6) The state board shall perform the functions described in section 111 of the Act (29 U.S.C. 2821)."

Section 18. Section 53-10-203, MCA, is amended to read:

"53-10-203. Commission on provider rates and services. (1) The department shall form an advisory commission to be known as the commission on provider rates and services to provide information to the department concerning provider services, costs, and reimbursement rates. The commission membership must include a maximum of 15 individuals representing providers, consumers of provider services, and family members of consumers and is as follows:

(a) at least three providers;

(b) at least three of a combination of consumers of provider services and family members of consumers;

(c) two employees of the department;

(d) one representative from the legislative fiscal division;

(e) one representative from the governor's office on budget and program planning;

(f) *subject to [section 2],* one member ~~of each~~ of the ~~two major political parties~~ *majority party and one member of the minority party* of the house of representatives; and

(g) *subject to [section 2],* one member ~~of each~~ of the ~~two major political parties~~ *majority party and one member of the minority party* of the senate.

(2) Except as provided in this section, the commission is subject to the provisions of 2-15-122.

(3) Except as provided in this section, members shall serve for a term of 2 years and may be reappointed by the appointing authority for one additional term. A member appointed to fill an unexpired term may be appointed for an additional two terms. The appointing authority shall stagger the first terms of the first board to terms of 2 to 4 years. Members appointed to represent state departments, offices, or other state bodies may be appointed and reappointed as the department determines necessary.

(4) The commission shall elect a presiding officer and vice presiding officer and by vote determine its rules of operation. The commission shall meet at the call of the presiding officer, who shall determine meeting times in consultation with the department.

(5) The commission is allocated to the department for administrative purposes only as provided in 2-15-121."

Section 19. Section 75-6-231, MCA, is amended to read:

"75-6-231. Intended use plan — advisory committee. (1) The department shall prepare an annual intended use plan for the state that meets the requirements of section 300j-12(b) of the federal act, ~~(~~42 U.S.C. 300j-12(b)~~)~~.

(2) The intended use plan must include:

(a) a list of projects in the state that are eligible for assistance, including both the priority assigned to each project based on public health needs and on the financial needs of the project and, to the extent known, the expected funding schedule for each project; and

(b) a description of the funds to be allocated to activities under 75-6-212 and 75-6-221(2) and funds to be transferred to or received by the water pollution control state revolving fund, as allowed in 75-6-211(5), for the annual fiscal period following publication of the intended use plan.

(3) Before finalizing an intended use plan, the department shall prepare a draft document containing the information required in subsection (2) and shall provide public notice and opportunity to comment on the draft document.

(4) (a) Following the public comment period provided for in subsection (3) and any department modifications to the intended use plan resulting from the public comment, a summary of the public comment and the intended use plan must be presented for review, comment, and recommendations to an advisory committee formed by the department and consisting of six individuals from the

following entities appointed by their respective presiding officers, directors, or executive officials:

(i) one member from the Montana league of cities and towns;

(ii) one member from the Montana association of counties;

(iii) one member from the department of natural resources and conservation;

(iv) one member from the department of environmental quality; and

(v) two members from the legislature. One member must be from the house of representatives and one from the senate, and *subject to [section 2],* ~~they may not represent~~ *one must be from* the ~~same political~~ *majority party and one must be from the minority* party.

(b) The advisory committee is attached to the department for administrative purposes only.

(5) The department shall address in writing any comments and recommendations provided by the advisory committee provided for in subsection (4) before finalizing an intended use plan and prior to awarding any contracts under 75-6-212(1)(g)."

Section 20. Codification instruction. (1) [Section 1] is intended to be codified as an integral part of Title 1, chapter 1, part 2, and the provisions of Title 1, chapter 1, part 2, apply to [section 1].

(2) [Section 2] is intended to be codified as an integral part of Title 5, chapter 5, part 2, and the provisions of Title 5, chapter 5, part 2, apply to [section 2].

Section 21. Effective date. [This act] is effective on passage and approval.

Section 22. Retroactive applicability. [This act] applies retroactively, within the meaning of 1-2-109, to appointments made for members of the 60th legislature.

Approved May 25, 2007

CHAPTER NO. 5

[HB 2]

AN ACT APPROPRIATING MONEY TO VARIOUS STATE AGENCIES FOR THE BIENNIUM ENDING JUNE 30, 2009; 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 2007".

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 2009 biennium, are adopted as legislative intent.

Section 3. Severability. If any section, subsection, sentence, clause, or phrase of [this act] is for any reason held unconstitutional, the decision does not affect the validity of the remaining portions of [this act].

Section 4. Appropriation control. An appropriation item designated "Biennial" may be spent in either year of the biennium. An appropriation item

designated "Restricted" may be used during the biennium only for the purpose designated by its title and as presented to the legislature. An appropriation item designated "One Time Only" or "OTO" may not be included in the present law base for the 2011 biennium. The office of budget and program planning shall establish a separate appropriation on the statewide accounting, budgeting, and human resource system for any item designated "Biennial", "Restricted", "One Time Only", or "OTO". The office of budget and program planning shall establish at least one appropriation on the statewide accounting, budgeting, and human resource system for any appropriation that appears as a separate line item in [this act].

Section 5. Program definition. As used in [this act], "program" has the same meaning as defined in 17-7-102, is consistent with the management and accountability structure established on the statewide accounting, budgeting, and human resource system, and is identified as a major subdivision of an agency ordinally numbered with an Arabic numeral.

Section 6. Personal services funding — 2011 biennium. (1) Except as provided in subsection (2), present law and new proposal funding budget requests for the 2011 biennium submitted under Title 17, chapter 7, part 1, by each executive, judicial, and legislative branch agency must include funding of first level personal services separate from funding of other expenditures. The funding of first level personal services by accounting entity or equivalent for each fiscal year must be shown at the fourth reporting level or equivalent in the budget request for the 2011 biennium submitted by October 30 to the legislative fiscal analyst by the office of budget and program planning.

(2) The provisions of subsection (1) do not apply to the Montana university system.

Section 7. Totals not appropriations. The totals shown in [this act] are for informational purposes only and are not appropriations.

Section 8. Effective date. [This act] is effective July 1, 2007.

Section 9. Appropriations. The following money is appropriated for the respective fiscal years:

Fiscal 2008						Fiscal 2009					
General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total
A. GENERAL GOVERNMENT AND TRANSPORTATION											
LEGISLATIVE BRANCH (1104)											
1. Legislative Services (20) (Biennial)											
5,425,156	864,666	0	0	0	6,289,822	5,696,835	337,059	0	0	0	6,033,894
a. Technology Allowance for Legislators (Biennial)											
75,000	0	0	0	0	75,000	0	0	0	0	0	0
b. TVMT (Restricted/Biennial/OTO)											
200,000	0	0	0	0	200,000	0	0	0	0	0	0
2. Legislative Committees and Activities (21) (Biennial)											
610,825	0	0	0	0	610,825	383,648	0	0	0	0	383,648
a. Interim Study on Mental Health (Biennial/OTO)											
200,000	0	0	0	0	200,000	0	0	0	0	0	0
3. Fiscal Analysis and Review (27) (Biennial)											
1,461,210	0	0	0	0	1,461,210	1,506,824	0	0	0	0	1,506,824
a. Government Performance Training (Restricted/Biennial/OTO)											
18,900	0	0	0	0	18,900	0	0	0	0	0	0
4. Audit and Examination (28) (Biennial)											
2,169,731	1,650,570	0	0	0	3,820,301	2,249,562	1,579,822	0	0	0	3,829,384
Total											
10,160,822	2,515,236	0	0	0	12,676,058	9,836,869	1,916,881	0	0	0	11,753,750
CONSUMER COUNSEL (1112)											
1. Administration Program (01)											
0	1,236,461	0	0	0	1,236,461	0	1,250,977	0	0	0	1,250,977
a. Contingency Reserve (Restricted)											
0	250,000	0	0	0	250,000	0	250,000	0	0	0	250,000

	Fiscal 2008					Fiscal 2009					
General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total
Total											
0	1,486,461	0	0	0	1,486,461	0	1,500,977	0	0	0	1,500,977
JUDICIARY (2110)											
1. Supreme Court Operations (01)											
7,792,574	110,042	125,380	0	0	8,027,996	7,902,444	110,042	125,879	0	0	8,138,365
a. Legislative Audit (Restricted/Biennial)											
44,288	0	0	0	0	44,288	0	0	0	0	0	0
b. Drug Treatment Courts (Restricted/Biennial)											
597,500	0	0	0	0	597,500	747,500	0	0	0	0	747,500
~~c. Report on Progress Toward Measurable Goals and Objectives (Restricted/OTO)~~											
~~2,500~~	~~0~~	~~0~~	~~0~~	~~0~~	~~2,500~~	~~2,500~~	~~0~~	~~0~~	~~0~~	~~0~~	~~2,500~~
d. Self-Help Law Program (Restricted/Biennial/OTO)											
252,500	0	0	0	0	252,500	252,500	0	0	0	0	252,500
2. Boards and Commissions (02)											
254,673	25,006	0	0	0	279,679	255,080	25,006	0	0	0	280,086
a. Judicial Standards (Restricted/Biennial)											
25,000	0	0	0	0	25,000	0	0	0	0	0	0
3. Law Library (03)											
846,721	0	0	0	0	846,721	870,328	0	0	0	0	870,328
4. District Court Operations (04)											
22,917,999	253,447	0	0	0	23,171,446	23,052,167	253,447	0	0	0	23,305,614
a. District Court Safety and Security (OTO)											
300,000	0	0	0	0	300,000	0	0	0	0	0	0
5. Water Courts Supervision (05)											
0	1,383,541	0	0	0	1,383,541	0	1,386,782	0	0	0	1,386,782
6. Clerk of Court (06)											

Fiscal 2008						Fiscal 2009					
General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total
417,922	0	0	0	0	417,922	419,705	0	0	0	0	419,705
Total											
33,451,677	1,772,036	125,380	0	0	35,349,093	33,502,224	1,775,277	125,879	0	0	35,403,380

Funds in Drug Treatment Courts may be used only to provide grants to drug treatment courts and for up to one full-time administrator, ongoing review of the operations of drug treatment courts, and the development of policies necessary to administer the provision of grants to drug treatment courts. ~~Funding includes $2,500 a year for the preparation of reports to the legislative finance committee on the program's measurable goals and objectives and achievement of those goals and objectives. If reports are not received by the legislative finance committee by December 31, 2007, and June 30, 2008, the fiscal year 2009 appropriation is reduced by $2,500.~~

~~Report on Progress Toward Measurable Goals and Objectives is funding for a semiannual report to the legislative finance committee of the following:~~

~~(1) progress toward the goals presented to the 2007 legislature in the agency's template; and~~

~~(2) attainment of measurable objectives as outlined in the agency's template presented to the 2007 legislature.~~

~~If the reports are not received by the legislative finance committee by December 31, 2007, and June 30, 2008, the fiscal year 2009 appropriation is void.~~

Funds in Self-Help Law Program may be used only to provide and support the development, maintenance, and availability of self-help legal forms and instructions regarding civil legal proceedings in Montana's courts; the development of curriculum and materials suitable for classes and clinics about civil legal proceedings and forms; the development, updating, and provision of information and training materials for judges, clerks of court, other court officers, judicial branch employees, and volunteers about self-help legal resources and how to assist self-represented litigants in a manner that is impartial, facilitates effective and efficient court operations, and does not constitute providing direct legal representation; the establishment and maintenance of multimedia materials that provide information about Montana's civil laws, courts, rules, legal forms, and available legal resources; coordination, recruitment, and training of volunteer attorneys to provide legal advice and direct legal representation to persons with civil legal needs who are unable to pay for those services; and coordination and cooperation with other access to justice efforts.

GOVERNOR'S OFFICE (3101)

1. Executive Office Program (01)

2,188,748	0	0	0	0	2,188,748	2,201,741	0	0	0	0	2,201,741

a. Marketing Montana and Business Recruitment (Biennial)

300,000	0	0	0	0	300,000	300,000	0	0	0	0	300,000

~~b. Agency's Goals and Objectives Reporting (Restricted)~~

Fiscal 2008						Fiscal 2009					
General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total
~~2,500~~	~~0~~	~~0~~	~~0~~	~~0~~	~~2,500~~	~~2,500~~	~~0~~	~~0~~	~~0~~	~~0~~	~~2,500~~
2. Executive Residence Operations (02)											
94,461	0	0	0	0	94,461	95,191	0	0	0	0	95,191
a. Reauthorize Governor's Residence (OTO)											
25,000	0	0	0	0	25,000	25,000	0	0	0	0	25,000
3. Air Transportation Program (03)											
289,072	6,800	0	0	0	295,872	289,557	6,800	0	0	0	296,357
a. Aircraft Engine Purchase (Restricted/OTO)											
0	0	0	0	0	0	630,000	0	0	0	0	630,000
4. Office of Budget and Program Planning (04)											
1,525,167	0	0	0	0	1,525,167	1,546,586	0	0	0	0	1,546,586
a. Legislative Audit (Restricted/Biennial)											
15,817	0	0	0	0	15,817	0	0	0	0	0	0
5. Indian Affairs (05)											
152,006	0	0	0	0	152,006	152,528	0	0	0	0	152,528
6. Centralized Services (06)											
269,271	0	0	0	0	269,271	270,148	0	0	0	0	270,148
a. Legislative Audit (Restricted/Biennial)											
34,798	0	0	0	0	34,798	0	0	0	0	0	0
b. Computer Replacement (Restricted/OTO)											
17,100	0	0	0	0	17,100	35,800	0	0	0	0	35,800
7. Lieutenant Governor (12)											
322,088	0	0	0	0	322,088	323,579	0	0	0	0	323,579
8. Citizens' Advocate Office (16)											
68,675	21,000	0	0	0	89,675	68,844	21,000	0	0	0	89,844
9. Mental Disabilities Board of Visitors (20)											
352,452	0	0	0	0	352,452	354,074	0	0	0	0	354,074

	Fiscal 2008						Fiscal 2009				
General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total
Total											
5,657,155	27,800	0	0	0	5,684,955	6,295,548	27,800	0	0	0	6,323,348

~~Agency's Goals and Objectives Reporting provides funding for a report to the legislative finance committee relevant to:~~

~~(1) progress from July 1, 2007, through May 1, 2008, toward the goals of creating 1,160 new jobs over the 2009 biennium, 12 out-of-state visitations each year, 2 overseas visits each year, and creating 3 Montana ambassador satellite units each year through the marketing Montana and business recruitment program;~~

~~(2) progress from July 1, 2007, through May 1, 2008, toward the goal of achieving 30% more businesses operating in Montana in each of the cluster areas, including life sciences, information technology, creative enterprise, aerospace, agri-food, and wood-based products, through the office of economic development;~~

~~(3) progress from July 1, 2007, through May 1, 2008, toward the goals of meeting once each month with each of the seven recognized tribal governments in Montana, identifying issues for legislative consideration in the 2009 session, such as unemployment and dropout rates for Native Americans, and endeavoring to resolve the class III gaming dispute with affected tribal governments by June 30, 2009, through the coordinator of Indian affairs.~~

~~If the reports are not received by the legislative finance committee by June 30, 2008, the fiscal year 2009 appropriation is void.~~

SECRETARY OF STATE (3201)

1. Business and Government Services (01)

a. Help America Vote Act (Restricted/Biennial/OTO)

0	0	1,040,000	0	0	1,040,000	0	0	0	0	0	0
Total											
0	0	1,040,000	0	0	1,040,000	0	0	0	0	0	0

COMMISSIONER OF POLITICAL PRACTICES (3202)

1. Administration (01)

341,548	0	0	0	0	341,548	343,411	0	0	0	0	343,411

a. Legislative Audit (Restricted/Biennial)

6,960	0	0	0	0	6,960	0	0	0	0	0	0

b. Online Lobbyist and Candidate Registration and Filing (Restricted/Biennial/OTO)

Fiscal 2008						Fiscal 2009					
General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total
123,338	0	0	0	0	123,338	46,575	0	0	0	0	46,575
c. Campaign Violation Investigator Reporting (Restricted)											
58,852	0	0	0	0	58,852	59,199	0	0	0	0	59,199
d. Additional Legal Costs (OTO)											
77,500	0	0	0	0	77,500	77,500	0	0	0	0	77,500
e. Constituent Services Account											
5,300	0	0	0	0	5,300	21,000	0	0	0	0	21,000
f. Broadcast Campaign Advertising Material and Affidavit											
4,400	0	0	0	0	4,400	0	0	0	0	0	0
Total											
617,898	0	0	0	0	617,898	547,685	0	0	0	0	547,685

~~Online Lobbyist and Candidate Registration and Filing includes $100 in general fund money in each fiscal year for an annual report to the legislative finance committee for the following:~~

~~(1) progress toward the goals of easy-to-use electronic filing for candidates, committees, lobbyists, and principals, providing a convenient method for the public to access this data, and reduction of errors in the reports filed with the commissioner of political practices from July 1, 2007, through May 1, 2008; and~~

~~(2) attainment of the performance criteria as outlined in the project charter and timeline presented to the joint appropriations subcommittee on general government and transportation from July 1, 2007, through May 1, 2008.~~

~~If the report is not received by the legislative finance committee by June 30, 2008, the fiscal year 2009 general fund appropriation is reduced by $100.~~

Constituent Services Account funding is contingent upon passage and approval of House Bill No. 462 of the 2007 regular session.

OFFICE OF THE STATE AUDITOR (3401)

1. Central Management (01)											
0	636,773	0	0	0	636,773	0	640,132	0	0	0	640,132
a. Legislative Audit (Restricted/Biennial)											
0	6,580	0	0	0	6,580	0	0	0	0	0	0

	Fiscal 2008						Fiscal 2009					
General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total
~~b. Agency's Goals and Objectives Reporting (Restricted)~~											
~~2,500~~	~~0~~	~~0~~	~~0~~	~~0~~	~~2,500~~	~~2,500~~	~~0~~	~~0~~	~~0~~	~~0~~	~~2,500~~
2. Insurance Program (03)											
0	3,241,591	0	0	0	3,241,591	0	3,258,747	0	0	0	3,258,747
a. Legislative Audit (Restricted/Biennial)											
0	27,553	0	0	0	27,553	0	0	0	0	0	0
b. Insurance Contract Examinations (Restricted)											
0	334,995	0	0	0	334,995	0	357,330	0	0	0	357,330
c. Insure Montana (Reporting)											
0	10,921,329	0	0	0	10,921,329	0	10,924,619	0	0	0	10,924,619
d. Captive Insurance Program (Restricted)											
0	60,300	0	0	0	60,300	0	56,940	0	0	0	56,940
e. MCHA (Restricted)											
0	824,173	0	0	0	824,173	0	925,614	0	0	0	925,614
3. Securities (04)											
0	725,683	0	0	0	725,683	0	729,037	0	0	0	729,037
a. Legislative Audit (Restricted/Biennial)											
0	6,991	0	0	0	6,991	0	0	0	0	0	0
b. Securities Contract Examinations (Restricted)											
0	80,000	0	0	0	80,000	0	80,500	0	0	0	80,500
Total											
2,500	16,865,968	0	0	0	16,868,468	2,500	16,972,919	0	0	0	16,975,419

~~Agency's Goals and Objectives Reporting provides funding for a report to the legislative finance committee relevant to goals presented to the appropriations subcommittee on general government and transportation of the 2007 legislature in the agency's and programs' templates and the decision package narratives presented in the legislative budget analysis 2009 biennium for present law decision package 5. The report must address the following:~~

~~(1) progress toward the goals; and~~

	Fiscal 2008						Fiscal 2009					
General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total
~~(2) measurable objectives that will be used to measure the goals.~~											

~~If the reports are not received by the legislative finance committee by August 15, 2007, and June 30, 2008, the fiscal year 2009 appropriation is void.~~

Captive Insurance Program funding may be used only when the number of captive insurance companies registered with the office of the state auditor reaches 30.

DEPARTMENT OF TRANSPORTATION (5401)

1. General Operations Program (01) (Biennial)												
0	21,586,371	1,595,405	0	0	23,181,776	0	22,354,124	1,595,442	0	0	23,949,566
a. Legislative Audit (Restricted/Biennial)												
0	145,517	0	0	0	145,517	0	0	0	0	0	0
b. Software Upgrade (OTO)												
0	51,000	0	0	0	51,000	0	0	0	0	0	0
c. Surface Transportation Litigation (Restricted/Biennial/OTO)												
3,000,000	0	0	0	0	3,000,000	0	0	0	0	0	0
d. ACS Contract (Restricted)												
0	234,449	0	0	0	234,449	0	256,151	0	0	0	256,151
~~e. Agency's Goals and Objectives Reporting (Restricted)~~												
~~2,500~~	~~0~~	~~0~~	~~0~~	~~0~~	~~2,500~~	~~2,500~~	~~0~~	~~0~~	~~0~~	~~0~~	~~2,500~~
2. Construction Program (02) (Biennial)												
0	88,609,834	271,116,523	0	0	359,726,357	0	83,112,488	278,076,978	0	0	361,189,466
3. Maintenance Program (03) (Biennial)												
0	100,141,928	7,342,830	0	0	107,484,758	0	99,899,592	7,342,830	0	0	107,242,422
a. House Bill No. 531 (OTO)												
0	25,342	0	0	0	25,342	0	0	0	0	0	0
4. Motor Carrier Services Division (22)												
0	6,763,340	1,661,058	0	0	8,424,398	0	6,781,670	2,641,182	0	0	9,422,852
a. House Bill No. 556 (Biennial/OTO)												

	Fiscal 2008						Fiscal 2009				
General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total
0	20,000	0	0	0	20,000	0	0	0	0	0	0
5. Aeronautics Program (40)											
0	1,120,988	1,706,951	0	0	2,827,939	0	877,685	34,229	0	0	911,914
a. Aeronautics Grants (Biennial)											
0	800,000	0	0	0	800,000	0	0	0	0	0	0
b. Airport Pavement Preservation (Biennial)											
0	250,000	0	0	0	250,000	0	0	0	0	0	0
c. Lincoln Airport Development (Biennial)											
0	14,994	300,006	0	0	315,000	0	0	0	0	0	0
d. Airport/Aeronautics Loans (Biennial)											
0	400,000	0	0	0	400,000	0	400,000	0	0	0	400,000
6. Transportation Planning Division (50) (Biennial)											
0	6,699,712	19,518,868	0	0	26,218,580	0	6,948,872	19,997,462	0	0	26,946,334
a. Highway Traffic Safety Section 408 (OTO)											
0	208,040	791,673	0	0	999,713	0	208,055	791,728	0	0	999,783
Total											
3,002,500	227,071,515	304,033,314	0	0	534,107,329	2,500	220,838,637	310,479,851	0	0	531,320,988

~~Agency's Goals and Objectives Reporting provides funding for a report to the legislative finance committee relevant to goals and objectives presented to the appropriations subcommittee on general government and transportation of the 2007 legislature in the agency's and programs' templates and the decision package narratives presented in the legislative budget analysis 2009 biennium for present law decision package 1503 and new proposal decision packages 2204, 5001, and 5004. The report must address the following:~~

~~(1) progress toward the goals; and~~

~~(2) attainment of measurable objectives.~~

~~If the report is not received by June 30, 2008, $2,500 of general fund money in fiscal year 2009 for Agency's Goals and Objectives Reporting is void.~~

Fiscal 2008						Fiscal 2009					
General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total

The department may adjust appropriations in the general operations, construction, maintenance, and transportation planning programs between state special revenue and federal special revenue funds if the total state special revenue authority for these programs is not increased by more than 10% of the total appropriations established by the legislature for each program.

All federal special revenue appropriations in the department are biennial.

All state special revenue appropriations in the general operations, construction, maintenance, and transportation planning programs are biennial.

All remaining federal pass-through grant appropriations for highway traffic safety, including reversions, for the 2007 biennium are authorized to continue and are appropriated in fiscal year 2008 and fiscal year 2009.

DEPARTMENT OF REVENUE (5801)

1. Director's Office (01)											
4,652,529	85,287	200	143,435	0	4,881,451	4,396,278	81,486	0	139,611	0	4,617,375
a. Legislative Audit (Restricted/Biennial)											
182,878	0	600	0	0	183,478	0	0	0	0	0	0
b. Compliance — Legal (OTO)											
23,550	0	0	0	0	23,550	0	0	0	0	0	0
c. Fulfill Statutory Responsibilities (OTO)											
300,000	0	0	0	0	300,000	0	0	0	0	0	0
d. House Bill No. 680											
136,245	0	0	0	0	136,245	136,372	0	0	0	0	136,372
e. House Bill No. 680 One-Time Costs (OTO)											
7,850	0	0	0	0	7,850	0	0	0	0	0	0
2. Information Technology and Processing (02)											
11,749,483	229,522	132,000	95,621	0	12,206,626	11,825,747	231,295	132,000	95,621	0	12,284,663
a. Senate Bill No. 439											
6,085	0	0	0	0	6,085	3,585	0	0	0	0	3,585
b. Senate Bill No. 439 One-Time Costs (OTO)											

Fiscal 2008						Fiscal 2009					
General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total
300,000	0	0	0	0	300,000	0	0	0	0	0	0
c. Tax Administration (OTO)											
2,000,000	0	0	0	0	2,000,000	2,000,000	0	0	0	0	2,000,000
3. Liquor Control Division (03)											
0	0	0	1,776,746	0	1,776,746	0	0	0	1,779,709	0	1,779,709
a. Liquor System Reforms											
0	0	0	100,040	0	100,040	0	0	0	87,361	0	87,361
b. Senate Bill No. 296											
0	0	0	34,436	0	34,436	0	0	0	28,384	0	28,384
4. Citizen Services and Resource Management (05)											
1,685,667	106,785	0	44,133	0	1,836,585	1,690,615	108,585	0	44,133	0	1,843,333
a. Citizen Services (Restricted)											
121,380	0	0	0	0	121,380	121,380	0	0	0	0	121,380
5. Business and Income Taxes Division (07)											
9,608,750	399,871	272,017	0	0	10,280,638	9,702,219	395,458	272,017	0	0	10,369,694
a. House Bill No. 680											
38,951	0	0	0	0	38,951	38,982	0	0	0	0	38,982
b. House Bill No. 680 One-Time Costs (OTO)											
3,925	0	0	0	0	3,925	0	0	0	0	0	0
c. Senate Bill No. 439											
125,245	0	0	0	0	125,245	126,141	0	0	0	0	126,141
d. Senate Bill No. 439 One-Time Costs (OTO)											
11,800	0	0	0	0	11,800	0	0	0	0	0	0
6. Property Assessment Division (08)											
18,061,932	50,000	0	0	0	18,111,932	18,175,259	50,000	0	0	0	18,225,259
a. Maintain Parcel Count Caseload (OTO)											
52,333	0	0	0	0	52,333	0	0	0	0	0	0

	Fiscal 2008						Fiscal 2009				
General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total
b. Reappraisal GIS Staff (OTO)											
210,280	0	0	0	0	210,280	104,250	0	0	0	0	104,250
Total											
49,278,883	871,465	404,817	2,194,411	0	52,749,576	48,320,828	866,824	404,017	2,174,819	0	51,766,488

~~Fulfill Statutory Responsibilities includes funding for a report to the legislative finance committee relevant to goals and objectives presented to the appropriations subcommittee on general government and transportation of the 2007 legislature in the agency's and programs' templates and the decision package narratives presented in the legislative budget analysis 2009 biennium for present law decision packages 201, 701, 802, 1011, 7013, 7019, and 8012 and new proposal decision package 301. The report must address the following:~~

~~(1) progress toward the goals; and~~

~~(2) attainment of measurable objectives.~~

~~If the report is not received by June 30, 2008, Fulfill Statutory Responsibilities is reduced by $5,000 in general fund money in fiscal year 2009.~~

If Senate Bill No. 439 of the 2007 regular session is not passed and approved, Senate Bill No. 439 and Senate Bill No. 439 One-Time Costs are void.

Liquor System Reforms is contingent upon passage and approval of Senate Bill No. 127 of the 2007 regular session.

Liquor control division proprietary funds necessary to maintain adequate inventories, pay freight charges, and transfer profit and taxes to appropriate accounts are appropriated from the liquor enterprise fund (06005) to the department in amounts not to exceed $103 million in fiscal year 2008 and $112 million in fiscal year 2009.

If the department is unable to meet statutory service levels because of the increase in demand for liquor products, the department may hire additional temporary employees or pay overtime, whichever is determined to be the most cost-effective, to maintain required service levels to stores. In fiscal year 2008 and in fiscal year 2009, the department is appropriated not more than $40,000 each year for additional costs from the liquor enterprise fund (06005) to meet the service level requirements.

In the liquor division, upon a termination that requires a payout of accrued leave balances, liquor control division proprietary funds are appropriated from the liquor enterprise fund (06005) to the department in the amount equal to the payout of the accrued leave balances, not to exceed $40,000 for each of fiscal years 2008 and 2009.

Fiscal 2008						Fiscal 2009					
General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total
DEPARTMENT OF ADMINISTRATION (6101)											
1. Governor-Elect Program (02)											
0	0	0	0	0	0	50,000	0	0	0	0	50,000
2. Administrative Financial Services Division (03)											
1,676,909	1,587	87,293	49,620	0	1,815,409	1,685,718	1,587	87,333	49,669	0	1,824,307
a. Legislative Audit (Restricted/Biennial)											
41,676	0	0	0	0	41,676	0	0	0	0	0	0
b. Laptop Computer Replacement (OTO)											
10,000	0	0	0	0	10,000	0	0	0	0	0	0
c. SABHRS Licensing Costs (OTO)											
800,000	0	0	0	0	800,000	0	0	0	0	0	0
~~d. Agency's Goals and Objectives Reporting (Restricted)~~											
~~2,500~~	~~0~~	~~0~~	~~0~~	~~0~~	~~2,500~~	~~2,500~~	~~0~~	~~0~~	~~0~~	~~0~~	~~2,500~~
3. Architecture and Engineering Program (04)											
0	1,701,735	0	0	0	1,701,735	0	1,711,729	0	0	0	1,711,729
a. Legislative Audit (Restricted/Biennial)											
0	1,500	0	0	0	1,500	0	0	0	0	0	0
4. General Services Program (06)											
2,462,688	66,794	0	0	0	2,529,482	2,557,916	66,925	0	0	0	2,624,841
a. Senate Bill No. 4											
0	29,978	0	0	0	29,978	0	30,009	0	0	0	30,009
5. Information Technology Services Division (07)											
643,375	1,383,562	0	0	0	2,026,937	642,216	1,379,403	0	0	0	2,021,619
a. Geographic Coordinate Database (Biennial)											
0	0	800,000	0	0	800,000	0	0	0	0	0	0
b. Supercomputer Center Study (Biennial/OTO)											
275,000	0	0	0	0	275,000	0	0	0	0	0	0

	Fiscal 2008					Fiscal 2009				
General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total
c. House Bill No. 27											
82,222	0	0	0	0	82,222	79,447	0	0	0	0	79,447
6. Banking and Financial Division (14)											
0	3,237,384	0	0	0	3,237,384	0	3,309,917	0	0	0	3,309,917
a. Legislative Audit (Restricted/Biennial)											
0	3,297	0	0	0	3,297	0	0	0	0	0	0
b. License Mortgage Lenders											
0	202,885	0	0	0	202,885	0	271,137	0	0	0	271,137
7. Montana State Lottery (15)											
0	0	0	7,472,170	0	7,472,170	0	0	0	7,483,259	0	7,483,259
a. Legislative Audit (Restricted/Biennial)											
0	0	0	102,223	0	102,223	0	0	0	0	0	0
8. Health Care and Benefits Division (21)											
0	41,349	0	0	0	41,349	0	43,115	0	0	0	43,115
a. Workers' Compensation Cost Containment (Restricted/OTO)											
387,690	0	0	0	0	387,690	379,679	0	0	0	0	379,679
9. State Personnel Division (23)											
1,024,538	0	0	0	0	1,024,538	1,030,802	0	0	0	0	1,030,802
10. State Tax Appeal Board (37)											
393,386	0	0	0	0	393,386	395,839	0	0	0	0	395,839
Total											
7,799,984	6,670,071	887,293	7,624,013	0	22,981,361	6,824,117	6,813,822	87,333	7,532,928	0	21,258,200

~~Agency's Goals and Objectives Reporting provides funding for a report to the legislative finance committee relevant to goals and objectives presented to the appropriations subcommittee on general government and transportation of the 2007 legislature in the agency's and programs' templates. The report must address the following:~~

~~(1) progress toward the goals; and~~

	Fiscal 2008						Fiscal 2009				
General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total

~~(2) attainment of measurable objectives.~~

~~If the report is not received by June 30, 2008, $2,500 of general fund money in fiscal year 2009 for Agency's Goals and Objectives Reporting is void.~~

If Senate Bill No. 4 of the 2007 regular session is not passed and approved, Senate Bill No. 4 is void.

The department is appropriated up to $500,000 of state special revenue each year of the biennium to assist agencies in reducing workers' compensation injuries and costs. These funds may not be expended for activities that duplicate other agency expenditures or programs.

MONTANA CONSENSUS COUNCIL (6106)

1. Montana Consensus Council (01)											
75,632	116,071	0	0	0	191,703	76,507	116,646	0	0	0	193,153
a. Legislative Audit (Restricted/Biennial)											
0	376	0	0	0	376	0	0	0	0	0	0
~~b. Agency's Goals and Objectives Reporting (Restricted)~~											
~~2,500~~	~~0~~	~~0~~	~~0~~	~~0~~	~~2,500~~	~~2,500~~	~~0~~	~~0~~	~~0~~	~~0~~	~~2,500~~
Total											
78,132	116,447	0	0	0	194,579	79,007	116,646	0	0	0	195,653

~~Agency's Goals and Objectives Reporting provides funding for a report to the legislative finance committee relevant to goals and objectives presented to the appropriations subcommittee on general government and transportation of the 2007 legislature in the agency's template. The report must address the following:~~

~~(1) progress toward the goals; and~~

~~(2) attainment of measurable objectives.~~

~~If the report is not received by June 30, 2008, $2,500 of general fund money in fiscal year 2009 for Agency's Goals and Objectives Reporting is void.~~

OFFICE OF STATE PUBLIC DEFENDER (6108)

1. Office of State Public Defender (01)

Fiscal 2008						Fiscal 2009					
General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total
18,121,225	75,000	0	0	0	18,196,225	18,023,670	75,000	0	0	0	18,098,670
a. SB 547 — Sexual Offender Caseload											
45,600	0	0	0	0	45,600	45,600	0	0	0	0	45,600
b. SB 104 — Extend Statute of Limitations Certain Sex Crimes Caseload											
141,000	0	0	0	0	141,000	141,000	0	0	0	0	141,000
c. HB 629 — Mediation for Criminal Proceedings											
30,000	0	0	0	0	30,000	30,000	0	0	0	0	30,000
d. Caseload Transition (Restricted/Biennial/OTO)											
500,000	0	0	0	0	500,000	500,000	0	0	0	0	500,000
2. Office of Appellate Defender (02)											
574,400	0	0	0	0	574,400	575,454	0	0	0	0	575,454
Total											
19,412,225	75,000	0	0	0	19,487,225	19,315,724	75,000	0	0	0	19,390,724
TOTAL SECTION A											
129,461,776	257,471,999	306,490,804	9,818,424	0	703,243,003	124,727,002	250,904,783	311,097,080	9,707,747	0	696,436,612

General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total
		Fiscal 2008						Fiscal 2009			

B. HEALTH AND HUMAN SERVICES

DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES (6901)

1. Human and Community Services Division (02)											
27,471,115	1,396,131	190,961,616	0	0	219,828,862	27,533,235	1,400,969	200,229,161	0	0	229,163,365
a. Energy Assistance/Conservation (Biennial/OTO)											
0	0	1,600,000	0	0	1,600,000	0	0	0	0	0	0
b. Tri-State Housing Grant (Biennial)											
0	0	966,000	0	0	966,000	0	0	0	0	0	0
c. Child Care for Working Caretaker Relative (Restricted/OTO)											
0	0	683,784	0	0	683,784	0	0	683,784	0	0	683,784
d. Work Training Program (Restricted)											
0	0	504,436	0	0	504,436	0	0	504,436	0	0	504,436
e. Human and Community Services Division/Reporting											
216,581	0	307,656	0	0	524,237	263,227	0	262,072	0	0	525,299
f. Ombudsman Funding — Warm Hearts/Homes (Restricted/OTO)											
300,000	0	0	0	0	300,000	300,000	0	0	0	0	300,000
g. Low-Income Energy Assistance (Biennial/OTO)											
1,000,000	0	0	0	0	1,000,000	0	0	0	0	0	0
h. Child Care FPI, Market Rate, Caseload											
1,741,650	0	0	0	0	1,741,650	2,428,000	0	0	0	0	2,428,000
2. Child and Family Services Division (03)											
26,020,218	2,421,218	28,117,261	0	0	56,558,697	27,608,616	2,421,269	29,311,493	0	0	59,341,378
a. CFSD Overtime (Restricted)											
124,021	0	82,838	0	0	206,859	124,021	0	82,838	0	0	206,859
b. Replacement of Computers and Equipment (Restricted)											
52,273	0	34,848	0	0	87,121	52,273	0	34,848	0	0	87,121
c. Mental Health Case Management Increase (Restricted/OTO)											

Fiscal 2008						Fiscal 2009					
General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total
187,500	0	62,500	0	0	250,000	187,500	0	62,500	0	0	250,000
d. Federal Law Change for Kin Care Providers (Restricted)											
86,000	0	0	0	0	86,000	86,000	0	0	0	0	86,000
e. Additional Field Staff/Report											
447,161	0	298,107	0	0	745,268	588,433	0	392,288	0	0	980,721
f. Targeted Case Management Federal Law Change (Restricted/OTO)											
1,800,000	0	0	0	0	1,800,000	1,800,000	0	0	0	0	1,800,000
g. Therapeutic Group Homes/Family Foster Care (Restricted)											
300,000	0	0	0	0	300,000	300,000	0	0	0	0	300,000
h. Child and Family Services/Reporting											
1,907,931	0	419,306	0	0	2,327,237	1,916,106	0	421,081	0	0	2,337,187
i. Direct Care Worker Wage Increase (Restricted)											
314,937	0	134,974	0	0	449,911	314,937	0	134,974	0	0	449,911
j. Provider Rate Increase (Restricted)											
199,153	0	175,956	0	0	375,109	556,300	0	368,627	0	0	924,927
3. Director's Office (04)											
2,676,136	256,542	6,192,940	0	0	9,125,618	2,681,679	257,088	6,201,063	0	0	9,139,830
a. Administration/Reporting											
191,881	56,701	243,859	0	0	492,441	196,820	58,160	250,137	0	0	505,117
b. Health Insurance Flexibility Accountability Waiver											
0	0	15,027,480	0	0	15,027,480	0	0	15,027,554	0	0	15,027,554
c. MMIS & MH Systems Analysis (Restricted/Biennial/OTO)											
200,000	0	600,000	0	0	800,000	0	0	0	0	0	0
4. Child Support Enforcement Division (05)											
1,545,664	1,602,945	4,491,239	0	0	7,639,848	1,553,250	1,606,036	3,978,142	0	0	7,137,428
a. Child Support Enforcement Rent Increase (Restricted)											
37,686	0	73,156	0	0	110,842	40,879	0	79,353	0	0	120,232

	Fiscal 2008						Fiscal 2009					
General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total
b. Child Support Deficit Reduction Act (Restricted/OTO)											
1,620,765	0	0	0	0	1,620,765	2,154,589	0	0	0	0	2,154,589
c. Child Support Enforcement DRA Fee (Restricted)											
187,025	0	0	0	0	187,025	187,025	0	0	0	0	187,025
d. Child Support Enforcement/Reporting											
158,108	124,822	549,216	0	0	832,146	158,717	125,303	551,334	0	0	835,354
5. Business and Financial Services Division (06)											
2,597,297	907,864	3,338,931	0	0	6,844,092	2,577,985	906,007	3,302,130	0	0	6,786,122
a. Legislative Audit (Restricted/Biennial)											
140,107	7,873	168,362	0	0	316,342	0	0	0	0	0	0
b. Business and Financial Services/Reporting											
1,022,403	0	943,976	0	0	1,966,379	1,025,730	0	947,050	0	0	1,972,780
6. Public Health and Safety Division (07)											
2,160,101	12,362,673	31,352,459	0	0	45,875,233	2,088,724	12,400,190	31,382,999	0	0	45,871,913
a. WIC IT Purchase and Modification System (Biennial/OTO)											
290,000	0	0	0	0	290,000	0	0	0	0	0	0
b. Lab Equipment Replacement and Maintenance (Biennial/OTO)											
45,000	100,000	0	0	0	145,000	45,000	100,000	0	0	0	145,000
c. Newborn Screening Followup Program (Restricted)											
0	129,522	37,410	0	0	166,932	0	290,000	74,710	0	0	364,710
d. Tobacco Prevention Activities (Restricted)											
0	630,000	0	0	0	630,000	0	630,000	0	0	0	630,000
e. Division Administration/Reporting											
202,946	261,889	797,913	0	0	1,262,748	203,849	263,055	801,507	0	0	1,268,411
f. FCSS Spending Authority for Pool Inspections											
0	60,000	0	0	0	60,000	0	60,000	0	0	0	60,000
g. Chronic Disease Program (Restricted)											

Fiscal 2008						Fiscal 2009					
General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total
0	2,700,000	0	0	0	2,700,000	0	2,700,000	0	0	0	2,700,000
h. Public Health Emergency Preparedness											
0	0	9,997,550	0	0	9,997,550	0	0	10,004,991	0	0	10,004,991
i. Youth Suicide Prevention Program											
0	0	400,000	0	0	400,000	0	0	400,000	0	0	400,000
j. Family Planning Services (Restricted/OTO)											
536,523	0	0	0	0	536,523	536,523	0	0	0	0	536,523
k. Genetics Program Funding											
0	279,616	0	0	0	279,616	0	288,004	0	0	0	288,004
l. Additional Genetic Program Funding (Restricted)											
0	200,000	0	0	0	200,000	0	200,000	0	0	0	200,000
m. HPV Vaccine (Restricted/OTO)											
0	0	0	0	0	0	0	400,000	0	0	0	400,000
n. Grants to County Health Boards in Counties With Proliferation of Tremolite Asbestos-Related Diseases (Restricted/Biennial/OTO)											
750,000	0	0	0	0	750,000	750,000	0	0	0	0	750,000
o. Asbestos-Related Diseases Administration (Restricted/OTO)											
41,729	0	0	0	0	41,729	33,199	0	0	0	0	33,199
7. Quality Assurance Division (08)											
2,177,435	99,474	5,556,277	0	0	7,833,186	2,190,938	99,985	5,578,130	0	0	7,869,053
a. Additional Lien and Estate Recovery Costs (OTO)											
0	91,540	91,540	0	0	183,080	0	91,540	91,540	0	0	183,080
b. Division Administration/Reporting											
141,500	35,000	0	0	0	176,500	141,630	35,000	0	0	0	176,630
c. PERM (Restricted)											
115,295	0	206,863	0	0	322,158	136,805	0	249,156	0	0	385,961
8. Technology Services Division (09)											
7,300,319	714,202	10,721,453	0	0	18,735,974	7,378,252	720,260	10,802,365	0	0	18,900,877

	Fiscal 2008						Fiscal 2009					
General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total
a. CAPS System Facilities Management Increase (Restricted/OTO)											
61,618	0	48,414	0	0	110,032	61,618	0	48,414	0	0	110,032
b. Ongoing Support for CHIMES (Restricted/Biennial/OTO)											
114,046	0	114,046	0	0	228,092	0	0	0	0	0	0
c. Technology Services Division/Reporting											
47,356	0	66,107	0	0	113,463	47,442	0	66,228	0	0	113,670
9. Disability Services Division (10)											
47,684,186	3,688,590	84,555,565	0	0	135,928,341	48,186,509	4,157,517	85,499,415	0	0	137,843,441
a. MDC Base Adjustments (Biennial)											
440,146	0	0	0	0	440,146	450,299	0	0	0	0	450,299
b. DD Crisis Funding											
120,000	0	0	0	0	120,000	120,000	0	0	0	0	120,000
c. MTAP New Technologies (Restricted/Biennial)											
0	1,065,000	0	0	0	1,065,000	0	0	0	0	0	0
d. Disability Services Division/Reporting											
1,518,215	0	1,880,896	0	0	3,399,111	1,522,962	0	1,886,777	0	0	3,409,739
e. DD Wait List Reduction (Restricted)											
500,000	0	1,093,372	0	0	1,593,372	500,000	0	1,082,278	0	0	1,582,278
f. Direct Care Worker Wage Increase (Restricted)											
1,050,088	0	1,668,390	0	0	2,718,478	1,055,431	0	1,663,047	0	0	2,718,478
g. Provider Rate Increase (Restricted)											
91,422	0	1,916	0	0	93,338	246,847	0	3,866	0	0	250,713
h. VR Tuition Increases											
44,359	0	163,897	0	0	208,256	56,237	0	207,786	0	0	264,023
i. Montana Youth Leadership Forum											
50,000	0	0	0	0	50,000	50,000	0	0	0	0	50,000
j. VR Transition Counselor											

Fiscal 2008						Fiscal 2009					
General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total
55,283	0	0	0	0	55,283	51,884	0	0	0	0	51,884
10. Health Resources Division (11)											
123,698,117	19,947,092	341,190,786	0	0	484,835,995	134,719,465	19,749,092	367,644,813	0	0	522,113,370
a. Health Resources Division Administration/Reporting											
232,550	12,726	281,657	0	0	526,933	234,655	12,841	284,208	0	0	531,704
b. Direct Care Worker Wage Increase (Restricted)											
18,036	300,000	695,142	0	0	1,013,178	19,050	300,000	694,128	0	0	1,013,178
c. Provider Rate Increase (Restricted)											
0	1,620,277	2,100,682	0	0	3,720,959	1,222,681	1,646,566	4,247,683	0	0	7,116,930
d. Hospital Utilization Fee (Restricted)											
0	17,503,843	38,222,192	0	0	55,726,035	0	20,324,595	44,183,150	0	0	64,507,745
e. Family Planning Waiver (OTO)											
348,297	0	2,743,296	0	0	3,091,593	347,669	0	2,742,669	0	0	3,090,338
f. Prescription Drug Discount Program (Restricted)											
0	1,389,441	0	0	0	1,389,441	0	2,037,846	0	0	0	2,037,846
g. Equalize Campus-Based Rates (Restricted)											
23,785	0	69,943	0	0	93,728	54,261	0	159,558	0	0	213,819
h. Raise Physician Reimbursement (Restricted)											
0	0	0	0	0	0	520,306	0	1,522,928	0	0	2,043,234
i. Medicaid Eligibility for Pregnant Women to 150% (Restricted)											
0	943,117	2,061,397	0	0	3,004,514	0	1,216,532	2,646,701	0	0	3,863,233
j. Revise Medically Needy Income Level (Restricted)											
371,647	0	1,092,864	0	0	1,464,511	743,295	0	2,175,611	0	0	2,918,906
k. Big Sky Rx Premium Assistance (Restricted/Biennial)											
0	9,674,920	0	0	0	9,674,920	0	0	0	0	0	0
11. Senior and Long-Term Care Division (22)											
49,716,245	26,362,789	150,312,122	0	0	226,391,156	48,920,555	26,746,393	149,755,971	0	0	225,422,919

	Fiscal 2008						Fiscal 2009					
	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total
a. Senior and Long-Term Care Administration/Reporting												
	156,811	48,394	145,629	0	0	350,834	158,226	48,845	146,942	0	0	354,013
b. County Nursing Home Intergovernmental Transfer (Restricted)												
	0	3,030,598	6,028,599	0	0	9,059,197	0	3,786,730	7,488,860	0	0	11,275,590
c. IGT Offset (Restricted/Biennial)												
	1,189,272	0	0	0	0	1,189,272	1,600,000	0	0	0	0	1,600,000
d. Aging Services (Restricted)												
	371,647	0	0	0	0	371,647	371,647	0	0	0	0	371,647
e. EMVH Resident Bus Replacement (OTO)												
	0	40,000	0	0	0	40,000	0	0	0	0	0	0
f. MVH Facility Upgrades (OTO)												
	0	165,000	0	0	0	165,000	0	165,000	0	0	0	165,000
g. EMVH Fire Alarm System (OTO)												
	0	15,000	0	0	0	15,000	0	0	0	0	0	0
h. MVH Contingency Fund (Restricted)												
	0	250,000	0	0	0	250,000	0	250,000	0	0	0	250,000
i. Direct Care Worker Wage Increase (Restricted)												
	1,152,035	1,330,136	5,425,352	0	0	7,907,523	1,155,706	1,334,373	5,417,444	0	0	7,907,523
j. Provider Rate Increase (Restricted)												
	123,083	1,555,760	3,398,230	0	0	5,077,073	2,012,199	1,578,443	6,867,306	0	0	10,457,948
k. Aging Services (OTO)												
	1,500,000	0	0	0	0	1,500,000	1,500,000	0	0	0	0	1,500,000
l. Resource Facilitation Service — Traumatic Brain Injury (Restricted/OTO)												
	0	0	0	0	0	0	0	100,000	0	0	0	100,000
m. Healthcare for Healthcare Workers (Restricted)												
	0	0	0	0	0	0	814,900	0	1,772,906	0	0	2,587,806
12. Addictive and Mental Disorders Division (33)												

Fiscal 2008						Fiscal 2009					
General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total
51,366,876	8,472,424	46,078,800	0	0	105,918,100	52,864,079	8,575,352	47,747,122	0	0	109,186,553
a. Addictive/Mental Disorders Administration/Reporting											
477,886	169,817	512,013	0	0	1,159,716	484,739	170,487	514,470	0	0	1,169,696
b. Direct Care Worker Wage Increase (Restricted)											
224,964	0	491,711	0	0	716,675	225,681	0	490,994	0	0	716,675
c. Behavioral Health Inpatient Facility (Restricted/OTO)											
0	0	0	0	0	0	3,000,000	0	3,263,417	0	0	6,263,417
d. Mental Health Drop-In Centers (Restricted)											
371,647	0	0	0	0	371,647	371,647	0	0	0	0	371,647
e. Suicide Prevention (Restricted)											
400,000	0	0	0	0	400,000	400,000	0	0	0	0	400,000
f. Services for Mentally Ill Offenders (Restricted)											
371,647	0	0	0	0	371,647	371,647	0	0	0	0	371,647
g. Expand Mental Health Services Plan (Restricted)											
2,601,531	0	0	0	0	2,601,531	2,601,531	0	0	0	0	2,601,531
h. Provider Rate Increase (Restricted)											
160,525	327,689	730,386	0	0	1,218,600	680,487	362,087	1,539,439	0	0	2,582,013
i. Mentally Ill Offender Drugs (Restricted/Biennial/OTO)											
950,000	0	0	0	0	950,000	0	0	0	0	0	0
j. 72-Hour Crisis Eligibility (Restricted)											
1,861,245	0	171,525	0	0	2,032,770	1,860,334	0	172,436	0	0	2,032,770
k. Methamphetamine Treatment (Restricted)											
2,000,000	0	0	0	0	2,000,000	2,000,000	0	0	0	0	2,000,000
l. MHSP Drugs (Biennial)											
0	6,305,210	0	0	0	6,305,210	0	0	0	0	0	0
m. Community Liaison Officers (Restricted)											
0	129,522	0	0	0	129,522	0	145,000	0	0	0	145,000

Fiscal 2008						Fiscal 2009					
General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total
n. Service Area Authority Grants (Restricted)											
115,000	0	0	0	0	115,000	115,000	0	0	0	0	115,000
Total											
377,886,025	128,785,357	1,006,484,835	0	0	1,513,156,217	399,859,231	117,760,565	1,064,146,830	0	0	1,581,766,626

Human and Community Services Division

Funding for Child Care for Working Caretaker Relative may be expended only by the human and community services division for child care assistance for working grandparents or caretaker relatives providing care for children in place of their parents.

Funding for Work Training Program includes $504,436 of TANF block grant funds each year of the biennium. Funds may be expended only by TANF work contractors to support additional employment and training activities, including antipoverty efforts that enhance the work capacity of TANF recipients.

~~Included in Human and Community Services Division/Reporting is $200 in general fund money each year for a semiannual report to the legislative finance committee and the children, families, health, and human services interim committee for the following:~~

~~(1) progress toward the goals presented to the joint appropriations subcommittee on health and human services in the division's final template; and~~

~~(2) attainment of measurable objectives as outlined in the division's final template presented to the joint appropriations subcommittee on health and human services.~~

~~If the reports are not received by the legislative finance committee by December 31, 2007, and June 30, 2008, the fiscal year 2009 general fund appropriation is reduced by $200.~~

Ombudsman Funding—Warm Hearts/Warm Homes may be expended only for activities related to the ombudsman function.

Child and Family Services Division

Funding for CFSD Overtime may be expended only in support of CFSD staff overtime costs.

Funding for Replacement of Computers and Equipment may be expended only to replace child and family services division computers and equipment.

	Fiscal 2008						Fiscal 2009					
General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total

Funding for Mental Health Case Management Increase for the child and family services division may be expended only for mental health case management services. Funding is contingent upon revisions to centers for medicare and medicaid services (CMS) federal regulations that disallow federal reimbursement to the state for case management services for children in foster care.

Funding for Federal Law Change for Kin Care Providers may be expended only by the CFSD to replace lost federal funding for administrative activities associated with children in unlicensed foster care homes.

~~The appropriation for Additional Field Staff/Report includes funding for reports to the children, families, health, and human services interim committee showing the dates on which new staff were hired, areas of service, and measurements included in the division's goals and objectives.~~

Funding for Targeted Case Management Federal Law Change may be expended only by the child and family services division to replace federal funds for targeted case management services that are eliminated by the federal Deficit Reduction Act of 2005.

Funding for Therapeutic Group Homes/Family Foster Care may be expended only by the CFSD to implement changes in federal medicaid policy related to federal funding for therapeutic services.

~~Included in Child and Family Services/Reporting is $200 in general fund money each year for a semiannual report to the legislative finance committee and the children, families, health, and human services interim committee for the following:~~

~~(1) progress toward the goals presented to the joint appropriations subcommittee on health and human services in the division's final template; and~~

~~(2) attainment of measurable objectives as outlined in the division's final template presented to the joint appropriations subcommittee on health and human services.~~

~~If the reports are not received by the legislative finance committee by December 31, 2007, and June 30, 2008, the fiscal year 2009 general fund appropriation is reduced by $200.~~

Funds in Direct Care Worker Wage Increase may be used only to raise direct care worker wages and related benefits through an increase in provider rates. Funds in Direct Care Worker Wage Increase may not be used to offset any other wage increase mandated by any other laws, contracts, or written agreements, which will go into effect at the same time as or after implementation of the appropriation included in Direct Care Worker Wage Increase. To the extent of available appropriations, the department's contracts with group homes and shelters must require them to raise the lowest paid direct care workers to $8.50 an hour and to raise related benefits, and the remaining balance must be used to raise wages and related benefits of all direct care workers. The department shall increase the model rate matrix for group and shelter homes. Child and Family Services/Reporting includes funding for a semiannual report for the legislative finance committee and the children, families, health, and human services interim committee summarizing direct care wage rates.

Funds in Provider Rate Increase may be used only to raise provider rates.

	Fiscal 2008						Fiscal 2009					
General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total

Provider Rate Increase will be implemented starting October 1, 2007.

~~**Director's Office**~~

~~Included in Administration/Reporting is $200 in general fund money each year for a semiannual report to the legislative finance committee and the children, families, health, and human services interim committee for the following:~~

~~(1) progress toward the goals presented to the joint appropriations subcommittee on health and human services in the division's final template; and~~

~~(2) attainment of measurable objectives as outlined in the division's final template presented to the joint appropriations subcommittee on health and human services.~~

~~If the reports are not received by the legislative finance committee by December 31, 2007, and June 30, 2008, the fiscal year 2009 general fund appropriation is reduced by $200.~~

Child Support Enforcement Division

Funding for Child Support Enforcement Rent Increase may be expended only for increases in rent for CSED office space located in Helena and for regional offices in Butte, Billings, Great Falls, and Missoula.

Funding for Child Support Deficit Reduction Act may be expended only to replace federal funding from the elimination of the incentive funds match and the reduction of the federal match allowed for child support paternity testing services. Funds may be expended in the historical expenditure categories.

Funding for Child Support Enforcement DRA Fee may be expended only for the federally mandated $25 fee according to the percentage split of the fee of 66% federal and 34% state.

~~Included in Child Support Enforcement/Reporting is $200 in general fund money each year for a semiannual report to the legislative finance committee and the children, families, health, and human services interim committee for the following:~~

~~(1) progress toward the goals presented to the joint appropriations subcommittee on health and human services in the division's final template; and~~

~~(2) attainment of measurable objectives as outlined in the division's final template presented to the joint appropriations subcommittee on health and human services.~~

	Fiscal 2008						Fiscal 2009					
General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total

~~If the reports are not received by the legislative finance committee by December 31, 2007, and June 30, 2008, the fiscal year 2009 general fund appropriation is reduced by $200.~~

~~**Business and Financial Services Division**~~

~~Included in Business and Financial Services/Reporting is $200 in general fund money each year for a semiannual report to the legislative finance committee and the children, families, health, and human services interim committee for the following:~~

~~(1) progress toward the goals presented to the joint appropriations subcommittee on health and human services in the division's final template; and~~

~~(2) attainment of measurable objectives as outlined in the division's final template presented to the joint appropriations subcommittee on health and human services.~~

~~If the reports are not received by the legislative finance committee by December 31, 2007, and June 30, 2008, the fiscal year 2009 general fund appropriation is reduced by $200.~~

Public Health and Safety Division

Tobacco Prevention Activities includes $90,000 each year of the biennium for each of the seven Montana tribes. The funding must be used for tribal tobacco use prevention programs that meet the same requirements as other community-based contractors providing tobacco use prevention programs.

~~Included in Division Administration/Reporting is $200 in general fund money each year for a semiannual report to the legislative finance committee and the children, families, health, and human services interim committee for the following:~~

~~(1) progress toward the goals presented to the joint appropriations subcommittee on health and human services in the division's final template; and~~

~~(2) attainment of measurable objectives as outlined in the division's final template presented to the joint appropriations subcommittee on health and human services.~~

~~If the reports are not received by the legislative finance committee by December 31, 2007, and June 30, 2008, the fiscal year 2009 general fund appropriation is reduced by $200.~~

~~Funding for Asbestos-Related Diseases Administration includes funding for an annual report to the children, families, health, and human services interim committee on the number of participants assisted through the grant program, the amount of funding needed by each participant, and the estimated funding needed to pay future costs of participants.~~

	Fiscal 2008					Fiscal 2009				
General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total

~~**Quality Assurance Division**~~

~~Included in Division Administration/Reporting is $200 in general fund money each year for a semiannual report to the legislative finance committee and the children, families, health, and human services interim committee for the following:~~

~~(1) progress toward the goals presented to the joint appropriations subcommittee on health and human services in the division's final template; and~~

~~(2) attainment of measurable objectives as outlined in the division's final template presented to the joint appropriations subcommittee on health and human services.~~

~~If the reports are not received by the legislative finance committee by December 31, 2007, and June 30, 2008, the fiscal year 2009 general fund appropriation is reduced by $200.~~

Technology Services Division

Funding for CAPS System Facilities Management Increase may be expended only for the child and adult protective services CAPS contract for an increase in cost of living and level of effort.

Funding for the Ongoing Support for CHIMES may be expended only for platform costs, lease payments, maintenance of servers, and operating system support associated with the new combined health information and medicaid eligibility system (CHIMES).

~~Included in Technology Services Division/Reporting is $200 in general fund money each year for a semiannual report to the legislative finance committee and the children, families, health, and human services interim committee for the following:~~

~~(1) progress toward the goals presented to the joint appropriations subcommittee on health and human services in the division's final template; and~~

~~(2) attainment of measurable objectives as outlined in the division's final template presented to the joint appropriations subcommittee on health and human services.~~

~~If the reports are not received by the legislative finance committee by December 31, 2007, and June 30, 2008, the fiscal year 2009 general fund appropriation is reduced by $200.~~

	Fiscal 2008						Fiscal 2009					
	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total

Disability Services Division

Funding for MTAP New Technologies includes $1,065,000 in biennial state special revenue in fiscal year 2008 for the Montana telecommunications access program that is contingent upon passage of federal communication commission regulations requiring states to pay for new technologies related to video relay service (VRS) and internet protocol relay (IP). Funding for MTAP New Technologies may be expended only to replace federal funds for VRS and IP services.

~~Included in Disability Services Division/Reporting is $200 in general fund money each year for a semiannual report to the legislative finance committee and the children, families, health, and human services interim committee for the following:~~

~~(1) progress toward the goals presented to the joint appropriations subcommittee on health and human services in the division's final template; and~~

~~(2) attainment of measurable objectives as outlined in the division's final template presented to the joint appropriations subcommittee on health and human services.~~

~~If the reports are not received by the legislative finance committee by December 31, 2007, and June 30, 2008, the fiscal year 2009 general fund appropriation is reduced by $200.~~

Funding for DD Wait List Reduction may be expended only for developmental disabilities community services for persons who are on the waiting list and currently not receiving community services and for persons who are receiving some community services and are in need of further services.

Funds in Direct Care Worker Wage Increase may be used only to raise direct care worker wages and related benefits through an increase in provider rates. Funds in Direct Care Worker Wage Increase may not be used to offset any other wage increase mandated by any other laws, contracts, or written agreements, which will go into effect at the same time as or after implementation of the appropriation included in Direct Care Worker Wage Increase. Funds in Direct Care Worker Wage Increase must be used first to raise the lowest paid direct care workers up to $8.50 an hour and to raise related benefits, and the remaining balance may be used only to raise wages and related benefits of all direct care workers. To the extent of available appropriations, the department shall provide documentation that these funds are used solely for direct care worker wage and related benefits increases. The documentation must include initial wage rates, wage rates after the rate increases have been applied, and wage rates every 6 months after the rate increases have been granted. ~~Disability Services Division/Reporting includes funding for a semiannual report for the legislative finance committee and the children, families, health, and human services interim committee summarizing direct care wage rates.~~

Funds in Provider Rate Increase may be used only to raise provider rates.

Provider Rate Increase will be implemented starting October 1, 2007.

	Fiscal 2008						Fiscal 2009					
	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total

Health Resources Division

~~Included in Health Resources Division Administration/Reporting is $200 in general fund money each year for a semiannual report to the legislative finance committee and the children, families, health, and human services interim committee for the following:~~

~~(1) progress toward the goals presented to the joint appropriations subcommittee on health and human services in the division's final template; and~~

~~(2) attainment of measurable objectives as outlined in the division's final template presented to the joint appropriations subcommittee on health and human services.~~

~~If the reports are not received by the legislative finance committee by December 31, 2007, and June 30, 2008, the fiscal year 2009 general fund appropriation is reduced by $200.~~

Funds in Direct Care Worker Wage Increase may be used only to raise direct care worker wages and related benefits through an increase in provider rates. Funds in Direct Care Worker Wage Increase may not be used to offset any other wage increase mandated by any other laws, contracts, or written agreements, which will go into effect at the same time as or after implementation of the appropriation included in Direct Care Worker Wage Increase. Funds in Direct Care Worker Wage Increase must be used first to raise the lowest paid direct care workers to $8.50 an hour and to raise related benefits, and the remaining balance may be used only to raise wages and related benefits of all direct care workers. To the extent of available appropriations, the department shall provide documentation that these funds are used solely for direct care worker wage and related benefits increases. The documentation must include initial wage rates, wage rates after the rate increases have been applied, and wage rates every 6 months after the rate increases have been granted. ~~Health Resources Division Administration/Reporting includes funding for a semiannual report for the legislative finance committee and the children, families, health, and human services interim committee summarizing direct care wage rates.~~

Funds in Provider Rate Increase may be used only to raise provider rates.

Provider Rate Increase will be implemented starting October 1, 2007.

Hospital Utilization Fee is dependent upon passage and approval of Senate Bill No. 118 of the 2007 regular session. Funds in Hospital Utilization Fee may be used only for rate increases for medicaid services provided by hospitals.

Funds in Equalize Campus-Based Rates may be used only to raise medicaid rates for campus-based therapeutic youth group home providers as long as that level of care continues. Otherwise, the funds may be used to raise medicaid rates for therapeutic group home services.

Raise Physician Reimbursement may be used only to increase medicaid rates paid for physician services.

	Fiscal 2008						Fiscal 2009					
	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total

Funds in Medicaid Eligibility for Pregnant Women to 150% may be used only to provide medicaid services for infants up to 1 year of age and for pregnant women with incomes between 133% and 150% of the federal poverty index.

Revise Medically Needy Income Level may be used only to increase the amount of income that is disregarded in determining eligibility for medicaid for the medically needy category of eligibility.

Big Sky Rx Premium Assistance may be used only to pay all or a portion of the monthly premium payment for part d drug assistance for low-income persons who are eligible for medicare as allowed by 53-6-1201(3)(b).

Senior and Long-Term Care Division

~~Included in Senior and Long-Term Care Administration/Reporting is $200 in general fund money each year for a semiannual report to the legislative finance committee and the children, families, health, and human services interim committee for the following:~~

~~(1) progress toward the goals presented to the joint appropriations subcommittee on health and human services in the division's final template; and~~

~~(2) attainment of measurable objectives as outlined in the division's final template presented to the joint appropriations subcommittee on health and human services.~~

~~If the reports are not received by the legislative finance committee by December 31, 2007, and June 30, 2008, the fiscal year 2009 general fund appropriation is reduced by $200.~~

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.

Funds in IGT Offset may be used as medicaid matching funds for nursing home services and home-based services for aged and physically disabled persons only if the county nursing home intergovernmental transfer program is not sufficient to reimburse county nursing homes a net payment of at least $5 a day for medicaid services and other nursing homes a net payment of at least $2 a day for medicaid services. IGT Offset must be used only to fund a shortfall in the amount of county funds transferred as part of the county nursing home intergovernmental transfer program that is appropriated as state match for medicaid nursing home and home-based services.

Funds in Aging Services may be used only to expand community-based aging services.

Funding in Montana Veterans' Home Contingency Fund may be used only if federal and private revenue available from federal special revenue and private payment state special revenue appropriations in fiscal year 2008 or fiscal year 2009 are insufficient to operate the homes at capacity to maximize collection of federal and private payments. The office of budget and program planning shall notify the legislative finance committee when the appropriation will be used.

	Fiscal 2008						Fiscal 2009					
General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total

Funds in Direct Care Worker Wage Increase may be used only to raise direct care worker wages and related benefits through an increase in provider rates. Funds in Direct Care Worker Wage Increase may not be used to offset any other wage increase mandated by any other laws, contracts, or written agreements, which will go into effect at the same time as or after implementation of the appropriation included in Direct Care Worker Wage Increase. Funds in Direct Care Worker Wage Increase must be used first to raise the certified nurse aide and personal care attendant direct care worker wages and benefits to $8.50 an hour, including related benefits. Any remaining funds may be used only to raise wages, and related benefits, up to $0.70 an hour for direct care workers and other low-paid staff. To the extent of available appropriations, the department shall provide documentation that these funds are used solely for direct care worker wage and related benefits increases. The documentation must include initial wage rates, wage rates after the rate increases have been applied, and wage rates every 6 months after the rate increases have been granted. ~~Senior and Long-Term Care Administration/Reporting includes funding for a semiannual report for the legislative finance committee and the children, families, health, and human services interim committee summarizing direct care wage rates.~~

Funds in Provider Rate Increase may be used only to raise provider rates.

Resource Facilitation Service—Traumatic Brain Injury may be used only to fund community-based entities that assist persons with a traumatic brain injury to access services that aid recovery from their injuries.

Healthcare for Healthcare Workers may be used only for provider rate increases for contractors that provide in-home services administered by the senior and long-term care division and receive the majority of their income for those services from the medicaid program.

Addictive and Mental Disorders Division

~~Included in Addictive/Mental Disorders Administration/Reporting is $200 in general fund money each year for a semiannual report to the legislative finance committee and children, families, health, and human services interim committee for the following:~~

~~(1) progress toward the goals presented to the joint appropriations subcommittee on health and human services in the division's final template; and~~

~~(2) attainment of measurable objectives as outlined in the division's final template presented to the joint appropriations subcommittee on health and human services.~~

~~If the reports are not received by the legislative finance committee by December 31, 2007, and June 30, 2008, the fiscal year 2009 general fund appropriation is reduced by $200.~~

Funds in Direct Care Worker Wage Increase may be used only to raise direct care worker wages and related benefits through an increase in provider rates. Funds in Direct Care Worker Wage Increase may not be used to offset any other wage increase mandated by any other laws, contracts, or written agreements, which will go into effect at the same time as or after implementation of the appropriation included in Direct Care Worker Wage Increase. Funds in Direct Care Worker Wage Increase must be used first to raise the lowest paid direct care workers to $8.50 an hour and to raise related benefits, and the remaining balance may be used only to raise wages and related benefits of all direct care workers. To the extent of available appropriations, the department shall provide documentation that these funds

	Fiscal 2008						Fiscal 2009					
General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total

are used solely for direct care worker wage and related benefits increases. The documentation must include initial wage rates, wage rates after the rate increases have been applied, and wage rates every 6 months after the rate increases have been granted. ~~Addictive/Mental Disorders Administration/Reporting includes funding for a semiannual report for the legislative finance committee and the children, families, health, and human services interim committee summarizing direct care wage rates.~~

Behavioral Health Inpatient Facility may be used only to develop one or more behavioral health inpatient facilities as defined in 53-21-102(2). Behavioral Health Inpatient Facility may be used to pay for services and may not be used for construction of buildings. Behavioral Health Inpatient Facility is contingent upon passage and approval of Senate Bill No. 45 of the 2007 regular session.

Funds in Mental Health Drop-In Centers may be used only to support community drop-in centers for persons with a mental illness and to provide training for up to 60 consumers each fiscal year to perform peer specialist duties. Drop-in centers with staff who can assist persons with medication management must receive priority in consideration for funding.

Funds in Suicide Prevention may be used only to implement a comprehensive suicide prevention program, which at a minimum includes a suicide prevention officer, a comprehensive suicide reduction plan, and a 24-hour suicide prevention hotline.

Funding in Services for Mentally Ill Offenders may be used for two purposes only:

(1) services for adults under the supervision of the community corrections division in the department of corrections; and

(2) training for community probation and parole officers.

The services may include case management, treatment, transition support, and medication monitoring. Funding may be used to provide training to community probation and parole officers about mental illness and chemical dependency and about how to assist offenders to enroll in public benefit programs, if appropriate.

Funds in Expand Mental Health Services Plan may be used only to implement 53-21-702(2).

Funds in Provider Rate Increase may be used only to raise provider rates.

Provider Rate Increase will be implemented starting October 1, 2007.

Funding in Mentally Ill Offender Drugs may be used only to provide a prescription benefit for offenders leaving secure care who meet the criteria for serious mental illness and who have not been enrolled in public benefit programs. Benefits may include a 60-day supply of medications and other short-term medication purchases for offenders who become unstable and need medications and who are not eligible for other public prescription drug programs.

Fiscal 2008						Fiscal 2009					
General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total

72-Hour Crisis Eligibility may be used only to develop community mental health crisis services and for provision of psychiatric consulting services for community providers who manage and administer community mental health crisis services.

Methamphetamine Treatment may be used only to develop community treatment. Parents with children must be given priority consideration when selecting candidates to participate in the treatment funded by Methamphetamine Treatment.

Funding in Community Liaison Officers may be used only for five half-time staff in the addictive and mental disorders division to provide focused reentry support services, including assistance in accessing community services, to persons who are discharged from Montana state hospital. The legislature intends that the positions be filled by individuals who have a primary diagnosis of mental illness and are certified peer specialists. The goal of this service is to reduce readmissions to Montana state hospital at 30- and 60-day intervals, as a result of assisted reintegration to community settings.

Service Area Authority Grants may be used only to provide grants to service area authorities established in 53-21-1006.

TOTAL SECTION B											
377,886,025	128,785,357	1,006,484,835	0	0	1,513,156,217	399,859,231	117,760,565	1,064,146,830	0	0	1,581,766,626

	Fiscal 2008						Fiscal 2009				
General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total
				C. NATURAL RESOURCES AND COMMERCE							
DEPARTMENT OF FISH, WILDLIFE, AND PARKS (5201)											
1. Information Services Division (01)											
0	3,692,047	159,789	0	0	3,851,836	0	3,770,291	159,937	0	0	3,930,228
2. Field Services Division (02)											
0	9,231,007	473,412	0	0	9,704,419	0	9,263,160	479,060	0	0	9,742,220
3. Fisheries Division (03)											
0	4,843,550	7,976,843	0	0	12,820,393	0	4,890,162	7,994,213	0	0	12,884,375
a. State Wildlife Grants (OTO)											
250,000	0	0	0	0	250,000	250,000	0	0	0	0	250,000
b. Warm Water Fisheries Enhancement (Restricted/Biennial/OTO)											
135,000	0	0	0	0	135,000	135,000	0	0	0	0	135,000
c. Cartersville Diversion Feasibility Study (Restricted/Biennial/OTO)											
55,000	0	0	0	0	55,000	55,000	0	0	0	0	55,000
4. Law Enforcement Division (04)											
0	7,968,979	397,831	0	0	8,366,810	0	7,947,403	398,759	0	0	8,346,162
a. Warden Vacancy Savings											
0	212,545	9,691	0	0	222,236	0	213,424	6,737	0	0	220,161
b. Increased Snowmobile Fees											
0	10,573	0	0	0	10,573	0	10,573	0	0	0	10,573
5. Wildlife Division (05)											
0	4,951,482	4,718,543	0	0	9,670,025	0	4,967,409	4,734,514	0	0	9,701,923
a. Harvest Automation (Biennial/OTO)											
0	10,000	30,000	0	0	40,000	0	10,000	30,000	0	0	40,000
b. Black Bear Research (OTO)											
0	8,620	25,859	0	0	34,479	0	8,620	25,859	0	0	34,479
c. State Wildlife Grants (OTO)											

	Fiscal 2008						Fiscal 2009				
General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total
250,000	0	0	0	0	250,000	250,000	0	0	0	0	250,000
6. Parks Division (06)											
0	7,550,424	213,960	0	0	7,764,384	0	7,575,151	213,960	0	0	7,789,111
a. Snowmobile Equipment (Biennial)											
0	185,000	0	0	0	185,000	0	185,000	0	0	0	185,000
b. Increased Snowmobile Fees											
0	80,883	0	0	0	80,883	0	80,883	0	0	0	80,883
c. Rattlesnake Footbridge and Bike Trail at Pine Street (Restricted/Biennial/OTO)											
0	0	37,500	0	0	37,500	0	0	37,500	0	0	37,500
7. Conservation Education Division (08)											
0	2,411,997	719,430	0	0	3,131,427	0	2,421,202	719,430	0	0	3,140,632
a. Shooting Range Grants (Biennial)											
0	450,000	0	0	0	450,000	0	450,000	0	0	0	450,000
8. Management and Finance (09)											
0	9,498,339	33,696	0	0	9,532,035	0	9,522,643	33,697	0	0	9,556,340
a. Legislative Audit (Restricted/Biennial)											
0	91,422	16,134	0	0	107,556	0	0	0	0	0	0
b. Office Rent Increase (Restricted)											
0	15,000	0	0	0	15,000	0	15,000	0	0	0	15,000
c. Increased Snowmobile Fees											
0	5,287	0	0	0	5,287	0	5,287	0	0	0	5,287
Total											
690,000	51,217,155	14,812,688	0	0	66,719,843	690,000	51,336,208	14,833,666	0	0	66,859,874

During the 2009 biennium, if the department obtains federal funding for the operations of the Fort Peck fish hatchery, it must be used to replace state special revenue approved to fund personal services and operational costs of the hatchery.

Warm Water Fisheries Enhancement is restricted to the following projects:

Fiscal 2008						Fiscal 2009					
General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total

(1) completion of a fish passage around the T&Y irrigation district diversion dam on the Tongue River; and

(2) removal of the S&H diversion dam on the Tongue River.

If Senate Bill No. 205 of the 2007 regular session is not passed and approved, Warden Vacancy Savings is void.

Harvest Automation includes funding for an annual report to the environmental quality council summarizing harvest estimates and hunting pressure for big game and upland game birds for the most recently completed hunting season for these species.

Office Rent Increase is restricted to increases associated with the relocation of the Lewistown and Havre offices.

DEPARTMENT OF ENVIRONMENTAL QUALITY (5301)

1. Central Management Program (10)											
374,793	1,320,682	558,239	0	0	2,253,714	376,240	1,330,128	557,902	0	0	2,264,270
a. Business Process Improvement (OTO)											
987,619	0	0	0	0	987,619	788,773	0	0	0	0	788,773
2. Planning, Prevention, and Assistance Division (20)											
2,885,269	1,142,540	9,039,651	0	0	13,067,460	2,893,930	1,129,131	9,094,063	0	0	13,117,124
a. Biofuels Testing (OTO)											
250,000	0	0	0	0	250,000	0	0	0	0	0	0
b. Recycling and Electronic Waste Disposal Education											
16,500	0	0	0	0	16,500	16,500	0	0	0	0	16,500
3. Enforcement Division (30)											
514,035	350,124	314,446	0	0	1,178,605	504,696	349,742	314,102	0	0	1,168,540
4. Remediation Division (40)											
0	2,325,666	8,549,209	0	0	10,874,875	0	2,325,738	8,589,622	0	0	10,915,360
a. Accelerated Remediation — Selected CECRA Sites (Restricted/Biennial/OTO)											
1,000,000	0	0	0	0	1,000,000	1,000,000	0	0	0	0	1,000,000
b. Orphan Share (Restricted/Biennial/OTO)											

	Fiscal 2008						Fiscal 2009					
General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total
0	1,200,000	0	0	0	1,200,000	0	1,200,000	0	0	0	1,200,000
c. Mine Waste Cleanup (Biennial)											
0	0	366,753	0	0	366,753	0	0	366,752	0	0	366,752
d. Hazardous Waste Cleanup LUST Trust (Biennial)											
0	99,881	0	0	0	99,881	0	99,880	0	0	0	99,880
5. Permitting and Compliance Division (50)											
1,084,077	13,795,782	5,277,720	0	0	20,157,579	1,085,265	13,797,373	5,276,296	0	0	20,158,934
a. Industrial Wastewater Operator Cert. (Biennial/OTO)											
0	33,438	0	0	0	33,438	0	33,750	0	0	0	33,750
b. High Strength Wastewater Std. (Biennial/OTO)											
0	30,900	0	0	0	30,900	0	31,200	0	0	0	31,200
c. Brownfields Grant (Biennial)											
0	0	119,600	0	0	119,600	0	0	118,450	0	0	118,450
d. Onsite Wastewater Operator Cert. (Biennial/OTO)											
0	82,400	0	0	0	82,400	0	83,200	0	0	0	83,200
e. Swift Gulch Drainage System (Biennial/OTO)											
500,000	0	0	0	0	500,000	0	0	0	0	0	0
f. Hard Rock and MFSA (Restricted/Biennial)											
0	1,820,367	1,240,764	0	0	3,061,131	0	1,837,867	1,253,264	0	0	3,091,131
g. Air Regulatory Assistance (Restricted/Biennial/OTO)											
0	257,500	0	0	0	257,500	0	260,000	0	0	0	260,000
h. Gray Water Permit											
0	10,000	0	0	0	10,000	0	0	0	0	0	0
i. Increased County Junk Vehicle Grants											
0	171,397	0	0	0	171,397	0	173,593	0	0	0	173,593
6. Petroleum Tank Release Compensation Board (90)											
0	671,587	0	0	0	671,587	0	673,873	0	0	0	673,873

	Fiscal 2008						Fiscal 2009				
General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total
Total											
7,612,293	23,312,264	25,466,382	0	0	56,390,939	6,665,404	23,325,475	25,570,451	0	0	55,561,330

Accelerated Remediation—Selected CECRA Sites is limited to remedial investigation of the upper Blackfoot mining complex. ~~The department shall provide semiannual reports to the environmental quality council regarding the progress toward the following milestones for the upper Blackfoot mining complex:~~

~~(1) December 2007 — completion of the remedial investigation plan;~~

~~(2) September 2008 — completion of field work; and~~

~~(3) January 2009 — completion of the remedial investigation report.~~

The department is appropriated up to $250,000 of the funds recovered under the petroleum tank compensation board subrogation program in the 2009 biennium for the purpose of paying contract expenses related to the recovery of funds.

DEPARTMENT OF LIVESTOCK (5603)

1. Centralized Services Program (01)											
0	1,950,970	0	0	0	1,950,970	0	1,957,683	0	0	0	1,957,683
a. Legislative Audit (Restricted/Biennial)											
0	31,634	0	0	0	31,634	0	0	0	0	0	0
b. Board of Horseracing Support (Biennial/OTO)											
175,000	0	0	0	0	175,000	175,000	0	0	0	0	175,000
c. Department Wide IT Equipment Replacement (Restricted)											
0	6,763	0	0	0	6,763	0	4,683	0	0	0	4,683
d. Telephone Account Wagering on Internet Horseracing — HB 390											
0	182,000	0	0	0	182,000	0	182,000	0	0	0	182,000
e. Livestock Loss Reduction and Mitigation (Restricted/Biennial/OTO)											
30,000	0	0	0	0	30,000	0	0	0	0	0	0
f. Parimutuel Wagering on Fantasy Sports Leagues — HB 616 (Restricted)											
0	316,000	0	0	0	316,000	0	149,934	0	0	0	149,934

	Fiscal 2008						Fiscal 2009					
	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total
2. Diagnostic Laboratory Program (03)												
	439,888	1,130,523	0	0	0	1,570,411	439,896	1,090,848	0	0	0	1,530,744
a. Diagnostic Lab PCR Technology (OTO)												
	0	62,272	0	0	0	62,272	0	50,812	0	0	0	50,812
3. Animal Health Division (04)												
	0	520,447	942,647	0	0	1,463,094	0	523,737	942,568	0	0	1,466,305
a. Animal Health Division Vehicle Replacement (Restricted/OTO)												
	0	0	0	0	0	0	0	26,000	0	0	0	26,000
4. Milk and Egg Program (05)												
	0	282,067	32,842	0	0	314,909	0	283,014	32,841	0	0	315,855
a. Milk and Egg Bureau Vehicle Replacement (Restricted/OTO)												
	0	26,000	0	0	0	26,000	0	0	0	0	0	0
5. Brands Enforcement Division (06)												
	0	2,870,886	0	0	0	2,870,886	0	2,882,893	0	0	0	2,882,893
a. Brand Division Vehicle Replacement (Restricted/OTO)												
	0	120,712	0	0	0	120,712	0	94,712	0	0	0	94,712
6. Meat and Poultry Inspection Program (10)												
	562,725	6,475	562,725	0	0	1,131,925	564,693	6,475	564,693	0	0	1,135,861
a. Meat Plant Inspector (Restricted)												
	22,673	0	22,674	0	0	45,347	20,542	0	20,542	0	0	41,084
b. FAIM Computer Maintenance Contract (Restricted/OTO)												
	3,261	0	3,261	0	0	6,522	3,261	0	3,261	0	0	6,522
Total												
	1,233,547	7,506,749	1,564,149	0	0	10,304,445	1,203,392	7,252,791	1,563,905	0	0	10,020,088

Livestock Loss Reduction and Mitigation may be used only to compensate livestock owners for losses caused by wolves.

Fiscal 2008						Fiscal 2009					
General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total
DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION (5706)											
1. Centralized Services (21)											
2,179,654	724,696	99,995	0	0	3,004,345	2,269,550	663,283	75,000	0	0	3,007,833
a. Legislative Audit (Restricted/Biennial)											
110,720	0	0	0	0	110,720	0	0	0	0	0	0
b. GIS Enterprise Equipment IT (OTO)											
105,000	0	0	0	0	105,000	25,000	0	0	0	0	25,000
2. Oil and Gas Conservation Division (22)											
0	2,055,850	0	0	0	2,055,850	0	2,074,651	0	0	0	2,074,651
a. Oil and Gas Public Access Data System (OTO)											
0	212,669	0	0	0	212,669	0	212,696	0	0	0	212,696
b. North American Expo (Biennial/OTO)											
0	7,500	0	0	0	7,500	0	7,500	0	0	0	7,500
c. Temporary Relocation (Restricted/Biennial/OTO)											
0	32,500	0	0	0	32,500	0	32,500	0	0	0	32,500
d. Educational Outreach (Biennial)											
0	62,500	0	0	0	62,500	0	62,500	0	0	0	62,500
3. Conservation and Resource Development Division (23)											
1,445,723	2,949,409	265,948	0	0	4,661,080	1,447,760	2,952,084	273,608	0	0	4,673,452
a. Missouri River Council (Restricted)											
0	114,000	0	0	0	114,000	0	114,000	0	0	0	114,000
b. Conservation District Operation — Coal Bed Methane (Restricted)											
0	100,000	0	0	0	100,000	0	100,000	0	0	0	100,000
c. Purchase of Prior Liens (Restricted/Biennial/OTO)											
0	300,000	0	0	0	300,000	0	300,000	0	0	0	300,000
d. Montana Rural Water Systems (Restricted/Biennial/OTO)											
101,500	0	0	0	0	101,500	101,500	0	0	0	0	101,500

Fiscal 2008						Fiscal 2009					
General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total
e. State Restoration Coordinator (Biennial)											
0	75,000	0	0	0	75,000	0	75,000	0	0	0	75,000
f. Integrated State Grant and Restoration Planning (Biennial/OTO)											
0	100,000	0	0	0	100,000	0	100,000	0	0	0	100,000
g. Economic Analysis of Irrigated Agriculture (Restricted/Biennial/OTO)											
100,000	0	0	0	0	100,000	100,000	0	0	0	0	100,000
4. Water Resources Division (24)											
7,011,065	4,402,377	199,168	0	0	11,612,610	7,275,447	4,406,729	199,289	0	0	11,881,465
a. State Water Projects Rehabilitation (Restricted/Biennial/OTO)											
0	1,895,000	0	0	0	1,895,000	0	25,000	0	0	0	25,000
b. Broadwater Dam Equipment (Restricted/Biennial/OTO)											
0	500,000	0	0	0	500,000	0	500,000	0	0	0	500,000
c. Broadwater Missouri Diversion (Restricted/Biennial/OTO)											
0	35,000	0	0	0	35,000	0	35,000	0	0	0	35,000
d. Repair of State Water Projects (Restricted/Biennial/OTO)											
0	250,000	0	0	0	250,000	0	250,000	0	0	0	250,000
e. Yellowstone Compact Study and Hydrologist (Restricted)											
119,602	0	0	0	0	119,602	113,794	0	0	0	0	113,794
f. Clark Fork River Basin Task Force (OTO)											
45,000	0	0	0	0	45,000	45,000	0	0	0	0	45,000
g. Water Rights Ownership Updates											
0	247,907	0	0	0	247,907	0	0	0	0	0	0
h. Ground Water Assessments											
257,995	18,000	0	0	0	275,995	246,965	18,000	0	0	0	264,965
i. United States Forest Service Water Compact											
50,497	15,084	0	0	0	65,581	47,821	14,284	0	0	0	62,105
j. Hungry Horse Dam Water Leasing Study (Restricted/Biennial/OTO)											

Fiscal 2008						Fiscal 2009					
General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total
130,000	0	0	0	0	130,000	130,000	0	0	0	0	130,000
5. Reserved Water Rights Compact Commission (25)											
704,733	0	0	0	0	704,733	461,234	0	0	0	0	461,234
a. Contracted Services (OTO)											
97,500	0	0	0	0	97,500	97,500	0	0	0	0	97,500
6. Forestry and Trust Lands (35)											
8,743,175	14,448,453	1,285,113	0	0	24,476,741	8,785,951	14,498,716	1,286,503	0	0	24,571,170
a. Woody Biomass Utilization Program (OTO)											
250,000	0	0	0	0	250,000	250,000	0	0	0	0	250,000
b. Fire Fighting Equipment (Restricted/Biennial/OTO)											
1,000,000	0	0	0	0	1,000,000	0	0	0	0	0	0
c. Reliance Refinery (Biennial/OTO)											
0	500,000	0	0	0	500,000	0	500,000	0	0	0	500,000
d. Contract Timber Harvesting (Restricted)											
0	0	0	0	0	0	0	280,000	0	0	0	280,000
e. Access Acquisition (Biennial)											
0	100,000	0	0	0	100,000	0	100,000	0	0	0	100,000
f. Weed Control on State Lands											
0	5,000	0	0	0	5,000	0	5,000	0	0	0	5,000
g. Independent Staff — Board of Land Commissioners											
0	135,000	0	0	0	135,000	0	135,000	0	0	0	135,000
Total											
22,452,164	29,285,945	1,850,224	0	0	53,588,333	21,397,522	27,461,943	1,834,400	0	0	50,693,865

~~Oil and Gas Public Access Data System funding in fiscal year 2009 is contingent upon provision of an annual report to the environmental quality council by June 2008 detailing progress on the access project.~~

	Fiscal 2008						Fiscal 2009					
General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total

~~Missouri River Council funding in fiscal year 2009 is contingent upon provision of an annual report to the environmental quality council by June 2008 regarding the Missouri River council's progress towards its goals.~~

Conservation District Operation—Coal Bed Methane is restricted to the costs associated with managing the coal bed methane water damage program.

During the 2009 biennium, the department is appropriated up to $1 million of state special revenue from the coal bed methane account to fund potential landowner or water right holder claims for emergency loss of water related to coal bed methane development.

During the 2009 biennium, if Montana Rural Water Systems receives federal funding, Montana Rural Water Systems is reduced by a like amount.

Economic Analysis of Irrigated Agriculture is restricted to contracted services for the purposes of determining the economic benefits of irrigation, the impact of new irrigation projects, and the rehabilitation needs of older irrigation projects. ~~The department shall provide to the interim water policy committee the scoping document of the study prior to release of the request for proposal to complete the study.~~ A final written report must be provided to the interim water policy committee by September 15, 2008.

State Water Projects Rehabilitation is restricted to survey expenditures and rehabilitation of the following projects:

(1) Ackley Lake dam;

(2) Cataract dam;

(3) Deadman's Basin dam; and

(4) Flint Creek east fork siphon.

~~The Reserved Water Rights Compact Commission fiscal year 2009 appropriation is contingent upon the delivery of a transition plan that addresses workload changes from negotiation to implementation of water compacts to the environmental quality council by June 30, 2008.~~

Fire Fighting Equipment is restricted to the purchase of title to the department's helicopters. If the purchase is less than $1 million, the department may use the balance of the appropriation for the purchase of equipment for the county cooperative program.

If Senate Bill No. 25 of the 2007 regular session is not passed and approved, Contract Timber Harvesting is void.

If Senate Bill No. 8 of the 2007 regular session is not passed and approved, Independent Staff — Board of Land Commissioners is void.

	Fiscal 2008						Fiscal 2009				
General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total
DEPARTMENT OF AGRICULTURE (6201)											
1. Central Management Division (15)											
97,242	693,330	95,000	83,874	0	969,446	104,757	694,399	95,000	84,021	0	978,177
a. Legislative Audit (Restricted/Biennial)											
41,124	0	0	0	0	41,124	0	0	0	0	0	0
b. E-Government Information Technology (OTO)											
51,894	87,250	18,000	750	0	157,894	49,250	0	0	13,000	0	62,250
2. Agricultural Sciences Division (30)											
278,056	5,729,095	2,100,387	0	0	8,107,538	278,422	5,720,979	2,491,601	0	0	8,491,002
a. Noxious Weed Trust Fund Grants Increase (OTO)											
0	0	0	0	0	0	0	409,136	0	0	0	409,136
b. Bozeman Lab Equipment (Biennial/OTO)											
0	300,000	0	0	0	300,000	0	0	0	0	0	0
c. Bovine Spongiform Encephalopathy Lab Equipment (Biennial)											
50,000	0	0	0	0	50,000	0	0	0	0	0	0
d. Revise Nursery Laws — HB 569											
0	34,598	0	0	0	34,598	0	34,598	0	0	0	34,598
3. Agricultural Development Division (50)											
389,740	3,681,617	25,000	339,911	0	4,436,268	391,771	3,684,131	25,000	340,900	0	4,441,802
a. Montana State Hail Insurance Database (Biennial/OTO)											
0	0	0	100,000	0	100,000	0	0	0	0	0	0
b. Montana Certified Beef Natural Marketing Program — SB 544											
0	0	0	0	0	0	0	5,000	0	0	0	5,000
c. Increase Payment to Advisory Board Members — SB 62											
0	11,375	125	250	0	11,750	0	11,659	128	256	0	12,043

	Fiscal 2008					Fiscal 2009				
General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total
Total											
908,056	10,537,265	2,238,512	524,785	0	14,208,618	824,200	10,559,902	2,611,729	438,177	0	14,434,008
DEPARTMENT OF COMMERCE (6501)											
1. Business Resources Division (51)											
1,972,594	2,313,308	4,771,826	0	0	9,057,728	1,980,642	2,313,407	4,771,827	0	0	9,065,876
a. Legislative Audit (Restricted/Biennial)											
3,917	1,382	3,918	0	0	9,217	0	0	0	0	0	0
b. New Worker Training (OTO)											
3,997,361	0	0	0	0	3,997,361	3,997,450	0	0	0	0	3,997,450
c. Tribal Economic Development (OTO)											
798,496	0	0	0	0	798,496	798,548	0	0	0	0	798,548
d. Montana Capital Investment Board (OTO)											
146,936	0	0	0	0	146,936	73,210	73,209	0	0	0	146,419
e. Biomedical Research (Biennial/OTO)											
2,000,000	0	0	0	0	2,000,000	0	0	0	0	0	0
f. Federal Grant Adjustment (Restricted/OTO)											
0	0	2,014,785	0	0	2,014,785	0	0	0	0	0	0
g. Main Street (OTO)											
123,496	0	0	0	0	123,496	123,548	0	0	0	0	123,548
h. Made in Montana (OTO)											
100,000	0	0	0	0	100,000	100,000	0	0	0	0	100,000
2. Montana Promotion Division (52)											
0	490,760	0	0	0	490,760	0	490,760	0	0	0	490,760
a. Legislative Audit (Restricted/Biennial)											
0	19,595	0	0	0	19,595	0	0	0	0	0	0
b. Private Funds (Restricted)											
0	259,240	0	0	0	259,240	0	259,240	0	0	0	259,240

	Fiscal 2008						Fiscal 2009					
	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total
3. Community Development Division (60)												
	415,689	1,154,373	6,225,672	0	0	7,795,734	416,452	1,156,334	6,225,785	0	0	7,798,571
a. Legislative Audit (Restricted/Biennial)												
	2,562	2,113	2,562	0	0	7,237	0	0	0	0	0	0
b. Coal Board Grants (Biennial)												
	0	2,000,000	0	0	0	2,000,000	0	0	0	0	0	0
c. Hard-Rock Mining Reserve (Restricted)												
	0	100,000	0	0	0	100,000	0	100,000	0	0	0	100,000
d. Federal Grant Adjustment (Restricted/OTO)												
	0	0	8,839,887	0	0	8,839,887	0	0	0	0	0	0
e. Energy Infrastructure Promotion and Development (OTO)												
	330,000	0	0	0	0	330,000	330,000	0	0	0	0	330,000
4. Housing Division (74)												
	53,837	0	6,089,717	0	0	6,143,554	50,407	0	6,091,290	0	0	6,141,697
a. Legislative Audit (Restricted/Biennial)												
	0	0	4,705	0	0	4,705	0	0	0	0	0	0
b. Manufactured Home Revolving Loan SSR Transfer (OTO)												
	354,886	0	0	0	0	354,886	0	0	0	0	0	0
c. Federal Grants Adjustment (Restricted/OTO)												
	0	0	5,234,938	0	0	5,234,938	0	0	0	0	0	0
d. Manufactured Home Revolving Loan SSR Payments (Biennial)												
	0	177,443	0	0	0	177,443	0	177,443	0	0	0	177,443
5. Director's Office/Management Services Division (81)												
	0	0	725,646	0	0	725,646	0	0	725,646	0	0	725,646
Total												
	10,299,774	6,518,214	33,913,656	0	0	50,731,644	7,870,257	4,570,393	17,814,548	0	0	30,255,198

Fiscal 2008						Fiscal 2009					
General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total

~~Tribal Economic Development includes $200 for semiannual reports to the legislative finance committee, state-tribal relations committee, and members of the joint appropriations subcommittee on natural resources and commerce for the following:~~

~~(1) progress toward the goals presented to the joint appropriations subcommittee on natural resources and commerce in the budget analysis expanded narrative and justification accompanying the department's funding request;~~

~~(2) attainment of measurable objectives as outlined in the budget analysis expanded narrative and justification accompanying the department's funding request.~~

~~The department shall provide the reports to the legislative finance committee, state-tribal relations committee, and members of the joint appropriations subcommittee on natural resources and commerce by December 31, 2007, and June 30, 2008.~~

TOTAL SECTION C											
43,195,834	128,377,592	79,845,611	524,785	0	251,943,822	38,650,775	124,506,712	64,228,699	438,177	0	227,824,363

Fiscal 2008						Fiscal 2009					
General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total
				D. CORRECTIONS AND PUBLIC SAFETY							
CRIME CONTROL DIVISION (4107)											
1. Justice System Support Service (01)											
1,319,767	9,739	551,303	0	0	1,880,809	1,339,766	9,872	557,910	0	0	1,907,548
a. Pass-Through Grants (Biennial)											
904,559	90,000	6,214,257	0	0	7,208,816	904,559	90,000	6,214,257	0	0	7,208,816
Total											
2,224,326	99,739	6,765,560	0	0	9,089,625	2,244,325	99,872	6,772,167	0	0	9,116,364

Justice System Support Service includes a reduction of 0.5 FTE and general fund money of $19,965 in fiscal year 2008 and fiscal year 2009 that is contingent upon passage and approval of Senate Bill No. 273 of the 2007 regular session. If Senate Bill No. 273 is not passed and approved, FTE and funding in Justice System Support Service are increased by this amount.

All remaining pass-through grant appropriations, up to $100,000 in general fund money, $180,000 in state special revenue, and $12,428,514 in federal funds, including reversions, for the 2007 biennium are authorized to continue and are appropriated in fiscal year 2008 and fiscal year 2009.

DEPARTMENT OF JUSTICE (4110)											
1. Legal Services Division (01)											
4,983,466	342,316	560,968	0	0	5,886,750	4,997,686	342,599	559,845	0	0	5,900,130
a. Major Litigation — Wyoming (Biennial/OTO)											
3,000,000	0	0	0	0	3,000,000	0	0	0	0	0	0
2. Office of Consumer Protection (02)											
0	557,813	0	0	0	557,813	0	560,957	0	0	0	560,957
a. Forensic Rape Examination Program (Biennial)											
17,500	0	0	0	0	17,500	17,500	0	0	0	0	17,500
b. Consumer Protection Litigation (Biennial)											
0	100,000	0	0	0	100,000	0	100,000	0	0	0	100,000
3. Gambling Control Division (07)											

Fiscal 2008						Fiscal 2009					
General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total
0	2,541,356	0	1,075,430	0	3,616,786	0	2,527,291	0	1,051,943	0	3,579,234
a. Gambling Database (Biennial/OTO)											
0	85,250	0	0	0	85,250	0	85,250	0	0	0	85,250
4. Motor Vehicle Division (12)											
7,024,891	4,998,546	0	536,126	0	12,559,563	7,038,530	5,007,578	0	536,126	0	12,582,234
a. Base Adjustment HB 577 Debt Payments (Biennial)											
0	800,000	0	0	0	800,000	0	775,000	0	0	0	775,000
b. Base Adjustment HB 261 Debt Payments (Biennial)											
0	2,500,000	0	0	0	2,500,000	0	3,500,000	0	0	0	3,500,000
c. MV Proprietary Account Spend Authority (Biennial)											
0	0	0	25,000	0	25,000	0	0	0	25,000	0	25,000
5. Highway Patrol Division (13)											
175,039	22,689,544	0	0	0	22,864,583	176,690	22,978,541	0	0	0	23,155,231
a. HB 781 — Racial Profiling (OTO)											
161,750	0	0	0	0	161,750	0	0	0	0	0	0
6. Division of Criminal Investigation (18)											
4,172,077	1,878,709	1,107,110	0	0	7,157,896	4,203,833	1,881,260	1,110,719	0	0	7,195,812
a. Methamphetamine Watch Program (Restricted/Biennial/OTO)											
1,000,000	0	0	0	0	1,000,000	0	0	0	0	0	0
b. Child Sexual Abuse Support Function (Restricted/Biennial)											
250,000	0	0	0	0	250,000	250,000	0	0	0	0	250,000
7. Central Services Division (28)											
379,035	610,663	0	63,171	0	1,052,869	381,274	614,275	0	63,545	0	1,059,094
a. Legislative Audit (Restricted/Biennial)											
34,003	43,500	0	1,582	0	79,085	0	0	0	0	0	0
8. Information Technology Services Division (29)											
3,310,245	1,719,346	3,392	13,321	0	5,046,304	3,325,974	1,347,980	3,392	13,321	0	4,690,667

Fiscal 2008						Fiscal 2009					
General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total
a. Additional Spending Authority for IRIS Broker (Biennial)											
0	375,000	0	0	0	375,000	0	375,000	0	0	0	375,000
9. Forensic Science Division (32)											
3,612,913	303,204	0	0	0	3,916,117	3,624,425	303,204	0	0	0	3,927,629
a. Crime Lab Equipment (Restricted/Biennial/OTO)											
115,375	0	0	0	0	115,375	115,375	0	0	0	0	115,375
b. Forensic Science Lab — Records Management (OTO)											
52,000	0	0	0	0	52,000	0	0	0	0	0	0
c. Child Forensic Interview Specialist (Restricted)											
95,885	0	0	0	0	95,885	92,121	0	0	0	0	92,121
Total											
28,384,179	39,545,247	1,671,470	1,714,630	0	71,315,526	24,223,408	40,398,935	1,673,956	1,689,935	0	67,986,234

Division of Criminal Investigation includes 1.5 FTE and general fund money of $85,214 in fiscal year 2008 and $82,575 in fiscal year 2009 that are contingent upon passage and approval of Senate Bill No. 273 of the 2007 regular session. If Senate Bill No. 273 is not passed and approved, FTE and funding in Division of Criminal Investigation are reduced by this amount.

Methamphetamine Watch Program may be used only for the purpose of making grants for community awareness, as provided 44-4-1002(3), to private, nonprofit programs engaged in public awareness media campaigns to combat the use of methamphetamine, especially among the young.

Child Sexual Abuse Support Function may be used only to provide technical assistance and support to local governments and entities to respond to reports of child sexual abuse, including forensic interview training, equipment to document interviews, and assistance to multidisciplinary teams, using the cornerhouse model of training.

Funding in Child Forensic Interview Specialist may be used only to support a forensic scientist specializing in processing of evidence in child abuse and neglect cases, for conducting forensic interviews of children in child abuse and neglect cases, and for related costs.

PUBLIC SERVICE COMMISSION (4201)

1. Public Service Regulation Program (01)											
0	3,122,844	20,001	0	0	3,142,845	0	3,134,452	20,001	0	0	3,154,453

Fiscal 2008						Fiscal 2009					
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)											
0	22,144	0	0	0	22,144	0	0	0	0	0	0
b. Pay Retirement Benefits (Restricted/Biennial/OTO)											
0	72,128	0	0	0	72,128	0	0	0	0	0	0
Total											
0	3,217,116	20,001	0	0	3,237,117	0	3,134,452	20,001	0	0	3,154,453
DEPARTMENT OF CORRECTIONS (6401)											
1. Administration and Support Services (01)											
13,706,284	337,460	0	75,581	0	14,119,325	13,938,570	332,502	0	75,041	0	14,346,113
a. Legislative Audit (Restricted/Biennial)											
30,294	0	0	0	0	30,294	0	0	0	0	0	0
b. BOPP ACA Reaccreditation Fee (Restricted/Biennial/OTO)											
3,000	0	0	0	0	3,000	3,000	0	0	0	0	3,000
c. Correctional Staff Scheduling Software (Restricted/OTO)											
219,200	0	0	0	0	219,200	0	0	0	0	0	0
d. Correctional Staff Scheduling Software — Maintenance (Restricted)											
27,800	0	0	0	0	27,800	27,800	0	0	0	0	27,800
e. Commissary, Inmate Banking, Rest. Software (Restricted/OTO)											
125,000	125,000	0	0	0	250,000	0	0	0	0	0	0
f. Commissary, Inmate Banking, Rest. Software — Maintenance (Restricted)											
0	0	0	0	0	0	17,500	17,500	0	0	0	35,000
g. MSP Fiber Plant Upgrade (Restricted/OTO)											
323,250	0	0	0	0	323,250	0	0	0	0	0	0
h. MSP Fiber Plant Upgrade — Maintenance (Restricted)											
26,750	0	0	0	0	26,750	26,750	0	0	0	0	26,750
i. Information Technology Service Upgrades (OTO)											

Fiscal 2008						Fiscal 2009					
General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total
170,000	0	0	0	0	170,000	130,000	0	0	0	0	130,000
j. BOPP Software and Scanner (Restricted/OTO)											
12,927	0	0	0	0	12,927	12,927	0	0	0	0	12,927
k. Electronic Storage and Workflow (Restricted/OTO)											
150,000	0	0	0	0	150,000	150,000	0	0	0	0	150,000
l. Video Conferencing Expansion (OTO)											
54,000	0	0	0	0	54,000	0	0	0	0	0	0
m. Interoperable Communications (Biennial/OTO)											
2,622,424	0	0	0	0	2,622,424	0	0	0	0	0	0
2. Community Corrections (02)											
36,221,963	554,169	0	0	0	36,776,132	36,990,421	554,169	0	0	0	37,544,590
a. Annualize Prerelease Beds (Biennial)											
4,541,342	0	0	0	0	4,541,342	4,541,342	0	0	0	0	4,541,342
b. Annualize 120 Meth Beds (Biennial)											
4,255,360	0	0	0	0	4,255,360	4,258,232	0	0	0	0	4,258,232
c. Annualize START Beds (Biennial)											
1,231,015	0	0	0	0	1,231,015	1,231,015	0	0	0	0	1,231,015
d. Annualize Conn/WATCh/BASC Beds (Biennial)											
2,382,684	0	0	0	0	2,382,684	2,382,684	0	0	0	0	2,382,684
e. Additional 80 Prerelease Beds, NW MT (Biennial)											
0	0	0	0	0	0	1,186,250	0	0	0	0	1,186,250
3. Secure Facilities (03) (Biennial)											
68,527,667	100,000	0	0	0	68,627,667	68,665,451	100,000	0	0	0	68,765,451
a. MSP Supplies (OTO)											
356,155	0	0	0	0	356,155	0	0	0	0	0	0
b. MSP Supplies, New (OTO)											
140,348	0	0	0	0	140,348	0	0	0	0	0	0

	Fiscal 2008						Fiscal 2009					
General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total
c. MSP Staff Transportation (Restricted/OTO)											
161,223	0	0	0	0	161,223	161,223	0	0	0	0	161,223
d. MWP Security/Training Equipment (Restricted/OTO)											
152,915	0	0	0	0	152,915	0	0	0	0	0	0
e. Secure Care Provider Rate Increase (Biennial)											
3,140,760	0	0	0	0	3,140,760	4,085,831	0	0	0	0	4,085,831
f. Adjust Contract Beds Population Growth (Biennial)											
4,227,300	0	0	0	0	4,227,300	12,053,213	0	0	0	0	12,053,213
g. MSP Replacement Equipment (OTO)											
162,500	0	0	0	0	162,500	216,000	0	0	0	0	216,000
h. Montana State Prison, Additional FTE (Restricted)											
618,319	0	0	0	0	618,319	639,960	0	0	0	0	639,960
i. SB 547 — Additional Sex Offender Treatment Hours											
492,158	0	0	0	0	492,158	1,359,997	0	0	0	0	1,359,997
4. Montana Correctional Enterprises (04)											
2,328,983	1,793,160	0	466,488	0	4,588,631	2,331,460	1,793,161	0	467,048	0	4,591,669
5. Juvenile Corrections (05)											
18,088,134	850,885	223,376	0	0	19,162,395	18,145,703	850,885	223,376	0	0	19,219,964
a. RYCF Safety and Security Equipment (OTO)											
60,100	0	0	0	0	60,100	0	0	0	0	0	0
b. Juvenile Reentry Program (Restricted/OTO)											
878,348	0	0	0	0	878,348	878,544	0	0	0	0	878,544
c. RYCF Commercial Kitchen Equipment (OTO)											
35,000	0	0	0	0	35,000	0	0	0	0	0	0
d. PHYCF Safety and Security Equipment (Restricted/OTO)											
161,000	0	0	0	0	161,000	0	0	0	0	0	0
e. PHYCF Gym Floor Replace (Restricted/OTO)											

Fiscal 2008						Fiscal 2009					
General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total
140,000	0	0	0	0	140,000	0	0	0	0	0	0
f. PHYCF Laundry Equipment (OTO)											
50,900	0	0	0	0	50,900	0	0	0	0	0	0
g. Youth Corrections Facilities, Additional FTE (Restricted)											
245,000	0	0	0	0	245,000	245,000	0	0	0	0	245,000
h. SB 146 — Transportation From Youth Secure Facility											
2,501	0	0	0	0	2,501	2,501	0	0	0	0	2,501
Total											
166,072,604	3,760,674	223,376	542,069	0	170,598,723	173,681,374	3,648,217	223,376	542,089	0	178,095,056

General fund money in MSP Staff Transportation for fiscal year 2009 is contingent upon the nonavailability of federal grant funds to support MSP Staff Transportation and must be reduced dollar-for-dollar by the amount of any federal grant funds received to support MSP Staff Transportation.

Funding in Montana State Prison, Additional FTE may be used only to fund additional positions for existing operations at Montana state prison as of March 28, 2007.

General fund money in Juvenile Reentry Program is contingent upon the nonavailability of federal grant funds to support Juvenile Reentry Program and must be reduced dollar-for-dollar by the amount of any federal grant funds received to support Juvenile Reentry Program.

Funding in Youth Corrections Facilities, Additional FTE may be used only to fund additional positions for existing operations at Pine Hills youth correctional facility and Riverside youth corrections facility as of March 28, 2007.

DEPARTMENT OF LABOR AND INDUSTRY (6602)

1. Workforce Services Division (01)											
727,877	8,028,924	20,040,165	0	0	28,796,966	729,205	7,992,002	20,099,487	0	0	28,820,694
a. Increase Payment to Advisory Board Members — SB 62											
0	0	3,900	0	0	3,900	0	0	3,998	0	0	3,998
b. Revise Membership of Workforce Investment Boards — SB 440											
0	0	7,422	0	0	7,422	0	0	7,422	0	0	7,422
2. Unemployment Insurance Division (02)											

	Fiscal 2008						Fiscal 2009					
General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total
0	1,625,775	9,875,993	0	0	11,501,768	0	3,041,210	8,244,998	0	0	11,286,208
a. Mainframe Tax System Replacement Feasibility Study (Biennial)											
0	0	1,000,000	0	0	1,000,000	0	0	0	0	0	0
3. Commissioner's Office/Centralized Services Division (03)											
251,280	686,161	476,081	83,527	0	1,497,049	253,933	695,520	478,008	86,136	0	1,513,597
4. Employment Relations Division (04)											
1,066,061	8,767,704	748,599	0	0	10,582,364	1,071,903	8,805,686	753,972	0	0	10,631,561
a. Increase Payment to Advisory Board Members — SB 62											
0	1,500	0	0	0	1,500	0	1,538	0	0	0	1,538
5. Business Standards Division (05)											
0	13,808,158	0	0	0	13,808,158	0	13,881,321	0	0	0	13,881,321
a. Legal Contingency (Restricted/OTO)											
0	70,000	0	0	0	70,000	0	70,000	0	0	0	70,000
b. Revise Nursing Home Administration Laws — HB 378											
0	1,188	0	0	0	1,188	0	1,188	0	0	0	1,188
c. License and Regulate Athletic Trainers — HB 665											
0	50,732	0	0	0	50,732	0	46,229	0	0	0	46,229
d. Alternative Adolescent Registration — HB 769											
0	800	0	0	0	800	0	15,382	0	0	0	15,382
e. Increase Payment to Advisory Board Members — SB 62											
0	500	0	0	0	500	0	512	0	0	0	512
f. Revise Professional and Occupational Licensing Laws — SB 153											
0	11,290	0	0	0	11,290	0	11,290	0	0	0	11,290
g. Board of Private Security Patrol Officers — SB 209											
0	1,947	0	0	0	1,947	0	1,105	0	0	0	1,105
6. Office of Community Services (07)											
125,000	75,000	2,915,678	0	0	3,115,678	125,000	75,000	2,917,966	0	0	3,117,966

	Fiscal 2008						Fiscal 2009				
General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total
a. Conference on Race (Biennial)											
0	50,000	0	0	0	50,000	0	0	0	0	0	0
7. Workers' Compensation Court (09)											
0	610,851	0	0	0	610,851	0	616,704	0	0	0	616,704
Total											
2,170,218	33,790,530	35,067,838	83,527	0	71,112,113	2,180,041	35,254,687	32,505,851	86,136	0	70,026,715

If Senate Bill No. 153 of the 2007 regular session is not passed and approved, Revise Professional and Occupational Licensing Laws—SB 153 is void.

DEPARTMENT OF MILITARY AFFAIRS (6701)

1. Centralized Services (01)											
551,113	0	491,330	0	0	1,042,443	553,562	0	492,342	0	0	1,045,904
a. Legislative Audit (Restricted/Biennial)											
3,986	0	0	0	0	3,986	0	0	0	0	0	0
b. Upgrade Department Server (OTO)											
25,000	0	0	0	0	25,000	0	0	0	0	0	0
2. Challenge Program (02)											
1,225,995	0	1,878,763	0	0	3,104,758	1,231,895	0	1,879,029	0	0	3,110,924
a. Legislative Audit (Restricted/Biennial)											
2,278	0	3,416	0	0	5,694	0	0	0	0	0	0
3. National Guard Scholarship Program (03) (Biennial)											
250,000	0	0	0	0	250,000	250,000	0	0	0	0	250,000
4. Army National Guard Program (12)											
1,161,682	12,000	12,723,759	0	0	13,897,441	1,173,167	12,000	12,792,176	0	0	13,977,343
a. Legislative Audit (Restricted/Biennial)											
7,893	0	27,032	0	0	34,925	0	0	0	0	0	0
5. Air National Guard Program (13)											

Fiscal 2008						Fiscal 2009					
General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total
374,568	0	4,546,473	0	0	4,921,041	378,539	0	4,627,230	0	0	5,005,769
a. Legislative Audit (Restricted/Biennial)											
633	0	3,100	0	0	3,733	0	0	0	0	0	0
6. Disaster and Emergency Services (21)											
1,046,944	334,408	1,688,082	0	0	3,069,434	1,049,782	334,408	1,691,097	0	0	3,075,287
a. Legislative Audit (Restricted/Biennial)											
2,689	0	8,193	0	0	10,882	0	0	0	0	0	0
b. Upgrade GIS Hardware and Software (OTO)											
12,000	0	0	0	0	12,000	0	0	0	0	0	0
7. Veterans' Affairs Program (31)											
686,682	1,073,145	0	0	0	1,759,827	686,990	1,079,162	0	0	0	1,766,152
a. Legislative Audit (Restricted/Biennial)											
2,151	1,898	0	0	0	4,049	0	0	0	0	0	0
Total											
5,353,614	1,421,451	21,370,148	0	0	28,145,213	5,323,935	1,425,570	21,481,874	0	0	28,231,379
TOTAL SECTION D											
204,204,941	81,834,757	65,118,393	2,340,226	0	353,498,317	207,653,083	83,961,733	62,677,225	2,318,160	0	356,610,201

	Fiscal 2008						Fiscal 2009					
General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total
					E. EDUCATION						
OFFICE OF SUPERINTENDENT OF PUBLIC INSTRUCTION (3501)											
1. OPI Administration (06)											
5,186,912	230,007	12,673,034	0	0	18,089,953	5,253,000	230,257	12,737,406	0	0	18,220,663
a. K-12 Education Data Systems (Restricted/Biennial)											
1,866,814	0	0	0	0	1,866,814	1,592,133	0	0	0	0	1,592,133
b. Curriculum Specialists (Restricted/Biennial)											
959,700	0	0	0	0	959,700	924,816	0	0	0	0	924,816
c. Storage Area Network (SAN) Replacement (Restricted/OTO)											
160,000	0	0	0	0	160,000	0	0	0	0	0	0
d. Indian Education for All and Indian Achievement Gap (Restricted/Biennial)											
1,665,351	0	0	0	0	1,665,351	1,665,570	0	0	0	0	1,665,570
e. Indian Education for All Tribal History (Restricted/Biennial/OTO)											
237,500	0	0	0	0	237,500	237,500	0	0	0	0	237,500
2. Distribution to Public Schools (09)											
0	0	139,285,243	0	0	139,285,243	0	0	145,148,901	0	0	145,148,901
a. Base Aid (Restricted)											
515,121,189	0	0	0	0	515,121,189	531,803,079	0	0	0	0	531,803,079
b. Special Education (Restricted)											
40,434,302	0	0	0	0	40,434,302	41,647,331	0	0	0	0	41,647,331
c. Transportation (Restricted)											
12,472,550	0	0	0	0	12,472,550	12,572,550	0	0	0	0	12,572,550
d. School Facility Payment (Restricted)											
10,509,037	0	0	0	0	10,509,037	10,509,037	0	0	0	0	10,509,037
e. In-State Treatment (Restricted)											
974,896	0	0	0	0	974,896	974,896	0	0	0	0	974,896
f. Secondary Vo-Ed (Restricted)											

Fiscal 2008						Fiscal 2009					
General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total
1,000,000	0	0	0	0	1,000,000	1,000,000	0	0	0	0	1,000,000
g. Adult Basic Ed (Restricted)											
525,000	0	0	0	0	525,000	525,000	0	0	0	0	525,000
h. Gifted and Talented (Restricted)											
250,000	0	0	0	0	250,000	250,000	0	0	0	0	250,000
i. Gifted and Talented (Restricted/OTO)											
1,000,000	0	0	0	0	1,000,000	1,000,000	0	0	0	0	1,000,000
j. School Foods (Restricted)											
648,655	0	0	0	0	648,655	648,655	0	0	0	0	648,655
k. HB 124 Block Grants (Restricted)											
50,979,326	0	0	0	0	50,979,326	51,366,769	0	0	0	0	51,366,769
l. State Tuition Payments (Restricted)											
606,138	0	0	0	0	606,138	606,138	0	0	0	0	606,138
m. Traffic Safety (Restricted)											
0	750,000	0	0	0	750,000	0	750,000	0	0	0	750,000
n. Full-Time Kindergarten Startup Costs (Restricted/Biennial/OTO)											
10,000,000	0	0	0	0	10,000,000	0	0	0	0	0	0
o. At-Risk Payment (Restricted)											
5,000,000	0	0	0	0	5,000,000	5,000,000	0	0	0	0	5,000,000
p. Indian Education for All Payment (Restricted/OTO)											
1,500,000	0	0	0	0	1,500,000	1,500,000	0	0	0	0	1,500,000
Total											
661,097,370	980,007	151,958,277	0	0	814,035,654	669,076,474	980,257	157,886,307	0	0	827,943,038

Base Aid is reduced by $6 million in fiscal year 2009 if House Bill No. 10 does not pass.

The office of public instruction may distribute funds from the appropriation for In-State Treatment to public school districts for the purpose of providing for educational costs of children with significant behavioral or physical needs.

Fiscal 2008						Fiscal 2009					
General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total

Except for the amount appropriated for administration from the traffic education account in OPI Administration, all remaining revenue up to $1.1 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 educational activities and all general fund appropriations in local educational activities are biennial.

Full-Time Kindergarten Startup Costs is contingent upon passage and approval of [LC 4], which provides a distribution mechanism for the kindergarten startup funds.

If the unaudited general fund revenue received in fiscal year 2007 exceeds $1,762,355,000, then the amount of the general fund unaudited revenue for fiscal year 2007 that exceeds $1,762,355,000, up to $30 million, is appropriated to the office of public instruction for distribution to schools in accordance with [LC 4] for the capital investment and deferred maintenance one-time-only payment.

Indian Education for All Payment is contingent upon passage and approval of [LC 4]. The one-time-only payments will be distributed in accordance with the mechanism provided in [LC 4].

BOARD OF PUBLIC EDUCATION (5101)

1. Administration (01)											
203,003	15,000	0	0	0	218,003	208,097	20,000	0	0	0	228,097
2. Advisory Council (03)											
0	154,859	0	0	0	154,859	0	154,908	0	0	0	154,908
a. Advisory Council Reimbursement Increase											
3,000	0	0	0	0	3,000	3,075	0	0	0	0	3,075
Total											
206,003	169,859	0	0	0	375,862	211,172	174,908	0	0	0	386,080

MONTANA UNIVERSITY SYSTEM, INCLUDING OFFICE OF THE COMMISSIONER OF HIGHER EDUCATION AND EDUCATIONAL UNITS AND AGENCIES (5100)

1. OCHE — Administration (01)											
1,767,701	0	278,082	101,145	0	2,146,928	1,776,892	0	278,081	101,143	0	2,156,116

	Fiscal 2008						Fiscal 2009					
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)											
37,980	0	0	0	0	37,980	0	0	0	0	0	0
b. Transferability of Student Data (OTO)											
979,099	0	0	0	0	979,099	0	0	0	0	0	0
c. Moving Expenses (OTO)											
30,000	0	0	0	0	30,000	0	0	0	0	0	0
d. Coordinate and Expand Distance Learning (OTO)											
225,000	0	0	0	0	225,000	225,000	0	0	0	0	225,000
e. Rent Increase (Restricted)											
13,356	0	0	0	0	13,356	54,420	0	0	0	0	54,420
f. Transferability of Student Data											
312,000	0	0	0	0	312,000	253,901	0	0	0	0	253,901
g. Coordinate and Expand Distance Learning											
225,000	0	0	0	0	225,000	225,000	0	0	0	0	225,000
2. OCHE — Student Assistance Program (02)											
4,077,289	100,000	232,915	0	0	4,410,204	4,078,389	100,000	232,915	0	0	4,411,304
a. Governor's Postsecondary Scholarship Program (Restricted)											
1,530,000	0	0	0	0	1,530,000	2,510,000	0	0	0	0	2,510,000
b. WICHE/WWAMI/MN Dental Program											
5,197,136	0	0	0	0	5,197,136	5,382,581	0	0	0	0	5,382,581
3. OCHE — Improving Teacher Quality (03)											
0	0	385,000	0	0	385,000	0	0	395,000	0	0	395,000
4. OCHE — Community College Assistance (04) (Biennial)											
8,254,210	0	0	0	0	8,254,210	8,390,361	0	0	0	0	8,390,361
a. Legislative Audit (Restricted/Biennial)											
27,936	0	0	0	0	27,936	0	0	0	0	0	0
b. Community College Assistance (Restricted/OTO)											

Fiscal 2008						Fiscal 2009					
General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total
450,000	0	0	0	0	450,000	450,000	0	0	0	0	450,000
5. OCHE — Talent Search (06)											
72,848	0	4,467,217	0	0	4,540,065	72,881	0	4,471,456	0	0	4,544,337
6. OCHE — Workforce Development (08)											
91,092	0	6,307,643	0	0	6,398,735	91,092	0	6,309,109	0	0	6,400,201
7. OCHE — Appropriation Distribution Transfers (09)											
116,549,958	17,285,323	0	0	0	133,835,281	122,289,766	16,089,436	0	0	0	138,379,202
a. Legislative Audit (Restricted/Biennial)											
575,741	0	0	0	0	575,741	0	0	0	0	0	0
b. Property Tax Reimbursement — House Bill No. 10											
71,774	0	0	0	0	71,774	195,496	0	0	0	0	195,496
c. Equipment and Technology (OTO)											
2,000,000	2,000,000	0	0	0	4,000,000	0	0	0	0	0	0
d. Workforce Training — Program Development (OTO)											
1,500,000	0	0	0	0	1,500,000	0	0	0	0	0	0
e. Research Agencies Equipment (OTO)											
1,000,000	0	0	0	0	1,000,000	0	0	0	0	0	0
f. High School Honors Tuition Waivers (OTO)											
0	500,000	0	0	0	500,000	0	500,000	0	0	0	500,000
g. Dental Hygiene Program at Great Falls College of Technology (Restricted)											
235,000	0	0	0	0	235,000	235,000	0	0	0	0	235,000
h. Agriculture Experiment Station											
11,766,373	0	0	0	0	11,766,373	11,810,719	0	0	0	0	11,810,719
i. Agriculture Experiment Station Additional Appropriation											
50,000	0	0	0	0	50,000	50,000	0	0	0	0	50,000
j. Extension Service											
5,567,713	0	0	0	0	5,567,713	5,590,824	0	0	0	0	5,590,824

Fiscal 2008						Fiscal 2009					
General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total
k. Forest and Conservation Experiment Station											
1,094,186	0	0	0	0	1,094,186	1,103,415	0	0	0	0	1,103,415
l. Bureau of Mines and Geology											
1,820,060	666,000	0	0	0	2,486,060	1,888,718	666,000	0	0	0	2,554,718
m. Fire Services Training School											
758,739	0	0	0	0	758,739	723,023	0	0	0	0	723,023
n. Yellow Bay Biological Station (Restricted)											
125,000	0	0	0	0	125,000	125,000	0	0	0	0	125,000
o. MSU-Northern Science and Water Programs (Restricted)											
240,000	0	0	0	0	240,000	240,000	0	0	0	0	240,000
p. MSU-Bozeman — PBS Television Satellite Delivery System (Restricted/Biennial/OTO)											
400,000	0	0	0	0	400,000	0	0	0	0	0	0
q. University of Montana-Missoula Speech Pathology Program (Restricted/Biennial/OTO)											
700,000	0	0	0	0	700,000	0	0	0	0	0	0
r. Montana Tech Advanced Nursing Workforce Program (Restricted/OTO)											
40,000	0	0	0	0	40,000	40,000	0	0	0	0	40,000
8. Tribal College Assistance Program (11) (Biennial)											
450,000	0	0	0	0	450,000	450,000	0	0	0	0	450,000
a. Nonbeneficiary Assistance (OTO)											
507,000	0	0	0	0	507,000	507,000	0	0	0	0	507,000
9. OCHE — Guaranteed Student Loan (12)											
0	0	48,832,760	0	0	48,832,760	0	0	51,707,217	0	0	51,707,217
a. Legislative Audit (Restricted/Biennial)											
0	0	18,961	0	0	18,961	0	0	0	0	0	0
10. OCHE — Board of Regents (13)											
31,801	0	0	0	0	31,801	31,801	0	0	0	0	31,801

	Fiscal 2008						Fiscal 2009					
General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total
Total											
168,773,992	20,551,323	60,522,578	101,145	0	249,949,038	168,791,279	17,355,436	63,393,778	101,143	0	249,641,636

Items designated as OCHE—Administration (01), Student Assistance Program (02), Improving Teacher Quality (03), Talent Search (06), Workforce Development (08), Appropriation Distribution Transfers (09) [excluding Agriculture Experiment Station, Extension Service, Forest and Conservation Experiment Station, Bureau of Mines and Geology, Bureau Ground Water Program, and Fire Services Training School], Guaranteed Student Loan (12), and Board of Regents (13) are a single biennial lump-sum appropriation.

General fund money, state and federal special revenue, and proprietary fund revenue appropriated to the board of regents are included in all Montana university system programs (5100). All other public funds received by units of the Montana university system (other than plant funds appropriated in [LC 3], relating to long-range building) are appropriated to the board of regents and may be expended under the provisions of 17-7-138(2). The board of regents shall allocate the appropriations to individual university system units, as defined in 17-7-102(13), according to board policy.

The Montana university system, except the office of the commissioner of higher education and the community colleges, shall provide the office of budget and program planning and the legislative fiscal division banner access to the entire university system's banner information system, except for information pertaining to individual students or individual employees that is protected by Article II, sections 9 and 10, of the Montana constitution, 20-25-515, or the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. 1232g.

The Montana university system shall provide the electronic data required for human resource data for the current unrestricted operating funds into the MBARS system. The salary and benefit data provided must reflect approved board of regents operating budgets.

~~Item OCHE—Administration (01) includes an appropriation for a new, indirect cost-recovery plan that includes funding for a report from the commissioner of higher education, by August 2008, to the education and local government interim committee on the status and funding for the indirect cost-recovery plan that includes a recommendation for funding that plan in the 2011 biennium.~~

If the legislature does not amend Governor's Postsecondary Scholarship Program to expand the number or size of the scholarship awards authorized in Title 20, chapter 26, part 6, this item is reduced by $250,000 in fiscal year 2008 and $500,000 in fiscal year 2009, and OCHE—Student Assistance Program is increased by $139,768 in general fund money in fiscal year 2008 and $221,900 in general fund money in fiscal year 2009 to support the Montana higher education grant (MHEG) program.

WICHE/WWAMI/MN Dental Program is restricted so that any surplus funding may be transferred only to other student financial aid programs in Program 02.

Contingent upon passage and approval of an educator loan assistance program by the 2007 legislature, there is appropriated $1.05 million in general fund money in the 2009 biennium to fund that program.

	Fiscal 2008						Fiscal 2009					
General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total

The variable cost of education for each full-time equivalent student at the community colleges, including Summitnet, is $1,815 each year of the 2009 biennium. The general fund appropriation for OCHE—Community College Assistance (04) provides 48.5% of the fixed cost of education plus 48.5% of the variable cost of education for each full-time equivalent student in fiscal year 2008 and 49.3% of the fixed cost of education plus 49.3% of the variable cost of education for each full-time equivalent student in fiscal year 2009. 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 (04) is calculated to fund education in the community colleges for an estimated 2,411 resident FTE students in both fiscal year 2008 and fiscal year 2009. If total resident FTE student enrollment in the community colleges is greater than the estimated number for the biennium, the community colleges shall serve the additional students without a state general fund contribution. If actual resident FTE student enrollment is less than the estimated number for the biennium, the community colleges shall revert general fund money to the state in accordance with 17-7-142.

Total audit costs are estimated to be $57,600 for the community colleges for the biennium. The general fund appropriation for each community college provides 48.5% of the total audit costs in the 2009 biennium. The remaining 51.5% of these costs must be paid from funds other than those appropriated for OCHE—Community College Assistance. Audit costs for the biennium may not exceed $18,500 for Dawson, $16,600 for Miles, and $22,500 for Flathead Valley community college.

Community College Assistance will be distributed to the three community colleges equally for new program development or capital investments.

The legislature defines rates for the Montana university system self-funded workers' compensation program to mean the amount necessary to maintain the plan on an actuarially sound basis.

Revenue anticipated to be received by the Montana university system units and colleges of technology include interest earnings and other revenue of $2,136,468 each year of the 2009 biennium. These amounts are appropriated for current unrestricted operating expenses as a biennial lump-sum appropriation and are in addition to the funds shown in OCHE.

Revenue anticipated to be received by the agriculture experiment station includes:

(1) interest earnings and other revenue of $60,308 each year of the 2009 biennium; and

(2) federal revenue of $2,098,417 in fiscal year 2008 and $2,109,926 in fiscal year 2009.

Revenue anticipated to be received by the extension service includes:

(1) interest earnings of $20,133 each year of the 2009 biennium; and

(2) federal revenue of $2,429,908 in fiscal year 2008 and $2,437,119 in fiscal year 2009.

	Fiscal 2008						Fiscal 2009					
General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total

Anticipated interest revenue of $692 in each year of the 2009 biennium is appropriated to the forest and conservation experiment station for current unrestricted operating expenses. This amount is in addition to that shown in OCHE—Appropriation Distribution Transfers.

Anticipated sales revenue of $36,828 in fiscal year 2008 and $37,983 in fiscal year 2009 is appropriated to the Bureau of Mines and Geology for current unrestricted operating expenses. This amount is in addition to that shown in OCHE—Appropriation Distribution Transfers.

Anticipated interest revenue of $943 each year of the 2009 biennium is appropriated to Fire Services Training School for current unrestricted operating expenses. This amount is in addition to that shown in OCHE—Appropriation Distribution Transfers.

OCHE—Appropriation Distribution Transfers includes $932,200 for the 2009 biennium that must be transferred to the energy conservation program account and used to retire the general obligation bonds sold to fund energy improvements through the state energy conservation program. The costs of this transfer in each year of the biennium are: university of Montana-Missoula, $104,000 in fiscal year 2008 and $95,000 in fiscal year 2009; Montana tech of the university of Montana, $31,800 in fiscal year 2008 and $31,800 in fiscal year 2009; Montana state university-northern, $69,200 in fiscal year 2008 and $60,200 in fiscal year 2009; Montana state university-Bozeman, $58,000 in fiscal year 2008 and $58,000 in fiscal year 2009; Montana state university-Billings, $105,500 in fiscal year 2008 and $105,500 in fiscal year 2009; and western Montana college of the university of Montana, $108,650 in fiscal year 2008 and $108,150 in fiscal year 2009.

The Montana university system shall pay $88,506 for the 2009 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.

Property Tax Reimbursement is contingent upon passage and approval of House Bill No. 10.

Upon passage and approval of House Bill No. 116 of the 2007 regular session and subject to available funds, the following decision packages are approved and the amounts are appropriated to the bureau of mines and geology from the natural resources operations state special revenue account:

DP 1 - Maintain program funding: The legislature approved $174,114 in state special revenue in the 2009 biennium to restore one-time program funding increases approved in the 2007 biennium.

DP 2 - Support proposed pay plans: The legislature approved $97,540 in state special revenue in the 2009 biennium to support personal services present law increases.

DP 3 - Operations support: The legislature approved $8,070 in state special revenue in the 2009 biennium to support a 2% annual increase in gasoline and other operations costs.

Of the $2 million 6-mill levy and $2 million general fund appropriation for equipment and technology in Equipment and Technology, $1.75 million must be matched on a one-to-one basis from nonstate funds identified by the board of regents. The grant process for distributing these funds, administered by the office of the commissioner of higher education in consultation with the state workforce investment board (SWIB), must require this one-to-one funding match by applicants and

	Fiscal 2008						Fiscal 2009					
General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total

give scoring priority to grants that include matching funds. Matching funds may include federal revenue, private revenue, and other nonstate university funds. The funding match may include in-kind revenue only if that revenue is equipment itself, cost reductions offered for purchased equipment, or space to house equipment. The office of the commissioner of higher education shall certify to the office of budget and program planning that an allowable funding match has been committed from an eligible revenue source, as evidenced by a commitment letter from that funding source. This appropriation is restricted so that 6-mill levy revenue may not be awarded to the community colleges.

Of the $1.5 million general fund appropriation for high demand programs in Workforce Training—Program Development, $700,000 must be matched by no less than one-half the appropriation amount, with nonstate funds identified by the board of regents. The grant process for distributing these funds, administered by the office of the commissioner of higher education in consultation with the state workforce investment board (SWIB), must require this funding match ratio and give scoring priority to grants that include matching funds. Matching funds may include federal revenue, private revenue, and other nonstate university funds. The funding match may include in-kind revenue only if that revenue is equipment itself, cost reductions offered for purchased equipment, or space to house equipment. The office of the commissioner of higher education shall certify to the office of budget and program planning that an allowable funding match has been committed from an eligible revenue source, as evidenced by a commitment letter from that funding source.

Yellow Bay Biological Station is restricted; $100,000 each fiscal year is restricted to laboratory work associated with Flathead basin water quality monitoring, and $25,000 each fiscal year is restricted to limnological investigations on Whitefish Lake in partnership with the Whitefish Lake institute.

MSU-Northern Science and Water Programs is contingent upon passage and approval of House Bill No. 116 of the 2007 regular session.

Montana Tech Advanced Nursing Workforce Program is restricted to funding the costs to the university system associated with courses at Montana tech for advanced nursing students' transition to the workforce in partnership with the St. James healthcare foundation.

SCHOOL FOR THE DEAF AND BLIND (5113)

1. Administration Program (01)											
413,290	2,160	0	0	0	415,450	413,914	2,160	0	0	0	416,074
a. Legislative Audit (Restricted/Biennial)											
31,634	0	0	0	0	31,634	0	0	0	0	0	0
2. General Services Program (02)											
538,636	0	0	0	0	538,636	534,971	0	0	0	0	534,971
3. Student Services (03)											
1,232,083	0	27,187	0	0	1,259,270	1,240,612	0	27,187	0	0	1,267,799
4. Education (04)											

Fiscal 2008						Fiscal 2009					
General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total
2,731,439	416,764	73,517	0	0	3,221,720	2,861,186	291,764	73,516	0	0	3,226,466
a. Expansion of Outreach Services (Reporting)											
227,663	0	0	0	0	227,663	221,509	0	0	0	0	221,509
b. Retention/Recruitment of Highly Qualified Staff (Reporting)											
213,857	0	0	0	0	213,857	265,050	0	0	0	0	265,050
Total											
5,388,602	418,924	100,704	0	0	5,908,230	5,537,242	293,924	100,703	0	0	5,931,869

The student services program includes general fund money of $7,669 in fiscal year 2008 and $7,823 in fiscal year 2009 for increases to the quality educator component. The education program includes general fund money of $13,058 in fiscal year 2008 and $12,904 in fiscal year 2009 for increases to the quality educator component. The quality educator component increases are contingent upon passage and approval of legislation that increases the total quality educator payment as defined in 20-9-306(15).

MONTANA ARTS COUNCIL (5114)

1. Promotion of the Arts (01)											
430,418	179,640	580,895	0	0	1,190,953	421,830	184,707	589,398	0	0	1,195,935
a. Legislative Audit (Restricted/Biennial)											
9,047	3,907	7,608	0	0	20,562	0	0	0	0	0	0
b. Rent and Moving Expenses (Restricted)											
24,978	16,836	11,578	0	0	53,392	21,312	17,344	11,928	0	0	50,584
c. Database Rewrite (OTO)											
73,920	0	0	0	0	73,920	0	0	0	0	0	0
Total											
538,363	200,383	600,081	0	0	1,338,827	443,142	202,051	601,326	0	0	1,246,519

All federal funds in Montana Arts Council are biennial appropriations.

MONTANA STATE LIBRARY COMMISSION (5115)

	Fiscal 2008						Fiscal 2009				
General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total
1. Statewide Library Resources (01)											
1,970,230	941,517	635,712	0	0	3,547,459	2,228,762	941,517	637,040	0	0	3,807,319
a. Legislative Audit (Restricted/Biennial)											
18,980	0	0	0	0	18,980	0	0	0	0	0	0
b. GIS Metadata Portal (Restricted)											
150,000	0	0	0	0	150,000	150,000	0	0	0	0	150,000
c. LSTA Grants (Biennial)											
0	0	916,251	0	0	916,251	0	0	191,220	0	0	191,220
d. Library Federation Support (Biennial)											
205,662	0	0	0	0	205,662	0	0	0	0	0	0
e. Increase Library Federation Support											
0	113,495	0	0	0	113,495	0	113,495	0	0	0	113,495
Total											
2,344,872	1,055,012	1,551,963	0	0	4,951,847	2,378,762	1,055,012	828,260	0	0	4,262,034

The Increase Library Federation Support appropriation of $113,495 in state special revenue derived from the coal tax shared revenue account is contingent upon revenue estimates of $2,061,000 in fiscal year 2008 and $1,975,000 in fiscal year 2009 in the coal tax shared revenue account. If the revenue to the account is higher than anticipated, Increase Library Federation Support is increased by 27.26% of additional revenue, up to a maximum of an additional $21,505 of state special revenue each year of the biennium.

MONTANA HISTORICAL SOCIETY (5117)

1. Administration Program (01)											
1,184,821	84,991	130,619	376,312	0	1,776,743	1,191,328	85,018	130,619	390,938	0	1,797,903
a. Legislative Audit (Restricted/Biennial)											
34,798	0	0	0	0	34,798	0	0	0	0	0	0
b. Computer Replacement (Restricted)											
19,200	0	0	0	0	19,200	19,200	0	0	0	0	19,200
2. Library Program (02)											

Fiscal 2008						Fiscal 2009					
General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total
795,186	2,624	0	71,446	0	869,256	798,579	2,624	0	71,528	0	872,731
a. TVMT (Restricted/Biennial/OTO)											
80,000	0	0	0	0	80,000	0	0	0	0	0	0
3. Museum Program (03)											
327,022	498	0	10,000	0	337,520	312,137	498	0	10,000	0	322,635
4. Publications (04)											
91,579	0	0	440,951	0	532,530	91,819	0	0	441,762	0	533,581
5. Historic Preservation Program (06)											
157,036	0	474,338	5,000	0	636,374	158,471	0	477,348	5,000	0	640,819
Total											
2,689,642	88,113	604,957	903,709	0	4,286,421	2,571,534	88,140	607,967	919,228	0	4,186,869
TOTAL SECTION E											
841,038,844	23,463,621	215,338,560	1,004,854	0	1,080,845,879	849,009,605	20,149,728	223,418,341	1,020,371	0	1,093,598,045
TOTAL STATE FUNDING											
1,595,787,420	619,933,326	1,673,278,203	13,688,289	0	3,902,687,238	1,619,899,696	597,283,521	1,725,568,175	13,484,455	0	3,956,235,847

Section 10. Rates. Internal service fund type fees and charges established by the legislature for the 2009 biennium are as follows:

	Fiscal 2008	Fiscal 2009
Department of Transportation — 5401		
1. State Motor Pool		
a. Class 02 (small utilities)		
Per Hour Assigned	$1.547	$1.634
Per Mile Operated	$0.158	$0.160
b. Class 04 (large utilities)		
Per Hour Assigned	$1.948	$2.034
Per Mile Operated	$0.200	$0.202
c. Class 06 (midsize compact)		
Per Hour Assigned	$1.393	$1.404
Per Mile Operated	$0.123	$0.125
d. Class 07 (small pickups)		
Per Hour Assigned	$1.528	$1.578
Per Mile Operated	$0.187	$0.190
e. Class 11 (large pickups)		
Per Hour Assigned	$1.432	$1.434
Per Mile Operated	$0.215	$0.218
f. Class 12 (vans - all types)		
Per Hour Assigned	$1.453	$1.417
Per Mile Operated	$0.181	$0.183
2. Equipment Program		
All of Program Operations	20-day working capital reserve	
Department of Revenue — 5801		
1. Business and Income Taxes Division		
Delinquent Account Collection Fee (percent of amount collected)	5%	5%
Department of Administration — 6101		
1. Administration and Financial Services Division		
a. SABHRS Services Bureau		
Total Allocation of Costs	$6,774,746	$6,616,145
b. Management Services Unit		
Total Allocation of Costs	$987,261	$996,441
Portion of Unit for Human Resources		
Charge Per FTE of User Programs	$417	$429
c. Warrant Writer		
Mailer	$0.68860	$0.69200

	Fiscal 2008	Fiscal 2009
Mailer - PRD and TRS	$0.27860	$0.28200
Nonmailer	$0.25840	$0.26180
Emergency	$4.78180	$4.78090
Duplicates	$5.59350	$5.59260
Externals		
Externals - Payroll	$0.23050	$0.23390
Externals - Universities	$0.19660	$0.20000
Direct Deposit		
Direct Deposit - Mailer	$0.64680	$0.64450
Direct Deposit - Nonmailer	$0.23870	$0.22690
2. General Services Division		
a. Facilities Management Bureau		
Office Rent (per sq. ft.)	$8.179	$8.592
Warehouse Rent (per sq. ft.)	$4.209	$4.547
Grounds Maintenance (per sq. ft.)	$0.496	$0.508
Project Mgmt (in-house)	15%	15%
Project Mgmt (contracted)	5%	5%
b. Print and Mail Services		
Internal Printing		
Impression Cost		
1-20	$0.0625	$0.0625
21-100	$0.0276	$0.0276
101-1000	$0.0159	$0.0159
1001-5000	$0.0064	$0.0064
5001+	$0.0032	$0.0032
Collating Machine	$0.0064	$0.0064
Collating Hand	$0.530	$0.530
Stapling Hand	$0.0159	$0.0159
Stapling In-Line	$0.0106	$0.0106
Saddle Stitch	$0.0318	$0.0318
Folding (setup)	$10.60	$10.60
Folding	$0.0053	$0.0053
Folding Right Angle (setup)	$10.60	$10.60
Folding Right Angle	$0.0053	$0.0053
Folding In-Line	$0.0318	$0.0318
Punching Standard 3-Hole	$0.00106	$0.00106
Punching Nonstandard (setup)	$3.18	$3.18

	Fiscal 2008	Fiscal 2009
Punching Nonstandard	$0.00106	$0.00106
Cutting	$0.583	$0.583
Padding	$0.00212	$0.00212
Scoring, Perforating, Numbering (setup plus duplicating rate)	$5.30	$5.30
Perfect Binding (setup)	$15.90	$15.90
Perfect Binding	$0.583	$0.583
Tape Binding	$0.530	$0.530
Tabs	$0.530	$0.530
Transparencies	$0.530	$0.530
Shrink-Wrapping	$0.265	$0.265
Hand Bindery	$0.530	$0.530
Desktop	$38.16	$38.16
Negatives Stripped		
10x12	$11.98	$11.98
12x20	$20.30	$20.30
20x24	$36.94	$36.94
Negatives Stripped Halftone		
10x12	$17.01	$17.01
Negatives Stripped PMTs Positive		
10x12	$7.05	$7.05
12x20	$14.15	$14.15
20x24	$28.30	$28.30
Negatives Stripped PMTs Halftone		
10x12	$10.76	$10.76
Negatives Stripped Metal Plates		
8.5x11	$10.60	$10.60
11x17	$21.20	$21.20
Negatives Stripped Silver Plates		
8.5x11	$8.48	$8.48
11x17	$9.54	$9.54
Negatives Stripped CTP Plates		
8.5x11	$8.48	$8.48
11x17	$9.54	$9.54
Programming Per Hour	$40.00	$40.00
Overtime Per Hour	$20.00	$20.00
Scan (each)	$9.00	$9.00
Proof (each)	$0.25	$0.25

	Fiscal 2008	Fiscal 2009
Laminating		
8.5x11 (each)	$0.50	$0.50
11x17 (each)	$0.75	$0.75
Color Copy		
8.5x11 (each)	$0.19	$0.19
11x17 (each)	$0.38	$0.38
Large Format Color Per Foot	$12.00	$12.00
External Printing		
Percent of Invoice Markup	6.36%	6.36%
Photocopy Pool		
Copier Monthly Charge		
Level 1	$34.77	$34.77
Level 2	$115.40	$115.40
Level 3	$210.76	$210.76
Level 4	$250.93	$250.93
Level 5	$381.34	$381.34
Level 6	$526.70	$526.70
Level 7	$615.78	$615.78
Optional Features for Digital Copiers		
Level 1		
Print Cost Per Page	$0.0146	$0.0146
Fax Cost Per Page	$0.0146	$0.0146
Print Option	$18.29	$18.29
Fax Option	$14.63	$14.63
Level 2		
Print Cost Per page	$0.0146	$0.0146
Print Option	$14.63	$14.63
Fax Cost Per Page	$0.0146	$0.0146
Fax Option	$21.94	$21.94
Scan Option	$14.63	$14.63
Level 3		
Print Cost Per Page	$0.0146	$0.0146
Print Option	$28.65	$28.65
Fax Cost Per Page	$0.0146	$0.0146
Fax Option	$23.16	$23.16
Scan Option	$24.38	$24.38
Level 4		

	Fiscal 2008	Fiscal 2009
Print Cost Per Copy	$0.0146	$0.0146
Print Option	$28.65	$28.65
Fax Cost Per Page	$0.0146	$0.0146
Fax Option	$23.16	$23.16
Scan Option	$24.38	$24.38
Level 5		
Print Cost Per Page	$0.0146	$0.0146
Print Option	$32.31	$32.31
Fax Cost Per Page	$0.0146	$0.0146
Fax Option	$23.16	$23.16
Scan Option	$32.31	$32.31
Level 6		
Print Cost Per Page	$0.0146	$0.0146
Print Option	$32.31	$32.31
Fax Cost Per Page	$0.0146	$0.0146
Fax Option	$23.16	$23.16
Scan Option	$32.31	$32.31
Level 7		
Print Cost Per Page	$0.0146	$0.0146
Print Option	$32.31	$32.31
Fax Cost Per Page	$0.0146	$0.0146
Fax Option	$23.16	$23.16
Scan Option	$32.31	$32.31
Mail Preparation		
Tabbing	$0.0106	$0.0106
Labeling	$0.0106	$0.0106
Ink Jet	$0.0318	$0.0318
Inserting	$0.0106	$0.0106
Winsort	$0.0530	$0.0530
Mail Operations		
Service Type (each)		
Machinable	$0.037	$0.037
Nonmachinable	$0.069	$0.069
Postcards	$0.042	$0.042
Certified Mail	$0.530	$0.530
Registered Mail	$0.530	$0.530
Internatl Mail	$0.318	$0.318

	Fiscal 2008	Fiscal 2009
Flats	$0.095	$0.095
Priority	$0.530	$0.530
Express Mail	$0.530	$0.530
USPS Parcels	$0.265	$0.265
Insured Mail	$0.530	$0.530
Media Mail	$0.265	$0.265
Standard Mail	$0.159	$0.159
Postage Due	$0.053	$0.053
Fee Due	$0.053	$0.053
Tapes	$0.212	$0.212
UPS Parcels	$0.265	$0.265
Interagency Mail		
Dollars-Yearly	$225,998	$225,998
Postal Contract (Capitol)		
Dollars-Yearly	$41,315	$41,315
c. Central Stores		
Markup as a Percent of Retail Cost of Goods Sold	25%	25%
3. Information Technology Services Division		
Desktop Services Rate (per statewide active directory account)	$85.75	$90.50
Electronic Government Transaction Fee (per website visit)		$0.012
All Remaining Operations of the Division	30-day working capital reserve	
4. State Personnel Division		
a. Intergovernmental Training		
Open Enrollment Courses		
Two-Day Course (per participant)	$182	$185
One-Day Course (per participant)	$115	$118
Half-Day Course (per participant)	$87	$90
Eight-Day Management Series (per participant)	$550	$560
Six-Day Management Series (per participant)	$425	$430
Four-Day Administrative Assistant Series (per participant)	$320	$325
Contract Courses		
Full Day of Training (flat fee)	$800	$820
Half Day of Training (flat fee)	$550	$560
b. Payroll Processing		

	Fiscal 2008	Fiscal 2009
Payroll Fees (per employee processed per pay period)	$1.56	$1.47
5. Risk Management & Tort Defense		
Auto Liability, Comprehensive, and Collision (total allocation to agencies)	$1,146,000	$1,146,000
Aviation (total allocation to agencies)	$167,807	$185,931
General Liability (total allocation to agencies)	$7,124,500	$7,124,500
Property/Miscellaneous (total allocation to agencies)	$4,443,591	$4,443,591
Department of Fish, Wildlife, and Parks — 5201		
1. Vehicle and Aircraft Rates		
Per Mile Rates		
a. Sedans	$0.36	$0.38
b. Vans	$0.40	$0.42
c. Utilities	$0.43	$0.46
d. Pickup 1/2 ton	$0.39	$0.41
e. Pickup 3/4 ton	$0.44	$0.48
Per Hour Rates		
f. Two-Place Single Engine	$75.05	$90.06
g. Partnavia	$357.34	$428.80
h. Turbine Helicopters	$417.46	$480.08
2. Duplicating Center		
Per Copy		
a. 1-20	$.050	$.055
b. 21-100	$.035	$.040
c. 101-1000	$.030	$.035
d. 1001-5000	$.025	$.030
e. Color Copies	$.25	$.25
Bindery		
a. Collating (per sheet)	$0.005	$0.005
b. Hand Stapling (per set)	$0.015	$0.015
c. Saddle Stitch (per set)	$0.030	$0.030
d. Folding (per set)	$0.005	$0.005
e. Punching (per set)	$0.001	$0.001
f. Cutting (per minute)	$0.550	$0.550
3. Warehouse Overhead Rate	5%	5%
Department of Environmental Quality - 5301		
1. Indirect Rate		
a. Personal Services	22.5%	21%

	Fiscal 2008	Fiscal 2009
b. Operating Expenditures	3%	4%
Department of Natural Resources and Conservation - 5706		
1. Air Operations Program		
a. Bell UH-1/H Helicopters	$1075.00	$1075.00
b. Jet Ranger Helicopter	$475.00	$475.00
c. Cessna 180 Series Aircraft	$150.00	$150.00
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 investment at follows:		
a. Administration Charge (total)	$4,664,072	$4,664,072
2. Management Services Indirect Charge Rate	14.00%	13.75%
Department of Justice — 4110		
1. Agency Legal Services		
a. Attorney (per hour)	$84.00	$84.00
b. Investigator (per hour)	$50.00	$50.00
Department of Corrections — 6401		
1. Montana Correctional Enterprises		
a. Labor Charge for Motor Vehicle Maintenance (per hour)	$26.50	$26.50
b. Supply Fee as a Percentage of Actual Cost of Parts	3%	3%
c. Cook/Chill Rate - Base Tray Price (no delivery)	$1.37/meal	$1.37/meal
d. Delivery Charge per Trayed Meal Montana State Prison	$0.01/meal	$0.01/meal
e. Delivery Charge per Trayed Meal Riverside Youth Correctional Facility	$0.64/meal	$0.64/meal
f. Delivery Charge per Trayed Meal Helena Prerelease	$0.64/meal	$0.64/meal
g. Delivery Charge per Trayed Meal WATCh DUI Program	$0.22/meal	$0.22/meal
h. Delivery Charge per Trayed Meal - Methamphetamine Treatment Ctr.	$0.64/meal	$0.64/meal
i. Spoilage Percentage All Customers	4%	4%
Department of Labor and Industry — 6602		
1. Centralized Services Division		
a. Cost Allocation Plan	9.125%	9.125%
2. Business Standards Division		
a. Recharge Rate	54%	54%

	Fiscal 2008	Fiscal 2009
Office of Public Instruction — 3501		
1. OPI Indirect-Cost Pool	19.4%	19.4%

Approved June 1, 2007

Note: The stricken language in this chapter was done by Governor's line item veto dated June 1, 2007.

CHAPTER NO. 6

[HB 9]

AN ACT PROVIDING A REFUND OF UP TO A TOTAL OF $400 OF 2006 MONTANA PROPERTY TAXES PAID BY A TAXPAYER OR TAXPAYERS ON THE RESIDENCE THAT THEY OWNED AND OCCUPIED AS THEIR PRINCIPAL RESIDENCE FOR AT LEAST 7 MONTHS DURING 2006 AND OF CERTAIN 2005 AND 2004 MONTANA PROPERTY TAXES PAID ON THE PRINCIPAL RESIDENCE; PROVIDING THE PROCEDURE FOR ESTABLISHING ENTITLEMENT TO THE REFUND AND THE PERIOD WITHIN WHICH THE ENTITLEMENT MUST BE ESTABLISHED; ALLOWING A REFUNDABLE INCOME TAX CREDIT FOR THE AMOUNT OF PROPERTY TAXES PAID ON $20,000 OF MARKET VALUE OF A PRINCIPAL RESIDENCE ATTRIBUTABLE TO THE 95-MILL STATEWIDE LEVIES TO FUND SCHOOLS; PROVIDING APPROPRIATIONS; AMENDING SECTIONS 15-1-201 AND 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. Definitions. As used in [sections 1 through 3], the following definitions apply:

(1) "Montana property taxes" means the ad valorem property taxes imposed on property classified under 15-6-134 that is a single-family dwelling unit, unit of a multiple-unit dwelling, trailer, manufactured home, or mobile home and as much of the surrounding land, not exceeding 1 acre, as is reasonably necessary for its use as a dwelling and that were assessed in the specified calendar year.

(2) "Owned" includes purchasing under a contract for deed, owning 20% or more of the shares or other membership interests of an entity that owns a residence, and being the grantor or grantors under a trust indenture.

Section 2. Property tax refund — manner of claiming — limitations — appropriation. (1) (a) A refund of up to $400 of 2006 Montana property taxes assessed to and paid by a taxpayer or taxpayers on the residence that they owned and occupied as their principal residence for at least 7 months during 2006 may be claimed as provided in subsection (2), subject to the limitations provided in subsection (3).

(b) If the 2006 Montana property taxes assessed to and paid by a taxpayer or taxpayers on the residence that they owned and occupied as their principal residence for at least 7 months during 2006 were more than $25 and less than $400, a refund of the 2005 Montana property taxes assessed to and paid by the taxpayer or taxpayers on the principal residence, if they owned and occupied it as their principal residence for at least 7 months during 2005, may be claimed as

provided in subsection (2), subject to the limitations provided in subsection (3), in an amount that together with the refund under subsection (1)(a) does not exceed $400.

(c) If the 2006 Montana property taxes assessed to and paid by a taxpayer or taxpayers on the residence that they owned and occupied as their principal residence for at least 7 months during 2006, together with the 2005 Montana property taxes allowed as a refund under subsection (1)(b), were more than $50 and less than $400, a refund of the 2004 Montana property taxes assessed to and paid by the taxpayer or taxpayers on the principal residence, if they owned and occupied it as their principal residence for at least 7 months during 2004, may be claimed as provided in subsection (2), subject to the limitations provided in subsection (3), in an amount that together with the refund under subsections (1)(a) and (1)(b) does not exceed $400.

(2) (a) Subject to subsection (2)(b), the claim for refund, in the form that the department prescribes, must be executed by each taxpayer under penalty of false swearing and must include the information that the department requires.

(b) The personal representative of the estate of a deceased taxpayer may execute and file the claim for refund on behalf of a deceased taxpayer who qualifies for the refund.

(3) The claim for a refund is subject to the following limitations:

(a) The claim must be filed with the department of revenue on or before December 31, 2007, unless the department, for good cause shown, grants a reasonable extension of time for filing.

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

(c) The claims by a taxpayer or taxpayers for 2006, 2005, and 2004 must be for the same property.

(4) The payment of property tax refunds under this section is statutorily appropriated, as provided in 17-7-502, from the general fund to the department of revenue for distribution to taxpayers.

Section 3. Property tax refund — penalty for false or fraudulent claim. A person who files a false or fraudulent claim for a property tax refund under [section 2] is subject to criminal prosecution under the provisions of 45-7-202. If a false or fraudulent claim has been paid, the amount paid may be recovered as any other tax owed the state, together with a penalty of 25% and interest on the amount of the refund at the rate of 12% a year, until paid.

Section 4. Section 15-1-201, MCA, is amended to read:

"15-1-201. Administration of revenue laws. (1) (a) The department has general supervision over the administration of the assessment and tax laws of the state, except Title 15, chapters 70 and 71, and over any officers of municipal corporations having any duties to perform under the laws of this state relating to taxation to the end that all assessments of property are made relatively just and equal, at true value, and in substantial compliance with law. The department may make rules to supervise the administration of all revenue laws of the state and assist in their enforcement.

(b) In the administration of any tax over which it has general supervision, the department may require all individuals subject to the tax laws of the state to provide to the department the individual's social security number, federal employee identification number, or taxpayer identification number.

~~(b)~~*(c)* The department may contract with the U.S. department of the interior or any other federal agency to perform federal royalty audits, collection services, and any other delegable functions related to mining operations on federal lands within the state pursuant to the Federal Oil and Gas Royalty Simplification and Fairness Act of 1996.

~~(c)~~*(d)* The department shall adopt rules specifying which types of property within the several classes are considered comparable property as defined in 15-1-101.

~~(d)~~*(e)* The department shall also adopt rules for determining the value-weighted mean sales assessment ratio for all commercial and industrial real property and improvements.

(2) The department shall confer with, advise, and direct officers of municipal corporations concerning their duties, with respect to taxation, under the laws of the state.

(3) The department shall collect annually from the proper officers of the municipal corporations information, in a form prescribed by the department, about the assessment of property, collection of taxes, receipts from licenses and other sources, expenditure of public funds for all purposes, and other information as may be necessary and helpful in the work of the department. It is the duty of all public officers to fill out properly and return promptly to the department all forms and to aid the department in its work. The department shall examine the records of all municipal corporations for purposes considered necessary or helpful."

Section 5. Section 17-7-502, MCA, is amended to read:

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

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

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

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

(3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-407; 5-13-403; 10-2-603; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-111; 15-1-113; 15-1-121; 15-23-706; 15-31-906; 15-35-108; 15-36-332; 15-37-117; 15-38-202; 15-65-121; 15-70-101; 15-70-369; 15-70-601; 16-11-509; 17-3-106; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 17-7-304; 18-11-112; 19-3-319; 19-6-404; 19-6-410; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 20-8-107; 20-9-534; 20-9-622; 20-26-1503; 22-3-1004; 23-4-105; 23-4-202; 23-4-204; 23-4-302; 23-4-304; 23-5-306; 23-5-409; 23-5-612; 23-7-301; 23-7-402; 37-43-204; 37-51-501; 39-71-503; 41-5-2011; 42-2-105; 44-1-504; 44-12-206; 44-13-102; 50-4-623; 53-1-109; 53-6-703; 53-24-108; 53-24-206; 60-11-115; 61-3-415; 69-3-870; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 77-2-362; 80-2-222; 80-4-416; 80-5-510; 80-11-518; 82-11-161; 87-1-513; 90-1-115; 90-1-205; 90-3-1003; ~~and~~ 90-9-306*; and [section 2]*.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to Ch. 422, L. 1997, the inclusion of 15-1-111 terminates on July 1, 2008, which is the date that section is repealed; pursuant to sec. 10, Ch. 360, L. 1999, the inclusion of 19-20-604 terminates when the amortization period for the teachers' retirement system's unfunded liability is 10 years or less; pursuant to sec. 4, Ch. 497, L. 1999, the inclusion of 15-38-202 terminates July 1, 2014; pursuant to sec. 10(2), Ch. 10, Sp. L. May 2000, and secs. 3 and 6, Ch. 481, L. 2003, the inclusion of 15-35-108 terminates June 30, 2010; pursuant to sec. 7, Ch. 314, L. 2005, the inclusion of 23-4-105, 23-4-202, 23-4-204, 23-4-302, and 23-4-304 becomes effective July 1, 2007; and pursuant to sec. 17, Ch. 593, L. 2005, the inclusion of 15-31-906 terminates January 1, 2010.)"

Section 6. Refundable income tax credit — statewide equalization property tax levies on principal residence — rules. (1) (a) There is a credit against the tax imposed by this chapter, which is calculated by multiplying the amount of property taxes imposed and paid on a property taxpayer's principal residence under 20-9-331, 20-9-333, and 20-9-360 on $20,000 of market value on the residence times the relief multiple.

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

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

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

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

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

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

Section 7. Appropriation. There is appropriated to the department of revenue $1,028,863 from the general fund for the administration of the property tax refund provided in [section 2] for the 2009 biennium.

Section 8. Codification instruction. [Section 6] is intended to be codified as an integral part of Title 15, chapter 30, part 1, and the provisions of Title 15, chapter 30, part 1, apply to [section 6].

Section 9. Effective date. [This act] is effective on passage and approval.

Section 10. Termination. [Section 5] terminates July 1, 2008.

Approved June 1, 2007

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1-1-208	enacted	Ch. 4	HB 6
2-2-135	amended	Ch. 4	HB 6
2-15-212	amended	Ch. 4	HB 6
2-15-246	amended	Ch. 4	HB 6
2-15-1019	amended	Ch. 4	HB 6
2-15-2110	amended	Ch. 4	HB 6
2-17-560	enacted	Ch. 3	HB 4
2-17-561	enacted	Ch. 3	HB 4
5-1-103	amended	Ch. 4	HB 6
5-2-221	amended	Ch. 4	HB 6
5-5-211	amended	Ch. 4	HB 6
5-5-234	enacted	Ch. 4	HB 6
5-11-101	amended	Ch. 4	HB 6
5-11-305	amended	Ch. 4	HB 6
5-12-202	amended	Ch. 4	HB 6
5-13-202	amended	Ch. 4	HB 6
5-16-101	amended	Ch. 4	HB 6
13-37-102	amended	Ch. 4	HB 6
15-1-201	amended	Ch. 6	HB 9
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15-24-3111	enacted	Ch. 2	HB 3
15-24-3112	enacted	Ch. 2	HB 3
15-24-3116	enacted	Ch. 2	HB 3
15-30-140	enacted	Ch. 6	HB 9
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17-7-502	amended	Ch. 6	HB 9
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