EXHIBIT 1
DATE 1-14-05
139

MONTANA DEPARTMENT OF MILITARY AFFAIRS
INFORMATION SHEET
HB 139

AMENDMENT OF SECTIONS 10-1-104 (ADOPT MOST RECENT VERSION OF FEDERAL MILITARY LAWS), AND 10-1-105 (RULES BY GOVERNOR AND ADJUTANT GENERAL), MCA

INTENT

10-1-104, MCA: Amendment of section 10-1-104, MCA (Federal regulations to govern), MCA is a reoccurring "Housekeeping" measure that allows Montana to adopt, as state law, the most recent version of federal military laws and regulations and apply them to the National Guard of this state. This is a reoccurring bill as a result of the Montana Supreme Court's holding that the legislature may only adopt "existing" federal laws and regulations as state law (i.e., the legislature may not adopted changes in federal law "prospectively").

HB 139 substitutes "October 1, 2005" for "October 1, 2003", in subparts (1) and (2) of Section 10-1-104, MCA. The proposed date changes are needed to ensure that Montana can adopt, as state law, those military related federal laws and regulations that have changed since Section 10-1-104, MCA, was last amended in 2003. In 2003, the Montana Legislature amended these same subparts and substituted "October 1, 2003" for "October 1, 2001".

HB 139 also adds language to Section 10-1-104, MCA, stating that federal laws, regulations and the Uniform Code of Military Justice will apply to the Montana National Guard insofar as they are not inconsistent with the Montana Constitution [as the law presently reads], state laws, and rules/regulations adopted pursuant to section 10-1-105, MCA.

10-1-105, MCA: HB 139 amends 10-1-105 (Rules by governor and adjutant general), MCA, to give the governor and the adjutant general the authority to prescribe and adopt "Montana specific" rules and regulations (that shall apply to the armed forces of the state), which do not necessarily conform to federal rules and regulations. There are circumstances (ex. military discipline when not in a federalized status), under which the state needs the flexibility to adopt state-specific rules and regulations that do not conform to applicable "non-mandatory" federal laws and regulations. HB 139 deletes the sentences "These rules must conform to any applicable federal laws and regulations".

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