

## 1 SENATE BILL NO. 291

2 INTRODUCED BY J. BLACK

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING THE MONTANA RAILROAD DEVELOPMENT  
5 AUTHORITY; DEFINING TERMS; ESTABLISHING AUTHORITY MEMBERSHIP; AUTHORIZING THE  
6 APPOINTMENT OF AUTHORITY MEMBERS; CLARIFYING THE PUBLIC SERVICE COMMISSION'S  
7 AUTHORITY; REQUIRING THAT THE LEGISLATURE APPROVE THE AUTHORITY'S ACQUISITION OF A  
8 RAILROAD FACILITY; PROVIDING THE AUTHORITY WITH CERTAIN POWERS; PROVIDING THE  
9 AUTHORITY WITH RULEMAKING AUTHORITY THAT ALLOWS IT TO ISSUE REVENUE BONDS;  
10 CLASSIFYING CERTAIN AUTHORITY RAILROAD FACILITY PROPERTY AS CLASS NINE PROPERTY FOR  
11 PROPERTY TAX PURPOSES; CLASSIFYING CERTAIN AUTHORITY RAILROAD FACILITY PROPERTY AS  
12 CLASS TWELVE PROPERTY FOR PROPERTY TAX PURPOSES; PROVIDING THAT AUTHORITY FACILITIES  
13 ARE SUBJECT TO THE PRIVILEGE TAX; REQUIRING THAT THE AUTHORITY REPAY STATE  
14 APPROPRIATIONS; REQUIRING THE DEPARTMENT OF TRANSPORTATION TO CONSULT WITH THE  
15 AUTHORITY IN ADMINISTERING THE MONTANA ESSENTIAL FREIGHT RAIL ACT; ELIMINATING THE RAIL  
16 SERVICE COMPETITION COUNCIL; AMENDING SECTIONS 7-12-2156, 7-14-4301, 10-3-1204, 15-6-141,  
17 15-6-145, 15-6-201, 15-8-111, 15-8-405, 15-23-101, 15-23-203, 15-23-204, 15-23-205, 15-23-211, 15-24-1203,  
18 18-2-101, 18-4-313, 27-2-207, 37-60-105, 39-2-703, 44-4-902, 44-4-903, 44-4-904, 60-11-111, 60-11-119,  
19 60-11-120, 60-11-123, 69-1-110, 69-1-112, 69-11-108, 69-14-101, 69-14-201, 69-14-202, 69-14-205, 69-14-206,  
20 69-14-208, 69-14-209, 69-14-210, 69-14-214, 69-14-232, 69-14-236, 69-14-237, 69-14-238, 69-14-239,  
21 69-14-240, 69-14-252, 69-14-513, 69-14-514, 69-14-531, 69-14-532, 69-14-533, 69-14-534, 69-14-536,  
22 69-14-538, 69-14-539, 69-14-552, 69-14-553, 69-14-554, 69-14-555, 69-14-557, 69-14-558, 69-14-560,  
23 69-14-561, 69-14-562, 69-14-601, 69-14-612, 69-14-620, 69-14-626, 69-14-701, 69-14-702, 69-14-703,  
24 69-14-704, 69-14-706, 69-14-707, 69-14-708, 69-14-710, 69-14-711, 69-14-714, 69-14-721, 69-14-722,  
25 69-14-801, 69-14-804, 69-14-805, 69-14-811, 69-14-901, 69-14-902, 69-14-904, 69-14-910, 69-14-1005,  
26 69-14-1006, 69-14-1101, 70-30-102, 81-8-252, 85-1-208, 85-7-1909, 85-8-341, AND 85-8-366, MCA;  
27 REPEALING SECTION 2-15-2511, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

28

29 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

30

1            **NEW SECTION.** **Section 1. Short title.** [Sections 1 through 24 20] may be cited as the "Montana  
2 Railroad Development Authority Act".

3  
4            **NEW SECTION.** **Section 2. Definitions.** As used in [sections 1 through 24 20], unless the context  
5 clearly requires otherwise, the following definitions apply:

6            (1) (a) "Authority" means the Montana railroad development authority provided for in [section 3].

7            (b) The term does not include a railroad company.

8            (2) "Department" means the department of transportation provided for in 2-15-2501.

9            (3) "Federal government" means the United States of America or any agency or instrumentality,  
10 corporate or otherwise, of the United States of America.

11           (4) (a) "Railroad facilities" means railroads and railroad facilities, including but not limited to terminal  
12 buildings, roadways, tracks, crossings, bridges, causeways, tunnels, equipment, and rolling stock, that may be  
13 necessary to carry out the provisions of [sections 1 through 24 20].

14           (b) The term does not include abandoned railroads or railroad facilities acquired by a rail authority  
15 pursuant to Title 7, chapter 14, part 16.

16           (5) "Security" means any note, any stock, whether a common or preferred stock, any bond, debenture,  
17 evidence of indebtedness, transferable share, voting-trust certificate, or interest or instrument commonly known  
18 as a security, or any certificate of interest, temporary or interim certificate for, receipt for, or warrant or right to  
19 subscribe to or purchase a security.

20           (6) "Swap agreement" means:

21           (a) any interest rate swap, option, future, or forward agreement, including a rate floor, rate cap, rate  
22 collar, or cross-currency rate swap agreement, or a basis swap;

23           (b) a spot, same day-tomorrow, tomorrow-next, forward, or other foreign exchange or precious metals  
24 agreement;

25           (c) a currency swap, option, future, or forward agreement;

26           (d) a total return, credit spread, or credit swap, option, future, or forward agreement;

27           (e) a commodity index or a commodity swap, option, future, or forward agreement;

28           (f) a weather swap, weather derivative, or weather option;

29           (g) any option to enter into an agreement or transaction referred to in this subsection (6); and

30           (h) any master agreement that provides for an agreement or transaction referred to in this subsection

1 (6).

2

3 NEW SECTION. **Section 3. Montana railroad development authority -- membership --**  
4 **compensation -- staff.** (1) There is created the Montana railroad development authority. The authority is  
5 constituted as a public instrumentality, and its exercise of the powers conferred by [sections 1 through ~~24~~ 20]  
6 must be considered to be the performance of an essential governmental public function.

7 (2) The authority consists of the following members:

8 (a) the director of the department of agriculture provided for in 2-15-3001;

9 (b) the director of the department of transportation provided for in 2-15-2501;

10 (c) the chief business development officer of the office of economic development provided for in  
11 2-15-218;

12 (d) eight people, appointed by the governor, who shall serve staggered 4-year terms commencing  
13 January 1 following their appointment, with the following qualifications:

14 (i) one person with substantial knowledge and experience related to Class I railroads;

15 (ii) one person with substantial knowledge and experience related to Class II railroads;

16 (iii) one person who is a farm commodity producer in the state and who has substantial knowledge and  
17 experience related to transportation of farm commodities;

18 (iv) one person with substantial knowledge and experience in the trucking industry in the state;

19 (v) one person with substantial knowledge and experience related to transportation for the mineral  
20 industry in the state;

21 (vi) one person with substantial knowledge and experience related to transportation for the coal industry  
22 in the state;

23 (vii) one person with substantial knowledge and experience related to transportation for the wood  
24 products industry in the state; and

25 (viii) one person with substantial knowledge and experience related to rail passenger service provided  
26 by amtrak in Montana; and

27 (3) The members shall elect a presiding officer and a vice presiding officer by majority vote.

28 (4) The governor shall designate four of the initial members appointed pursuant to subsection (2)(d) to  
29 serve 2-year terms and four of the initial members to serve 4-year terms. Vacancies must be filled by appointment  
30 for the unexpired term.

1 (5) Decisions of the authority require a simple majority of the whole membership.

2 (6) The authority shall meet at least twice a year and may meet more frequently as required by  
3 circumstances or at the request of any five or more members of the authority. All meetings of the authority are  
4 subject to the provisions of Title 2, chapter 3.

5 (7) All members are subject to the standards of conduct under the provisions of Title 2, chapter 2.

6 (8) The members of the authority must be compensated, reimbursed, and otherwise governed by the  
7 provisions of 2-15-122.

8 (9) The authority is attached for administrative purposes only to the department, which may assist the  
9 authority by providing staff and budgetary, administrative, and clerical services that the authority or its presiding  
10 officer requests.

11  
12 **NEW SECTION. Section 4. General powers.** (1) Except as provided in [section 6] and subsection (2)  
13 of this section and in compliance with Title 69, chapter 14, the authority may:

14 (a) sue and be sued and may participate in actions and proceedings, whether judicial, administrative,  
15 arbitral, or otherwise;

16 (b) have a seal and alter the seal and use it or a facsimile to be affixed or impressed or reproduced in  
17 any other manner;

18 (c) employ officers, agents, and employees that the authority considers necessary in carrying out the  
19 provisions of [sections 1 through ~~21~~ 20];

20 (d) purchase, receive, take by grant, gift, devise, or bequest, lease, or otherwise acquire, own, hold,  
21 improve, employ, use, and deal in and with real or personal property, whether tangible or intangible, or any  
22 interest in the property within or outside the state;

23 (e) acquire real or personal property within or outside the boundaries of the state, whether tangible or  
24 intangible, including without limitation property rights, interests in property, franchises, obligations, contracts, and  
25 debt and equity securities;

26 (f) sell, convey, lease, exchange, transfer, abandon, or otherwise dispose of or mortgage, pledge, or  
27 create a security interest in all or any of the authority's assets or property or any interest in those assets or  
28 property, wherever situated;

29 (g) purchase, take, receive, subscribe for, or otherwise acquire, hold, make a tender offer for, vote,  
30 employ, sell, lend, lease, exchange, transfer, or otherwise dispose of, mortgage, pledge, or grant a security

1 interest in bonds and other obligations, shares, or other securities issued by others, whether engaged in a similar  
2 or different business or activity, subject to constitutional restrictions;

3 (h) make and execute agreements, contracts, and other instruments necessary or convenient in the  
4 exercise of authority powers and functions under [sections 1 through ~~24~~ 20];

5 (i) borrow money at a rate or rates of interest determined by the authority and issue authority notes,  
6 bonds, or other debt obligations and secure any of its obligations by mortgage or pledge of its property or any  
7 interest in its property;

8 (j) arrange for guarantees, bond insurance, letters of credit, and other forms of credit and liquidity support  
9 with respect to its bonds, notes, or other obligations by the federal government, the state, bond insurers, banks,  
10 or other financial institutions and enter into insurance, reimbursement, revolving credit, bond purchase, or similar  
11 agreements that may contain authority-approved provisions, including without limitation provisions for the  
12 payment of premiums or other fees, financial and other covenants, defaults, and remedies;

13 (k) consent to the jurisdiction of courts within or outside the state and waivers of jury trial and immunity  
14 from suit and liability;

15 (l) issue bonds, notes, or other obligations whether or not the income from those bonds, notes, or other  
16 obligations is exempt from federal income taxation;

17 (m) purchase authority bonds, notes, or other obligations at a price that the authority determines;

18 (n) procure insurance against any loss in connection with its property or operations from insurers,  
19 including the federal government, in an amount that the authority determines necessary and pay any insurance  
20 premiums;

21 (o) negotiate and enter into agreements with trustees or receivers appointed by United States bankruptcy  
22 courts or federal district courts or in other proceedings involving adjustment of debts and authorize legal counsel  
23 for the authority to appear in those proceedings;

24 (p) purchase or lease, within or outside of the state, railroad facilities;

25 (q) enter into management agreements for the operation of the property or facilities owned by the  
26 authority;

27 (r) IF MONEY IS AVAILABLE, make any inquiry, investigation, survey, or study that the authority determines  
28 is necessary to enable it to effectively carry out the provisions of [sections 1 through ~~24~~ 20];

29 (s) subject to the Montana Administrative Procedure Act, adopt, amend, and repeal rules involving  
30 authority operations, property, and facilities in order to implement the provisions of [sections 1 through ~~24~~ 20];

- 1 (t) enter into any swap agreement for the purpose of hedging risks; and
- 2 (u) perform other functions necessary to carry out the provisions of [sections 1 through 24 20].
- 3 (2) ~~(A)~~ The authority may not exercise the power of eminent domain pursuant to Title 70, chapter 30, to
- 4 acquire railroad facilities, ~~other than~~ INCLUDING rights-of-way and track, ~~EXCEPT AS PROVIDED IN SUBSECTION (2)(B).~~
- 5 ~~———— (B) THE AUTHORITY MAY NOT EXERCISE THE POWER OF EMINENT DOMAIN OVER RIGHTS-OF-WAY AND TRACK~~
- 6 ~~OWNED BY A RAILROAD COMPANY.~~
- 7
- 8 NEW SECTION. Section 5. Authority powers related to rail service. (1) In addition to and without
- 9 limiting the general powers provided for in [section 4] and except as provided in [section 4(2)] and [section 6], the
- 10 authority may, in compliance with Title 69, chapter 14:
- 11 (a) acquire, sell, construct, improve, rehabilitate, maintain, and operate railroad facilities necessary to
- 12 maintain adequate, reliable, efficient, and economic rail service within or outside the state;
- 13 ~~———— (b) determine the location, construction, lease, purchase, ownership, acquisition, use, and operation of~~
- 14 ~~railroad facilities;~~
- 15 (B) DETERMINE THE LOCATION, CONSTRUCTION, USE, AND OPERATION OF ITS RAILROAD FACILITIES AND THE
- 16 POTENTIAL LEASE, PURCHASE, OWNERSHIP, OR ACQUISITION OF OTHER RAILROAD FACILITIES;
- 17 (c) apply to the appropriate agencies of the federal government, the state, or other state governments
- 18 for licenses, permits, or approval of the authority's plans or projects and accept those licenses, permits, or
- 19 approvals granted by agencies or officials, including any terms and conditions;
- 20 (d) institute suit, apply to the legislature for legislation, or take other action that furthers the purposes of
- 21 [sections 1 through 24 20] and protect any rights or obligations pursuant to [sections 1 through 24 20];
- 22 (e) study means of maintaining rail service within the state and attracting agriculture, commerce, and
- 23 industry to the state;
- 24 (f) cooperate with and enter into contractual arrangements with private rail service providers and railroad
- 25 corporations regarding the:
- 26 (i) ownership, construction, and operation of railroad facilities by the authority; and
- 27 (ii) construction, completion, acquisition, ownership, and operation of railroad facilities;
- 28 (g) enter into cooperative and contractual arrangements with political subdivisions with respect to the
- 29 construction, improvement, rehabilitation, ownership, and operation of railroad facilities;
- 30 (h) acquire from a rail service provider or railroad corporation all franchises and responsibilities for rail

1 service, including the responsibility to provide safe and adequate service; and

2 (i) enter into written agreements with the federal government.

3 (2) The authority shall also perform the following duties:

4 (a) promote rail service in the state that results in reliable and adequate service at reasonable rates;

5 (b) develop a comprehensive and coordinated plan to increase rail service in the state;

6 ~~\_\_\_\_\_ (c) reevaluate the state's railroad taxation practices to ensure reasonable competition while minimizing~~  
 7 ~~any transfer of tax burden. The reevaluation of the state's railroad taxation practices should include but is not~~  
 8 ~~limited to a reevaluation of property taxes, taxes that minimize highway damage, special fuel taxes, and corporate~~  
 9 ~~tax rates.~~

10 ~~(d)~~(C) develop various means to assist Montanans impacted by high rates and poor rail service;

11 ~~(e)~~(D) analyze the feasibility of developing legal structures to facilitate growth of producer transportation  
 12 investment cooperatives;

13 ~~(f)~~(E) provide advice and recommendations to the department on the department's activities under  
 14 60-11-113 through 60-11-116;

15 ~~(g)~~(F) coordinate efforts and develop cooperative partnerships with other states and federal agencies  
 16 to promote rail service;

17 ~~(h)~~(G) act as the state's liaison in working with Class I railroads to promote rail service; and

18 ~~(i)~~(H) promote the expansion of existing rail lines and the construction of new rail lines in the state.

19

20 **NEW SECTION. Section 6. Legislative authority -- public service commission authority.** (1) Prior  
 21 to acquiring, expanding, constructing, leasing, improving, rehabilitating, maintaining, operating, selling, or  
 22 purchasing railroad facilities, the authority shall:

23 (a) obtain GENERAL estimates of the costs associated with these proposals;

24 (b) prioritize proposals; and

25 (c) provide a prioritized list and the associated costs of the proposals to the legislature by the first day  
 26 of any regular legislative session.

27 **(2) INFORMATION REQUIRED PURSUANT TO SUBSECTION (1) IS BASELINE INFORMATION AND DOES NOT INCLUDE**  
 28 **ENGINEERING STUDIES, ADVANCED ANALYSIS, OR PRECONSTRUCTION OR CONSTRUCTION PLANNING.**

29 ~~(2)~~(3) The legislature may approve those proposals that it finds consistent with the policies and purposes  
 30 of [sections 1 through ~~24~~ 20] and in the public interest.

1           ~~(3)~~(4) The authority may not EXPEND REVENUE, OTHER THAN A LEGISLATIVE APPROPRIATION, OR acquire,  
 2 expand, construct, lease, improve, rehabilitate, maintain, operate, sell, or purchase railroad facilities without prior  
 3 approval of the legislature.

4           ~~(4)~~(5) The public service commission shall regulate the rates, services, and practices related to railroads  
 5 owned or operated by the authority pursuant to Title 69, chapter 14.

6  
 7 ~~NEW SECTION. Section 7. Railroad development authority account.~~ (1) There is an account in the  
 8 state special revenue fund to be known as the railroad development authority account. The account must be  
 9 administered by the department.

10 ~~(2) The account includes funds appropriated to the department for the administration of the railroad~~  
 11 ~~development authority. It does not include funds for appropriations made pursuant to [section 21 20].~~

12 ~~(3) The money deposited into this account may be used only by the department for the following~~  
 13 ~~purposes:~~

14 ~~(a) to reimburse authority members in compliance with [section 3(8)]; and~~

15 ~~(b) to assist the authority pursuant to [section 3(9)].~~

16  
 17           NEW SECTION. Section 7. Bonds, bond anticipation notes, and notes of authority. (1) ~~The~~  
 18 SUBJECT TO LEGISLATIVE APPROVAL AS PROVIDED IN [SECTION 6], the authority may by resolution issue negotiable  
 19 notes and revenue bonds to:

20           (a) acquire any real or personal property or facilities that the authority considers necessary;

21           (b) prepay the purchase of railroad facility costs;

22           (c) pay interest on bonds or notes of the authority for which the interest may be variable or fixed and may  
 23 accrue without regard to any state usury laws;

24           (d) establish reserves to secure its bonds and notes;

25           (e) establish or maintain other funds or accounts for the purpose or purposes that the authority considers  
 26 necessary or desirable in implementing the provisions of [sections 1 through 21 20];

27           (f) pay all other expenses of the authority incidental to the issuance of the bonds or notes, including but  
 28 not limited to costs of issuance of the bonds, capitalized interest on the bonds, funding a reserve account for the  
 29 bonds, and swap agreement termination fees; and

30           (g) establish or replenish reserves securing the payment of its bonds and notes and finance all other

1 expenditures of the authority incident to and necessary or convenient to carry out the provisions of [sections 1  
2 through ~~24~~ 20].

3 (2) The authority may by resolution:

4 (a) issue notes to renew notes and bonds or to pay notes, including interest;

5 (b) whenever it considers refunding expedient, refund any bonds by the issuance of new bonds, whether  
6 the bonds to be refunded have or have not matured;

7 (c) issue bonds partly to refund outstanding bonds and partly for any of its other purposes; and

8 (d) in anticipation of the sale of its securities under [sections 1 through ~~24~~ 20], issue temporary notes  
9 and renewal notes.

10 (3) Except as otherwise expressly provided by resolution of the authority, every issue of its notes and  
11 bonds is an obligation of the authority payable out of any revenue, assets, or money of the authority, subject only  
12 to agreements with the holders of particular notes or bonds pledging particular revenue, assets, or money.

13 (4) (a) The notes and bonds must be authorized by resolutions of the authority, must bear a date, and  
14 must mature at times as provided in the resolutions. The bonds may be issued as serial bonds payable in annual  
15 installments, as term bonds, or as a combination of serial and term bonds. The notes and bonds must:

16 (i) bear interest at a variable or fixed rate or rates or be issued as zero-coupon bonds;

17 (ii) be in denominations;

18 (iii) be in a registered form;

19 (iv) carry registration privileges;

20 (v) be payable in a medium of payment at places inside or outside the state; and

21 (vi) be subject to terms of redemption as provided in resolutions of the authority.

22 (b) The notes and bonds of the authority may be sold at public or private sale at prices that may be  
23 above or below par and that are determined by the authority.

24

25 **NEW SECTION. Section 8. Refunding obligations.** (1) The authority may provide for the issuance  
26 of refunding obligations for refunding any outstanding obligations that have been issued under [sections 1 through  
27 ~~24~~ 20], including the payment of any redemption premium and any interest accrued to or to accrue to the date  
28 of redemption of the obligations. The issuance of obligations, the maturities and other details, the rights of the  
29 holders, and the rights, duties, and obligations of the authority are governed by the appropriate provisions of  
30 [sections 1 through ~~24~~ 20] that relate to the issuance of obligations.

1 (2) Refunding obligations issued as provided in subsection (1) may be sold or exchanged for outstanding  
2 obligations issued under [sections 1 through ~~24~~ 20]. The proceeds of refunding obligations may be applied to the  
3 purchase, redemption, or payment of outstanding obligations. The proceeds of refunding obligations may be  
4 invested as provided in Title 17, chapter 6, pending the application of the proceeds of refunding obligations, with  
5 other available funds, to the payment of principal, accrued interest, and any redemption premium on the  
6 obligations being refunded and, if permitted in the resolution authorizing the issuance of the refunding obligations  
7 or in the trust agreement securing them, to the payment of interest on refunding obligations and expenses in  
8 connection with refunding.

9

10 **NEW SECTION. Section 9. Provisions of bond resolutions.** A resolution authorizing notes or bonds  
11 or any issue of the notes or bonds may contain provisions that must be a part of the contract or contracts with  
12 the holders of the notes or bonds as to:

13 (1) pledging all or any part of the revenue or funds of the authority to secure the payment of the notes  
14 or bonds or of any issue of the notes or bonds, subject to existing agreements with noteholders or bondholders;

15 (2) pledging all or any part of the assets of the authority, including lease agreements, loan agreements,  
16 mortgages, and obligations securing them, to secure the payment of the notes or bonds or of any issue of the  
17 notes or bonds, subject to existing agreements with noteholders or bondholders;

18 (3) the setting aside of reserves for debt service funds in the possession of trustees, paying agents, and  
19 other depositories and the regulation and disposition of the debt service funds;

20 (4) limitations on the purpose for which the proceeds of the sale of notes or bonds may be applied and  
21 the pledge of the proceeds to secure the payment of the notes or bonds or of any issue of the notes or bonds;

22 (5) limitations on the issuance of additional notes or bonds, the terms upon which additional notes or  
23 bonds may be issued and secured, and the refunding of outstanding notes or bonds;

24 (6) the procedure, if any, by which the terms of any contract with noteholders or bondholders may be  
25 amended or abrogated, the consent of the noteholders or bondholders of the amount of notes or bonds, and the  
26 manner in which the consent may be given;

27 (7) a commitment to employ adequate and competent personnel at reasonable compensation, salaries,  
28 fees, and charges as may be determined by the authority and to maintain suitable facilities and services for the  
29 purpose of carrying out its programs;

30 (8) vesting in a trustee the property, rights, powers, and duties in trust as the authority determines;

1 (9) defining the acts or omissions that constitute a default in the obligations and duties of the authority  
 2 to the noteholders or bondholders and providing for the rights and remedies of the noteholders or bondholders  
 3 in the event of a default, including as a matter of right the appointment of a receiver. Rights and remedies may  
 4 not be inconsistent with the laws of this state and the other provisions of [sections 1 through ~~24~~ 20].

5 (10) any new matters of like or different character that in any way affect the security or protection of  
 6 bondholders.

7  
 8 **NEW SECTION. Section 10. Nonimpairment by state.** In accordance with the constitutions of the  
 9 United States and the state of Montana, the state pledges that it will not in any way impair the obligations of any  
 10 agreement between the authority and an eligible government unit or between the authority and the holders of  
 11 notes and bonds issued by the authority.

12  
 13 **NEW SECTION. Section 11. Trust indenture.** (1) In the discretion of the authority, the bonds or notes  
 14 of the authority may be secured by a trust indenture between the authority and a corporate trustee, which may  
 15 be a trust company or bank having the power of a trust company inside or outside the state. A trust indenture may  
 16 contain provisions for protecting and enforcing bondholders' rights and remedies that are reasonable and proper  
 17 and not in violation of law, including covenants setting forth the duties of the authority in relation to the exercise  
 18 of its powers and the custody, safeguarding, and application of all money. The authority may provide by a trust  
 19 indenture for the payment of the proceeds of the bonds or notes and the revenue to the trustee under the trust  
 20 indenture of another depository and for the method of disbursement, with safeguards and restrictions it considers  
 21 necessary.

22 (2) All expenditures incurred in carrying out a trust indenture may be treated as part of the general  
 23 overhead cost of the authority.

24  
 25 **NEW SECTION. Section 12. Presumption of validity.** After issuance, all bonds or notes of the  
 26 authority are conclusively presumed to be fully authorized by and issued under all the laws of this state and any  
 27 person or governmental unit is estopped from questioning the bond's or note's proper authorization, sale,  
 28 issuance, execution, or delivery by the authority.

29  
 30 **NEW SECTION. Section 13. Negotiability of bonds or notes.** Notwithstanding any other provisions

1 of law, a bond or note issued under [sections 1 through 24 20] is fully negotiable for all purposes of the Uniform  
2 Commercial Code, Title 30, chapters 1 through 9A, and a holder or owner of a bond or note or of a coupon  
3 appurtenant to it, by accepting the bond, note, or coupon, is conclusively presumed to have agreed that the bond,  
4 note, or coupon is fully negotiable for all purposes of the Uniform Commercial Code.

5  
6 **NEW SECTION. Section 14. Bonds or notes as legal investments.** Notwithstanding the restrictions  
7 of any other law, all banks, trust companies, savings banks and institutions, building and loan associations,  
8 savings and loan associations, investment companies, and other persons carrying on a banking business, all  
9 insurance companies, insurance associations, and other persons carrying on an insurance business, and all  
10 executors, administrators, guardians, trustees, and other fiduciaries may legally invest debt service funds, money,  
11 or other funds belonging to them or within their control in bonds or notes issued under [sections 1 through 24 20].

12  
13 **NEW SECTION. Section 15. Tax exemption of bonds.** (1) Bonds, notes, or other obligations issued  
14 by the authority under [sections 1 through 24 20], including the transfer, income, and any profits made on the sale  
15 of the bonds, notes, or other obligations, are free from taxation by the state or any political subdivision or other  
16 instrumentality of the state, except for estate taxes and gift taxes. The authority is not required to pay recording  
17 or transfer fees or taxes on instruments recorded by it.

18 (2) The securities and other obligations issued by the authority and the transfer and income from those  
19 securities and other obligations must, at all times, be free from taxation by the state or any municipality, except  
20 for estate and gift taxes.

21  
22 **NEW SECTION. Section 16. Additional funds and accounts.** The authority may establish additional  
23 reserves or other funds or accounts to further the purposes of [sections 1 through 24 20] or to comply with the  
24 provisions of any of its agreements or resolutions.

25  
26 **NEW SECTION. Section 17. Credit of state not pledged.** Obligations issued under the provisions of  
27 [sections 1 through 24 20] do not constitute a liability or obligation or a pledge of the faith and credit of the state  
28 but are payable solely from revenue or funds of the authority generated or received for purposes of [sections 1  
29 through 24 20]. An obligation issued under [sections 1 through 24 20] must contain on the face of the obligation  
30 a statement to the effect that the state of Montana is not liable on the obligation and the obligation is not a debt

1 of the state and neither the faith and credit nor the taxing power of the state is pledged to the payment of the  
 2 principal of or the interest on the obligation.

3  
 4 **NEW SECTION. Section 18. Care and custody of bonds purchased by the authority.** The authority  
 5 may:

6 (1) enter into agreements or contracts with a bank, trust company, or financial institution, inside or  
 7 outside the state, as may be necessary, desirable, or convenient, in the opinion of the authority, for rendering  
 8 services in connection with:

9 (a) the care, custody, or safekeeping of bonds or other investments held or owned by the authority  
 10 pursuant to [sections 1 through ~~24~~ 20];

11 (b) the payment or collection of amounts payable as to principal or interest; and

12 (c) the delivery to the authority of bonds or other investments purchased by it or sold by it pursuant to  
 13 [sections 1 through ~~24~~ 20];

14 (2) pay the cost of the services described in subsection (1); and

15 (3) in connection with any of the services to be rendered by a bank, trust company, or financial institution  
 16 as to the custody and safekeeping of its bonds or investments, require security in the form of collateral bonds,  
 17 surety agreements, or security agreements in a form and amount as, in the opinion of the authority, is necessary  
 18 or desirable.

19  
 20 **NEW SECTION. Section 19. Insurance or guaranty.** The authority may obtain, from a department or  
 21 agency of the United States or a nongovernmental insurer, insurance or guaranty for the payment or repayment  
 22 of interest or principal, or both, or any part of interest or principal on bonds or notes issued by the authority or on  
 23 bonds, bond anticipation notes, or notes of eligible government units purchased or held by the authority.

24  
 25 **NEW SECTION. Section 20. Repayment of appropriations.** (1) Except as provided in subsection (2),  
 26 an appropriation made by the legislature in connection with planning, study, feasibility analysis, regulatory  
 27 approval, closing, or any other related costs in connection with the acquisition of the stock or assets of a railroad  
 28 facility must be treated as an advance to the authority, and the authority shall repay the appropriation, without  
 29 interest and times and under conditions mutually agreed upon by the authority and the state, upon completion  
 30 of the acquisition of the stock or assets of the railroad facility either out of the proceeds of bonds issued by the

1 authority pursuant to [sections 1 through 24 ~~20~~] or out of excess revenue of the authority.

2 (2) If an acquisition of a railroad facility is not completed by December 31, 2025, the authority is not  
3 obligated to repay any expended funds and any unexpended funds must revert to the state general fund.

4 (3) For purposes of this section, "excess revenue" means gross revenue less the costs of the authority's  
5 operations and the payment of debt service of the authority's bonds.

6

7 **Section 21.** Section 7-12-2156, MCA, is amended to read:

8 **"7-12-2156. Responsibility for costs for improvements close to street railway.** ~~Whenever any~~ If a  
9 portion of the surface of a street is kept or used by any the Montana railroad development authority or a person,  
10 firm, or corporation for railroad or for street railway purposes, the cost and expense of making such improvements  
11 between the rails and for 1 foot on each side thereof of the rails shall must be paid by the authority, person, firm,  
12 or corporation owning ~~such the~~ the railroad; ~~and where~~ Where double tracks of railroads are laid, ~~such the Montana~~  
13 railroad development authority, person, firm, or corporation shall pay the costs of making ~~such the~~ the improvement  
14 or improvements between ~~such the~~ the tracks and between all switches and spurs."

15

16 **Section 22.** Section 7-14-4301, MCA, is amended to read:

17 **"7-14-4301. Regulation of railways.** (1) The city or town council may grant the right-of-way through the  
18 streets, avenues, and other property of a city or town for the purpose of street or other railroads, to regulate the  
19 running and management of the railroads, and to compel the owner of a street or other railroad to:

20 (a) to keep the street in repair when occupied by the street or other railroad;

21 (b) to regulate the speed of railroad engines; and

22 (c) to require railroad companies or the Montana railroad development authority to station flag persons  
23 at street crossings.

24 (2) The city or town council may regulate and control the laying of railroad tracks, ~~and may~~ prohibit the  
25 use of engines and locomotives, or regulate the speed of engines and locomotives."

26

27 **Section 23.** Section 10-3-1204, MCA, is amended to read:

28 **"10-3-1204. State emergency response commission.** (1) There is a state emergency response  
29 commission that is attached to the department for administrative purposes. The commission consists of 29  
30 members appointed by the governor. The commission must include representatives of the national guard, the

1 air force, the department of environmental quality, the division, the department of transportation, the department  
2 of justice, the department of natural resources and conservation, the department of public health and human  
3 services, a fire service association, the fire services training school, the emergency medical services and trauma  
4 systems section of the public health and safety division in the department of public health and human services,  
5 the department of fish, wildlife, and parks, the department of agriculture, Montana hospitals, an emergency  
6 medical services association, a law enforcement association, an emergency management association, a public  
7 health-related association, a trucking association, a utility company doing business in Montana, a railroad  
8 company doing business in Montana, the Montana railroad development authority, Montana's petroleum industry,  
9 Montana's insurance industry, the university system, a tribal emergency response commission, the national  
10 weather service, the Montana association of counties, the Montana league of cities and towns, and the office of  
11 the governor. At least one representative must be a member of a local emergency planning committee. Members  
12 of the commission serve terms of 4 years and may be reappointed. The members shall serve without  
13 compensation. The governor shall appoint two presiding officers from the appointees, who shall act as  
14 copresiding officers.

15 (2) The commission shall implement the provisions of this part. The commission may create and  
16 implement a state hazardous material incident response team to respond to incidents. The members of the team  
17 must be certified in accordance with the plan.

18 (3) The commission may enter into written agreements with each entity or person providing equipment  
19 or services to the state hazardous material incident response team.

20 (4) The commission or its designee may direct that the state hazardous material incident response team  
21 be available and respond, when requested by a local emergency response authority, to incidents according to  
22 the plan.

23 (5) The commission may contract with persons to meet state emergency response needs for the state  
24 hazardous material incident response team.

25 (6) The commission may advise, consult, cooperate, and enter into agreements with agencies of the  
26 state and federal government, other states and their state agencies, cities, counties, tribal governments, and other  
27 persons concerned with emergency response and matters relating to and arising out of incidents.

28 (7) The commission may encourage, participate in, or conduct studies, investigations, training, research,  
29 and demonstrations for and with the state hazardous material incident response team, local emergency  
30 responders, and other interested persons.

1 (8) The commission may collect and disseminate information relating to emergency response to  
2 incidents.

3 (9) The commission may accept and administer grants, gifts, or other funds, conditional or otherwise,  
4 made to the state for emergency response activities provided for in this part.

5 (10) The commission may prepare, coordinate, implement, and update a plan that coordinates state and  
6 local emergency authorities to respond to incidents within the state. The plan must be consistent with this part.  
7 All state emergency response responsibilities relating to an incident must be defined by the plan.

8 (11) The commission has the powers and duties of a state emergency response commission under the  
9 federal Emergency Planning and Community Right-to-Know Act of 1986, 42 U.S.C. 11001, et seq., except that  
10 the division shall oversee the creation, annual local review, and exercise and revision of the local emergency  
11 operations plan as provided by state law.

12 (12) The commission shall promulgate rules and procedures limited to cost recovery procedures,  
13 certification of state hazardous material incident response team members, and deployment of the state hazardous  
14 material incident response team, which must be a part of the plan.

15 (13) The commission shall act as an all-hazard advisory board to the division by:

16 (a) assisting the division in carrying out its responsibilities by providing the division with  
17 recommendations on issues pertaining to all-hazard emergency management; and

18 (b) authorizing the establishment of subcommittees to develop and provide the recommendations called  
19 for in subsection (13)(a).

20 (14) The commission shall appoint the members of the Montana intrastate mutual aid committee provided  
21 for in 10-3-904.

22 (15) All state agencies and institutions shall cooperate with the commission in the commission's efforts  
23 to carry out its duties under this part."

24

25 **Section 24.** Section 15-6-141, MCA, is amended to read:

26 **"15-6-141. Class nine property -- description -- taxable percentage.** (1) Class nine property includes:

27 (a) centrally assessed allocations of an electric power company or centrally assessed allocations of an  
28 electric power company that owns or operates transmission or distribution facilities or both, including, if congress  
29 passes legislation that allows the state to tax property owned by an agency created by congress to transmit or  
30 distribute electrical energy, allocations of properties constructed, owned, or operated by a public agency created

1 by congress to transmit or distribute electrical energy produced at privately owned generating facilities, not  
 2 including rural electric cooperatives. However, rural electric cooperatives' property, except wind generation  
 3 facilities classified under 15-6-157, used for the sole purpose of serving customers representing less than 95%  
 4 of the electric consumers located within the incorporated limits of a city or town of more than 3,500 persons in  
 5 which a centrally assessed electric power company also owns property or serving an incorporated municipality  
 6 with a population that is greater than 3,500 persons formerly served by a public utility that after January 1, 1998,  
 7 received service from the facilities of an electric cooperative is included. For purposes of this subsection (1)(a),  
 8 "property used for the sole purpose" does not include a headquarters, office, shop, or other similar facility.

9 (b) allocations for centrally assessed natural gas companies having a major distribution system in this  
 10 state; ~~and~~

11 (c) centrally assessed companies' allocations except:

12 (i) electrical generation facilities classified under 15-6-156;

13 (ii) all property classified under 15-6-157;

14 (iii) all property classified under 15-6-158 and 15-6-159;

15 (iv) property owned by cooperative rural electric and cooperative rural telephone associations and  
 16 classified under 15-6-135;

17 (v) property owned by organizations providing telephone communications to rural areas and classified  
 18 under 15-6-135;

19 (vi) railroad transportation property included in 15-6-145;

20 (vii) airline transportation property included in 15-6-145; and

21 (viii) telecommunications property included in 15-6-156; and

22 (d) centrally assessed allocations of the property owned by the Montana railroad development authority.

23 (2) Class nine property is taxed at 12% of market value."  
 24

25 **Section 25.** Section 15-6-145, MCA, is amended to read:

26 **"15-6-145. Class twelve property -- description -- taxable percentage.** (1) Class twelve property  
 27 includes:

28 (a) all property of a railroad car company as defined in 15-23-211, all railroad transportation property as  
 29 described in the Railroad Revitalization and Regulatory Reform Act of 1976 as it read on January 1, 1986, and  
 30 all airline transportation property as described in the Tax Equity and Fiscal Responsibility Act of 1982 as it read

1 on January 1, 1986; and

2 (b) noncentrally assessed railroad facilities owned or operated by the Montana railroad development  
3 authority.

4 (2) For the tax year beginning January 1, 1991, and for each succeeding tax year thereafter, class twelve  
5 property is taxed at the percentage rate "R", to be determined by the department as provided in subsection (3),  
6 or 12%, whichever is less.

7 (3) R = A/B where:

8 (a) A is the total statewide taxable value of all commercial property, except class twelve property, as  
9 commercial property is described in 15-1-101(1)(d); and

10 (b) B is the total statewide market value of all commercial property, except class twelve property, as  
11 commercial property is described in 15-1-101(1)(d).

12 (4) (a) For the ~~taxable tax~~ year beginning January 1, 1986, and for ~~every taxable~~ each succeeding tax  
13 ~~year thereafter~~, the department shall conduct a sales assessment ratio study of all commercial and industrial real  
14 property and improvements. The study must be based on:

15 (i) assessments of ~~such the~~ the property as of January 1 of the year for which the study is being conducted;  
16 and

17 (ii) a statistically valid sample of sales using data from realty transfer certificates filed during the same  
18 ~~taxable tax~~ year or from the immediately preceding ~~taxable tax~~ year, but only if a sufficient number of certificates  
19 is unavailable from the current ~~taxable tax~~ year to provide a statistically valid sample.

20 (b) The department shall determine the value-weighted mean sales assessment ratio "M" for all ~~such~~  
21 the property and reduce the taxable value of property described in subsection (4) only; by multiplying the total  
22 statewide taxable value of property described in subsection (4)(a) by "M" prior to calculating "A" in subsection  
23 (3)(a).

24 (c) The adjustment referred to in subsection (4)(b) will be made beginning January 1, 1986, and in each  
25 subsequent tax year to equalize the railroad taxable values.

26 (5) For the purpose of complying with the Railroad Revitalization and Regulatory Reform Act of 1976,  
27 as it read on January 1, 1986, the rate "R" referred to in this section is the equalized average tax rate generally  
28 applicable to commercial and industrial property, except class twelve property, as commercial property is defined  
29 in 15-1-101(1)(d)."

30

1           **Section 26.** Section 15-6-201, MCA, is amended to read:

2           **"15-6-201. Governmental, charitable, and educational categories -- exempt property.** (1) The  
3 following categories of property are exempt from taxation:

4           (a) except as provided in 15-6-141, 15-6-145, 15-8-111, 15-8-405, 15-23-101, 15-23-204, 15-23-205,  
5 and 15-24-1203, the property of:

6           (i) the United States, except:

7           (A) if congress passes legislation that allows the state to tax property owned by the federal government  
8 or an agency created by congress; or

9           (B) as provided in 15-24-1103;

10          (ii) the state, counties, cities, towns, and school districts;

11          (iii) irrigation districts organized under the laws of Montana and not operated for gain or profit;

12          (iv) municipal corporations;

13          (v) public libraries; and

14          (vi) rural fire districts and other entities providing fire protection under Title 7, chapter 33;

15          (b) buildings and furnishings in the buildings that are owned by a church and used for actual religious  
16 worship or for residences of the clergy, not to exceed one residence for each member of the clergy, together with  
17 the land that the buildings occupy and adjacent land reasonably necessary for convenient use of the buildings,  
18 which must be identified in the application, and all land and improvements used for educational or youth  
19 recreational activities if the facilities are generally available for use by the general public but may not exceed 15  
20 acres for a church or 1 acre for a clergy residence after subtracting any area required by zoning, building codes,  
21 or subdivision requirements;

22          (c) property owned and used exclusively for agricultural and horticultural societies not operated for gain  
23 or profit;

24          (d) property, not to exceed 80 acres, which must be legally described in the application for the  
25 exemption, used exclusively for educational purposes, including dormitories and food service buildings for the  
26 use of students in attendance and other structures necessary for the operation and maintenance of an  
27 educational institution that:

28           (i) is not operated for gain or profit;

29           (ii) has an attendance policy; and

30           (iii) has a definable curriculum with systematic instruction;

1 (e) property used exclusively for nonprofit health care facilities, as defined in 50-5-101, licensed by the  
2 department of public health and human services and organized under Title 35, chapter 2 or 3. A health care  
3 facility that is not licensed by the department of public health and human services and organized under Title 35,  
4 chapter 2 or 3, is not exempt.

5 (f) property that is:

6 (i) owned and held by an association or corporation organized under Title 35, chapter 2, 3, 20, or 21;

7 (ii) devoted exclusively to use in connection with a cemetery or cemeteries for which a permanent care  
8 and improvement fund has been established as provided for in Title 35, chapter 20, part 3; and

9 (iii) not maintained and not operated for gain or profit;

10 (g) subject to subsection (2), property that is owned or property that is leased from a federal, state, or  
11 local governmental entity by institutions of purely public charity if the property is directly used for purely public  
12 charitable purposes;

13 (h) evidence of debt secured by mortgages of record upon real or personal property in the state of  
14 Montana;

15 (i) public museums, art galleries, zoos, and observatories that are not operated for gain or profit;

16 (j) motor vehicles, land, fixtures, buildings, and improvements owned by a cooperative association or  
17 nonprofit corporation organized to furnish potable water to its members or customers for uses other than the  
18 irrigation of agricultural land;

19 (k) the right of entry that is a property right reserved in land or received by mesne conveyance (exclusive  
20 of leasehold interests), devise, or succession to enter land with a surface title that is held by another to explore,  
21 prospect, or dig for oil, gas, coal, or minerals;

22 (l) (i) property that is owned and used by a corporation or association organized and operated exclusively  
23 for the care of persons with developmental disabilities, persons with mental illness, or persons with physical or  
24 mental impairments that constitute or result in substantial impediments to employment and that is not operated  
25 for gain or profit; and

26 (ii) property that is owned and used by an organization owning and operating facilities that are for the care  
27 of the retired, aged, or chronically ill and that are not operated for gain or profit; and

28 (m) property owned by a nonprofit corporation that is organized to provide facilities primarily for training  
29 and practice for or competition in international sports and athletic events and that is not held or used for private  
30 or corporate gain or profit. For purposes of this subsection (1)(m), "nonprofit corporation" means an organization

1 that is exempt from taxation under section 501(c) of the Internal Revenue Code and incorporated and admitted  
2 under the Montana Nonprofit Corporation Act.

3 (2) (a) For the purposes of subsection (1)(b), the term "clergy" means, as recognized under the federal  
4 Internal Revenue Code:

5 (i) an ordained minister, priest, or rabbi;

6 (ii) a commissioned or licensed minister of a church or church denomination that ordains ministers if the  
7 person has the authority to perform substantially all the religious duties of the church or denomination;

8 (iii) a member of a religious order who has taken a vow of poverty; or

9 (iv) a Christian Science practitioner.

10 (b) For the purposes of subsection (1)(g):

11 (i) the term "institutions of purely public charity" includes any organization that meets the following  
12 requirements:

13 (A) The organization offers its charitable goods or services to persons without regard to race, religion,  
14 creed, or gender and qualifies as a tax-exempt organization under the provisions of section 501(c)(3), Internal  
15 Revenue Code, as amended.

16 (B) The organization accomplishes its activities through absolute gratuity or grants. However, the  
17 organization may solicit or raise funds by the sale of merchandise, memberships, or tickets to public  
18 performances or entertainment or by other similar types of fundraising activities.

19 (ii) agricultural property owned by a purely public charity is not exempt if the agricultural property is used  
20 by the charity to produce unrelated business taxable income as that term is defined in section 512 of the Internal  
21 Revenue Code, 26 U.S.C. 512. A public charity claiming an exemption for agricultural property shall file annually  
22 with the department a copy of its federal tax return reporting any unrelated business taxable income received by  
23 the charity during the tax year, together with a statement indicating whether the exempt property was used to  
24 generate any unrelated business taxable income.

25 (iii) up to 15 acres of property owned by a purely public charity is exempt at the time of its purchase even  
26 if the property must be improved before it can directly be used for its intended charitable purpose. If the property  
27 is not directly used for the charitable purpose within 8 years of receiving an exemption under this section or if the  
28 property is sold or transferred before it entered direct charitable use, the exemption is revoked and the property  
29 is taxable. In addition to taxes due for the first year that the property becomes taxable, the owner of the property  
30 shall pay an amount equal to the amount of the tax due that year times the number of years that the property was

1 tax-exempt under this section. The amount due is a lien upon the property and when collected must be distributed  
2 by the treasurer to funds and accounts in the same ratio as property tax collected on the property is distributed.  
3 At the time the exemption is granted, the department shall file a notice with the clerk and recorder in the county  
4 in which the property is located. The notice must indicate that an exemption pursuant to this section has been  
5 granted. The notice must describe the penalty for default under this section and must specify that a default under  
6 this section will create a lien on the property by operation of law. The notice must be on a form prescribed by the  
7 department.

8 (iv) not more than 160 acres may be exempted by a purely public charity under any exemption originally  
9 applied for after December 31, 2004. An application for exemption under this section must contain a legal  
10 description of the property for which the exemption is requested.

11 (c) For the purposes of subsection (1)(i), the term "public museums, art galleries, zoos, and  
12 observatories" means governmental entities or nonprofit organizations whose principal purpose is to hold property  
13 for public display or for use as a museum, art gallery, zoo, or observatory. The exempt property includes all real  
14 and personal property owned by the public museum, art gallery, zoo, or observatory that is reasonably necessary  
15 for use in connection with the public display or observatory use. Unless the property is leased for a profit to a  
16 governmental entity or nonprofit organization by an individual or for-profit organization, real and personal property  
17 owned by other persons is exempt if it is:

- 18 (i) actually used by the governmental entity or nonprofit organization as a part of its public display;  
19 (ii) held for future display; or  
20 (iii) used to house or store a public display."

21  
22 **Section 27.** Section 15-8-111, MCA, is amended to read:  
23 **"15-8-111. Assessment -- market value standard -- exceptions.** (1) All taxable property must be  
24 assessed at 100% of its market value except as otherwise provided.

25 (2) (a) Market value is the value at which property would change hands between a willing buyer and a  
26 willing seller, neither being under any compulsion to buy or to sell and both having reasonable knowledge of  
27 relevant facts.

28 (b) If the department uses construction cost as one approximation of market value, the department shall  
29 fully consider reduction in value caused by depreciation, whether through physical depreciation, functional  
30 obsolescence, or economic obsolescence.

1 (c) If the department uses the capitalization-of-net-income method as one approximation of market value  
2 and sufficient, relevant information on comparable sales and construction cost exists, the department shall rely  
3 upon the two methods that provide a similar market value as the better indicators of market value.

4 (d) Except as provided in subsection (3), the market value of special mobile equipment and agricultural  
5 tools, implements, and machinery is the average wholesale value shown in national appraisal guides and  
6 manuals or the value before reconditioning and profit margin. The department shall prepare valuation schedules  
7 showing the average wholesale value when a national appraisal guide does not exist.

8 (3) The department may not adopt a lower or different standard of value from market value in making  
9 the official assessment and appraisal of the value of property, except:

10 (a) the wholesale value for agricultural implements and machinery is the average wholesale value  
11 category as shown in Guides 2000, Northwest Region Official Guide, published by the North American equipment  
12 dealers association, St. Louis, Missouri. If the guide or the average wholesale value category is unavailable, the  
13 department shall use a comparable publication or wholesale value category.

14 (b) for agricultural implements and machinery not listed in an official guide, the department shall prepare  
15 a supplemental manual in which the values reflect the same depreciation as those found in the official guide;

16 (c) for condominium property, the department shall establish the value as provided in subsection (4); and

17 (d) as otherwise authorized in Titles 15 and 61.

18 (4) (a) Subject to subsection (4)(c), if sufficient, relevant information on comparable sales is available,  
19 the department shall use the comparable sales method to appraise residential condominium units. Because the  
20 undivided interest in common elements is included in the sales price of the condominium units, the department  
21 is not required to separately allocate the value of the common elements to the individual units being valued.

22 (b) Subject to subsection (4)(c), if sufficient, relevant information on income is made available to the  
23 department, the department shall use the capitalization-of-net-income method to appraise commercial  
24 condominium units. Because the undivided interest in common elements contributes directly to the  
25 income-producing capability of the individual units, the department is not required to separately allocate the value  
26 of the common elements to the individual units being valued.

27 (c) If sufficient, relevant information on comparable sales is not available for residential condominium  
28 units or if sufficient, relevant information on income is not made available for commercial condominium units, the  
29 department shall value condominiums using the construction-cost method. When using the construction-cost  
30 method, the department shall determine the value of the entire condominium project and allocate a percentage

1 of the total value to each individual unit. The allocation is equal to the percentage of undivided interest in the  
2 common elements for the unit as expressed in the declaration made pursuant to 70-23-403, regardless of whether  
3 the percentage expressed in the declaration conforms to market value.

4 (5) For purposes of taxation, assessed value is the same as appraised value.

5 (6) The taxable value for all property is the percentage of market or assessed value established for each  
6 class of property.

7 (7) The assessed value of properties in 15-6-131 through 15-6-134, 15-6-143, and 15-6-145 is as  
8 follows:

9 (a) Properties in 15-6-131, under class one, are assessed at 100% of the annual net proceeds after  
10 deducting the expenses specified and allowed by 15-23-503 or, if applicable, as provided in 15-23-515,  
11 15-23-516, 15-23-517, or 15-23-518.

12 (b) Properties in 15-6-132, under class two, are assessed at 100% of the annual gross proceeds.

13 (c) Properties in 15-6-133, under class three, are assessed at 100% of the productive capacity of the  
14 lands when valued for agricultural purposes. All lands that meet the qualifications of 15-7-202 are valued as  
15 agricultural lands for tax purposes.

16 (d) Properties in 15-6-134, under class four, are assessed at the applicable percentage of market value  
17 minus any portion of market value that is exempt from taxation under 15-6-222.

18 (e) Properties in 15-6-143, under class ten, are assessed at 100% of the forest productivity value of the  
19 land when valued as forest land.

20 (f) Railroad transportation properties in and noncentrally assessed railroad facilities owned or operated  
21 by the Montana railroad development authority that are taxable under 15-6-145 are assessed based on the  
22 valuation formula described in 15-23-205.

23 (8) Land and the improvements on the land are separately assessed when any of the following  
24 conditions occur:

25 (a) ownership of the improvements is different from ownership of the land;

26 (b) the taxpayer makes a written request; or

27 (c) the land is outside an incorporated city or town."  
28

29 **Section 28.** Section 15-8-405, MCA, is amended to read:

30 **"15-8-405. Street railroads, bridges, and ferries.** Street railroads, bridges, and ferries owned by

1 persons, ~~or corporations,~~ or the Montana railroad development authority must be listed and assessed in the  
2 county, town, or district where the property or any portion of the property is located. The track of the railroad and  
3 the bridge are personal property."  
4

5 **Section 29.** Section 15-23-101, MCA, is amended to read:

6 **"15-23-101. Properties centrally assessed.** The department shall centrally assess each year:

7 (1) the railroad transportation property of railroads and railroad car companies and the property of the  
8 Montana railroad development authority operating in more than one county in the state or more than one state;

9 (2) property owned by a corporation or other person operating a single and continuous property operated  
10 in more than one county or more than one state, including but not limited to telegraph, telephone, microwave, and  
11 electric power or transmission lines; natural gas or oil pipelines; canals, ditches, flumes, or like properties and  
12 including, if congress passes legislation that allows the state to tax property owned by an agency created by  
13 congress to transmit or distribute electrical energy, property constructed, owned, or operated by a public agency  
14 created by congress to transmit or distribute electrical energy produced at privately owned generating facilities,  
15 not including rural electric cooperatives;

16 (3) all property of scheduled airlines;

17 (4) the net proceeds of mines, except bentonite mines;

18 (5) the gross proceeds of coal mines; and

19 (6) property described in subsections (1) and (2) that is subject to the provisions of Title 15, chapter 24,  
20 part 12."  
21

22 **Section 30.** Section 15-23-203, MCA, is amended to read:

23 **"15-23-203. Definitions relating to taxes.** As used in this part, unless the context requires otherwise,  
24 the following definitions apply:

25 (1) (a) "Base value" means, except as provided in subsection (1)(b), the system value of railroad  
26 transportation property of a railroad or the railroad development authority in the preceding tax year.

27 (b) For tax year 1999, base value means the system value of railroad transportation property used to  
28 determine the railroad's or railroad development authority's Montana property taxes paid for the 1998 tax year.

29 (2) "Capitalization rate" means the capitalization rate reported by the surface transportation board,  
30 provided for in 49 U.S.C. 701, in its annual cost of capital report.

1 (3) "Change in earnings" means the value determined by dividing the average earnings for the 5 years  
2 immediately preceding the current tax year by the average earnings for the 5 years immediately preceding the  
3 previous tax year.

4 (4) "Change in the capitalization rate" means the value derived by dividing the current year capitalization  
5 rate by the preceding year capitalization rate.

6 (5) "Earnings" means income realized before deducting depreciation, interest expenses, lease expenses,  
7 and taxes.

8 (6) "Gross profit margin" means the ratio of earnings to operating revenue.

9 (7) "Leased property" means property that is subject to an agreement that transfers the use of the  
10 property to the lessee during the term of the lease and that is not capitalized on the lessee's balance sheet.

11 (8) "Operating revenue" means the amount of money that the railroad or railroad development authority  
12 is entitled to receive or that accrues to its benefit from services rendered in transporting property or persons by  
13 rail.

14 (9) "Railroad development authority" means the authority established pursuant to [section 3].

15 ~~(9)(10)~~ "System cost" means the total depreciated cost, including leased property within the state and  
16 outside the state of:

17 (a) all railroad transportation property; or

18 (b) railroad facilities owned by the railroad development authority, including leased property within the  
19 state and outside the state."

20

21 **Section 31.** Section 15-23-204, MCA, is amended to read:

22 "**15-23-204. Assessment of railroads.** The railroad development authority, the president, secretary,  
23 or managing agent, or such other any other corporate officer designated by as the department of revenue, may  
24 designate of any corporation and each person or association of persons owning or operating any a railroad in  
25 more than one county in this state or more than one state ~~must~~ shall on or before April 15 of each year furnish  
26 the department with a statement signed and sworn to by ~~one of such officers~~ an officer, by a member of the  
27 railroad development authority, or by the person or one of the persons forming such the association, showing in  
28 detail for the year ending December 31 immediately preceding:

29 (1) the whole number of miles of railroad in the state and, where the line is partly out of the state, the  
30 whole number of miles ~~without~~ outside the state and the whole number within the state, owned or operated by

1 ~~such the railroad development authority,~~ corporation, person, or association;

2 (2) the value of the roadway, roadbed, and rails of the whole railroad outside the state and the value of

3 the ~~same roadway, roadbed, and rails of the whole railroad~~ within the state;

4 (3) the width of the right-of-way;

5 (4) the number of each kind of all rolling stock used by ~~such the railroad development authority,~~

6 corporation, person, or association in operating the entire railroad, including the part ~~without~~ outside the state;

7 (5) the number, kind, and value of rolling stock owned and operated in the state;

8 (6) the number, kind, and value of rolling stock used in the state but not owned by the party making the

9 returns;

10 (7) the number, kind, and value of rolling stock owned but used out of the state, either upon divisions

11 of road operated by the party making the returns or by and upon other railroads;

12 (8) the whole number of sidetracks in each county, including the number of miles of track in each railroad

13 yard in the state;

14 (9) the number of each kind of rolling stock used in operating the entire railroad, including the part ~~without~~

15 outside the state, which must include a detailed statement of the number and value ~~thereof~~ of all engines, all

16 passenger, mail, express, baggage, freight, and other cars, ~~or and all~~ property owned or leased by ~~such the~~

17 railroad development authority, corporation, person, or association;

18 (10) the number of sleeping and dining cars not owned by ~~such the railroad development authority,~~

19 corporation, person, or association but used in operating the railroads of ~~such the railroad development authority,~~

20 corporation, person, or association in the state or on the line of the road ~~without~~ outside the state during each

21 month of the year ~~for which that~~ the return is made, also along with the number of miles each month that the cars

22 have been run or operated within and ~~without~~ outside the state;

23 (11) a description of the road, giving the points of entrance into and the points of exit from each county,

24 with a statement of the number of miles in each county. When a description of the road has ~~once~~ been given, no

25 other annual description ~~thereof of the road~~ is necessary unless the road ~~has been~~ is changed. ~~Whenever~~ If the

26 road or any portion of the road is advertised to be sold or is sold for state or county taxes, ~~either state or county,~~

27 no other description is necessary other than that given by, ~~and the same is conclusive upon, the~~ railroad

28 development authority, person, corporation, or association ~~giving the description pursuant to this subsection. No~~

29 An assessment is not invalid on account of due to a misdescription of the railroad or the right-of-way for the ~~same~~

30 assessment. If ~~such the~~ statement is not furnished as ~~above~~ provided in this section, the department's

1 assessment ~~made by the department upon~~ on the property of the railroad development authority, corporation,  
2 person, or association failing to furnish the statement is conclusive and final.

3 (12) the gross earnings of the entire road;

4 (13) the gross earnings of the road within the state and, if the railroad is ~~let~~ leased to other operators, how  
5 much was derived by the lessor as rental;

6 (14) the cost of operating the entire road, exclusive of sinking fund, expenses of land department, and  
7 money paid to the United States;

8 (15) net income for ~~such~~ the year and amount of dividend declared;

9 (16) capital stock authorized;

10 (17) capital stock paid in;

11 (18) funded debt;

12 (19) number of shares authorized;

13 (20) number of shares of stock issued;

14 (21) number, kind, and total number of miles traveled within the state by railroad cars owned by railroad  
15 car companies; and

16 (22) any other facts that the department may require."  
17

18 **Section 32.** Section 15-23-205, MCA, is amended to read:

19 **"15-23-205. Assessment -- how made.** (1) The department shall assess the railroad transportation  
20 property of all railroads operated in more than one county or more than one state as provided in this section.  
21 Assessment must be made to the person or the railroad development authority owning, ~~or~~ leasing, or using the  
22 property and must be made upon the entire railroad within the state.

23 (2) The department shall determine the value of the railroad system for the current year by multiplying  
24 the base value of the railroad by the value change factor determined under subsection (3).

25 (3) (a) The value change factor is the sum of the income change factor, weighted by 50%, the gross profit  
26 margin change factor, weighted by 25%, and the property change factor, weighted by 25%.

27 (b) The income change factor is determined by dividing the change in earnings by the change in the  
28 capitalization rate.

29 (c) The gross profit margin change factor is determined by dividing the average gross profit margin for  
30 the 2 years immediately preceding the current tax year by the average gross profit margin for the 2 years

1 immediately preceding the previous tax year.

2 (d) The property change factor is determined by dividing the system cost reported by the railroad for the  
3 tax year immediately preceding the current tax year by the system cost reported by the railroad for the tax year  
4 immediately preceding the previous tax year.

5 (4) The department shall apportion the system value of the railroad to Montana by multiplying the system  
6 value of the railroad determined under subsection (2) by the average of the allocation factor for the 2 years  
7 immediately preceding the current tax year. The allocation factor is determined under subsection (5).

8 (5) The allocation factor used to apportion the system value of the railroad to Montana is the average  
9 of the sum of:

10 (a) the ratio of track miles in the state to total system track miles;

11 (b) the ratio of revenue ton miles in the state to total system revenue ton miles;

12 (c) the ratio of gross investment in road and equipment in the state to total system gross investment in  
13 road and equipment;

14 (d) the ratio of operating revenue reported in the state to total system operating revenue; and

15 (e) the ratio of railroad car and locomotive miles in the state to total system railroad car and locomotive  
16 miles.

17 (6) The department shall take into account extenuating circumstances to adjust the assessed value of  
18 railroad property in the state. Occurrences that may result in an adjustment to the assessed value of railroad  
19 property include but are not limited to:

20 (a) extraordinary, unusual, or infrequent events that are material in nature and of a character different  
21 from the typical or customary business operations, that are not expected to recur frequently, and that are not  
22 normally considered in the evaluation of the operating results of a business; and

23 (b) material increases or decreases in income and property as a result of events such as writeoffs,  
24 writedowns, and changes in accounting methods or practices.

25 (7) In determining the taxable value of railroad property, the department shall determine the percentage  
26 rate "R" provided for in 15-6-145 in order to achieve compliance with the requirements of the federal Railroad  
27 Revitalization and Regulatory Reform Act of 1976, as amended."

28

29 **Section 33.** Section 15-23-211, MCA, is amended to read:

30 **"15-23-211. Definitions.** As used in 15-23-211 through 15-23-216, unless the context requires

1 otherwise, the following definitions apply:

2 (1) "Average levy" means the average statewide rate of taxation on commercial and industrial property.

3 (2) "Person" includes an individual, firm, association, company, partnership, corporation, joint-stock  
4 company, agency, syndicate, or cooperative.

5 (3) "Private railroad cars" means all railroad cars that:

6 (a) are not owned by the railroad development authority or a railroad company operating in this state;

7 (b) are used for transporting persons or freight; and

8 (c) are not otherwise assessed for property taxation in this state.

9 (4) "Railroad car company" means any person, other than a railroad company or the railroad  
10 development authority, engaged in operating, leasing, or furnishing private railroad cars, whether or not owned  
11 by that person or the authority, for the transportation of persons or freight over railroad lines located wholly or  
12 partially within this state."

13

14 **Section 34.** Section 15-24-1203, MCA, is amended to read:

15 **"15-24-1203. Privilege tax on industrial, trade, or other business use of tax-exempt property --**

16 **exceptions.** (1) There is imposed and must be collected a tax upon the possession or other beneficial use for  
17 industrial, trade, or other business purposes enjoyed by any private individual, association, or corporation of any  
18 property, real or personal, that for any reason is exempt from taxation. The tax is imposed upon the possession  
19 or other beneficial use of:

20 (a) railroad right-of-way or track owned by the Montana railroad development authority; or

21 (b) an electric transmission line and associated facilities, except that lines and facilities of a design  
22 capacity of less than 500 kilovolts are not subject to the tax.

23 (2) The tax may not be imposed upon:

24 (a) the possession or other beneficial use of railroad right-of-way or track owned by the United States  
25 ~~or acquired by the state pursuant to Title 60, chapter 11, part 1~~, as long as the ~~state or the~~ United States retains  
26 ownership and the right-of-way or track is used exclusively for rail transportation;

27 (b) the beneficial use by a person of property held by a port authority, created under Title 7, chapter 14,  
28 part 11, or by a port authority owned by the United States or an agency of the United States unless the port  
29 authority provides for the exclusive use of the property by the person;

30 (c) the possession or other beneficial use of public lands occupied under the terms of recreational,

1 mineral, timber, or grazing leases or permits issued by the United States or the state of Montana or upon any  
 2 easement unless the lease, permit, or easement entitles the lessee or permittee to exclusive possession of the  
 3 premises to which the lease, permit, or easement relates; or

4 (d) the possession or other beneficial use of buildings owned by public entities and located upon public  
 5 airports. However, privately owned buildings located on public airport property are subject to taxation."

6

7 **Section 35.** Section 18-2-101, MCA, is amended to read:

8 **"18-2-101. Definitions of building, costs, and construction.** In part 1 of this chapter, with the  
 9 exception of 18-2-104, 18-2-107, 18-2-113, 18-2-114, 18-2-122, and 18-2-123:

10 (1) "building" includes a building, facility, or structure:

11 (a) constructed or purchased wholly or in part with state money;

12 (b) at a state institution;

13 (c) owned or to be owned by a state agency, including the department of transportation; or

14 (d) constructed for the use or benefit of the state with federal or private money as provided in  
 15 18-2-102(2)(d);

16 (2) "building" does not include a building, facility, or structure:

17 (a) owned or to be owned by a county, city, town, school district, or special improvement district;

18 (b) used as a component part of an environmental remediation or abandoned mine land reclamation  
 19 project, a highway, or a water conservation project, unless the building will require a continuing state general fund  
 20 financial obligation after the environmental remediation or abandoned mine land reclamation project is completed;

21 or

22 (c) leased or to be leased by a state agency; or

23 (d) constructed, owned, or operated by the Montana railroad development authority provided for in  
 24 [section 3];

25 (3) "construction" includes the construction, alteration, repair, maintenance, and remodeling of a building  
 26 and the equipping and furnishing of a building during construction, alteration, repair, maintenance, and  
 27 remodeling;

28 (4) "costs" means those expenses defined in 17-5-801."

29

30 **Section 36.** Section 18-4-313, MCA, is amended to read:

1           **"18-4-313. Contracts -- terms, extensions, and time limits.** (1) Except as provided in subsection (2)  
 2 or unless otherwise provided by law, a contract, lease, or rental agreement for supplies or services may not be  
 3 made for a period of more than 7 years. A contract, lease, or rental agreement may be extended or renewed if  
 4 the terms of the extension or renewal, if any, are included in the solicitation, if funds are available for the first fiscal  
 5 period at the time of the agreement, and if the total contract period, including any extension or renewal, does not  
 6 exceed 7 years. Payment and performance obligations for succeeding fiscal periods are subject to the availability  
 7 and appropriation of funds for the fiscal periods.

8           (2) The contract term limit specified in subsection (1) does not apply to:

9           (a) a contract for hardware, software, or other information technology resources, which may be made  
 10 for a period not to exceed 10 years;

11           (b) a department of revenue liquor store contract governed by the term specified in 16-2-101;

12           (c) a department of corrections contract governed by the term specified in 53-1-203, 53-30-505, or  
 13 53-30-608; ~~and~~

14           (d) the department of administration state employee group benefit plans contracts governed by the term  
 15 specified in 2-18-811, including group benefit plan contracts made in partnership with the Montana university  
 16 system group benefit plan; and

17           (e) a Montana railroad development authority contract governed by the provisions of [sections 1 through  
 18 21 20].

19           (3) Prior to the issuance, extension, or renewal of a contract, it must be determined that:

20           (a) estimated requirements cover the period of the contract and are reasonably firm and continuing; and

21           (b) the contract will serve the best interests of the state by encouraging effective competition or otherwise  
 22 promoting economies in state procurement.

23           (4) If funds are not appropriated or otherwise made available to support continuation of performance in  
 24 a subsequent fiscal period, the contract must be canceled."

25

26           **Section 37.** Section 27-2-207, MCA, is amended to read:

27           **"27-2-207. Injuries involving property.** Within 2 years, a person shall take action ~~is the period~~  
 28 ~~prescribed for the commencement of an action for the~~ :

29           (1) injury to or waste or trespass on real or personal property;

30           (2) taking, detaining, or injuring of any goods or chattels, including actions for the specific recovery of

1 personal property; or

2 (3) killing or injuring of stock by the Montana railroad development authority provided for in [section 3]  
3 or a railroad corporation or company."

4

5 **Section 38.** Section 37-60-105, MCA, is amended to read:

6 **"37-60-105. Exemptions.** (1) Except as provided in subsection (2), this chapter does not apply to:

7 (a) any one person employed singly and exclusively by any one employer in connection with the affairs  
8 of that employer only and when there exists an employer-employee relationship and the employee is unarmed,  
9 does not wear a uniform, and is guarding inside a structure that at the time is not open to the public;

10 (b) a person:

11 (i) employed singly and exclusively by a retail merchant;

12 (ii) performing at least some work for the retail merchant as a private security guard; and

13 (iii) who has received training as a private security guard from the employer or at the employer's direction;

14 (c) an officer or employee of the United States, of this state, or of a political subdivision of the United  
15 States or this state while the officer or employee is engaged in the performance of official duties;

16 (d) a person engaged exclusively in the business of obtaining and furnishing information as to the  
17 financial rating of persons or as to the personal habits and financial responsibility of applicants for insurance,  
18 indemnity bonds, or commercial credit;

19 (e) an attorney at law while performing duties as an attorney at law;

20 (f) a legal intern, paralegal, or legal assistant employed by one or more lawyers, law offices,  
21 governmental agencies, or other entities; or

22 (g) a law student who is serving a legal internship;

23 (h) a collection agency or finance company licensed to do business under the laws of this state, or an  
24 employee of a collection agency or finance company licensed in this state while acting within the scope of  
25 employment, while making an investigation incidental to the business of the agency or company, including an  
26 investigation of the location of a debtor or the debtor's property when the contract with an assignor creditor is for  
27 the collection of claims owed or due or asserted to be owed or due or the equivalent;

28 (i) special agents employed by the Montana railroad development authority provided for in [section 3]  
29 or a railroad companies, provided that the company if the authority or the railroad company notifies the board that  
30 its agents are operating in the state;

1 (j) insurers and insurance producers and insurance brokers licensed by the state while performing duties  
2 in connection with insurance transacted by them;

3 (k) an insurance adjuster, as defined in 37-60-101; or

4 (l) an internal investigator or auditor while making an investigation incidental to the business of the  
5 agency or company by which the investigator or auditor is singularly and regularly employed.

6 (2) (a) Except as provided in subsection (2)(b), persons listed as exempt in subsection (1) are not  
7 exempt for the purposes of acting as registered process servers.

8 (b) Subsection (2)(a) does not apply to attorneys or persons who make 10 or fewer services of process  
9 in a calendar year, as provided in 25-1-1101."

10

11 **Section 39.** Section 39-2-703, MCA, is amended to read:

12 **"39-2-703. Liability of railway corporation and Montana railroad development authority for**

13 **negligence of fellow servants.** (1) ~~Every~~ The Montana railroad development authority or a person or corporation  
14 operating a railway or railroad in this state is liable for all damages sustained by any employee of such the  
15 authority, person, or corporation in consequence of the neglect of any other employee thereof of the authority,  
16 person, or corporation or by the mismanagement of any other employee ~~thereof~~ and in consequence of the willful  
17 wrongs, whether of commission or omission, of any other employee ~~thereof~~ of the authority, person, or  
18 corporation when ~~such the~~ neglect, mismanagement, or wrongs are in any manner connected with the use and  
19 operation of ~~any the~~ railway or railroad ~~on or about which he~~ employing the employee is employed. ~~No~~ A contract  
20 ~~which that~~ restricts ~~such the~~ liability is not legal or binding.

21 (2) ~~In case of~~ If the death of any such an employee in consequence of described in subsection (1) results  
22 from any injury or damage so sustained, the right of action provided by subsection (1) ~~shall survive~~ survives and  
23 may be prosecuted and maintained by ~~his~~ the deceased employee's heirs or personal representatives.

24 (3) ~~Every~~ The Montana railroad development authority or a railway corporation doing business in this  
25 state, including electric railway corporations, is liable for damages sustained by an employee ~~thereof~~ within this  
26 state, subject to the provisions of 27-1-702, when ~~such the~~ damages are caused by the negligence of any train  
27 dispatcher, telegraph operator, superintendent, master mechanic, yardmaster, conductor, engineer, ~~motorman~~  
28 motor operator, or any other employee who has superintendence of any stationary or hand signal.

29 (4) ~~No~~ A contract of insurance, relief, benefit, or indemnity in case of injury or death or any other contract  
30 entered into, either before or after the injury, between the person injured and any of the employers named in

1 subsection (3) is not a bar or defense to any cause of action brought under the provisions of this section, except  
 2 as otherwise provided in the Workers' Compensation Act."

3

4 **Section 40.** Section 44-4-902, MCA, is amended to read:

5 **"44-4-902. Application for appointment.** A ~~class~~ Class I railroad corporation, as defined by the  
 6 interstate commerce commission in part 1201 of 49 CFR, and, if it is operating a Class I railroad, the Montana  
 7 railroad development authority provided for in [section 3] desiring the appointment of an officer or employee as  
 8 a special peace officer shall apply to the attorney general. The application must state the name, age, and place  
 9 of residence of the person applying for appointment. The applicant must have at least 3 years of experience as  
 10 a ~~class~~ Class I railroad peace officer or have completed a training course at an approved law enforcement  
 11 academy, or meet the qualifications described in 7-32-303 and adopted pursuant to Title 44, chapter 4, part 4.  
 12 The application must be signed by the applicant and a managing officer of the railroad corporation or a member  
 13 of the Montana railroad development authority. The managing officer or member signing the application shall at  
 14 the same time submit an affidavit to the effect that the officer or member is acquainted with the person seeking  
 15 appointment, that the officer or member believes the applicant to be of good moral character, and that the  
 16 applicant is of good moral character and has experience ~~such~~ showing that the applicant can be safely entrusted  
 17 with the powers and duties of a special peace officer."

18

19 **Section 41.** Section 44-4-903, MCA, is amended to read:

20 **"44-4-903. Limitations on special peace officer.** A person appointed and sworn as a special peace  
 21 officer ~~shall~~ when on duty ~~have~~ has the power and authority of a peace officer but may exercise ~~such~~ the power  
 22 and authority only in the protection of the property of the ~~class~~ Class I railroad corporation or the Montana railroad  
 23 development authority employing him the person."

24

25 **Section 42.** Section 44-4-904, MCA, is amended to read:

26 **"44-4-904. Responsibility of corporation.** ~~The class~~ A Class I railroad corporation or the Montana  
 27 railroad development authority employing a special peace officer is solely responsible for the compensation of  
 28 the special peace officer and is civilly liable for any action of the officer arising out of ~~his~~ the officer's actions as  
 29 a special peace officer. The ~~class~~ Class I railroad corporation or the Montana railroad development authority  
 30 employing a special peace officer shall hold the state, its subdivisions, other than the authority, and the officers

1 and employees ~~thereof~~ of the state and its subdivisions harmless and indemnify them from any claim or liability,  
 2 including costs and attorney fees, arising out of any action of a special peace officer or the certification of the  
 3 special peace officer by the state."

4

5 **Section 43.** Section 60-11-111, MCA, is amended to read:

6 **"60-11-111. Identification and acquisition of railroad rights-of-way -- identification of railroad lines**

7 **for rehabilitation.** (1) Identification of those railroad lines proposed for abandonment in the state of Montana that  
 8 may have potential for local transportation service or future use as transportation corridors is necessary to  
 9 determine the feasibility of acquisition by the state and to allow the state to negotiate for acquisition of those  
 10 railroad lines or easements in the lines.

11 (2) Identification of those railroad branch lines in the state that may have potential for local rail freight  
 12 transportation service is necessary to determine the feasibility of providing loans or grants to the owner or  
 13 operator of the railroad line as provided in 60-11-120. The Montana railroad development authority provided for  
 14 in [section 3] is not eligible for loans or grants provided for in 60-11-120.

15 (3) The department of transportation, in consultation with the Montana railroad development authority:

16 (a) shall identify railroad rights-of-way in this state that may be abandoned and research the feasibility  
 17 of acquisition by the state of Montana of those rights-of-way that may be abandoned;

18 (b) shall identify, under the state rail planning program, railroad branch lines that should be preserved  
 19 for continued operation;

20 (c) may negotiate for and acquire easements in the rights-of-way or the railroad rights-of-way and  
 21 attendant facilities identified pursuant to subsection (3)(a) and:

22 (i) hold all acquired lands in trust for transportation purposes; and

23 (ii) ~~upon creation of an appropriate local authority, other than an agency of state government,~~ shall  
 24 transfer to the an appropriately created local authority or the Montana railroad development authority all attendant  
 25 facilities and all rights and responsibility to operate and maintain transportation services over the lands acquired  
 26 in subsection (3)(c);

27 (d) shall cooperate with and assist persons representing recreational, transportation, and utility interests  
 28 and other interested persons, including adjacent landowners, in acquiring ownership or easement of abandoned  
 29 railbeds; and

30 (e) shall establish procedures, including the use of federal funds received for rail freight assistance

1 programs under former 49 U.S.C. 1654, for providing loans and grants under 60-11-120.

2 (4) Abandoned rights-of-way acquired and held in trust pursuant to subsection (3)(c)(i) must be  
3 administered by the department of natural resources and conservation, as prescribed in Title 77, until the land  
4 is needed for transportation purposes."

5

6 **Section 44.** Section 60-11-119, MCA, is amended to read:

7 **"60-11-119. Authority to issue revenue bonds.** (1) The board may issue and sell essential freight rail  
8 revenue bonds to make loans to finance the cost of projects, to pay the costs of issuing the bonds, and to provide  
9 for reserves, upon recommendation of the department. The bonds must be issued under Title 17, chapter 5, part  
10 15.

11 (2) Projects proposed by the Montana railroad development authority provided for in [section 3] are not  
12 eligible for essential freight rail revenue bonds."

13

14 **Section 45.** Section 60-11-120, MCA, is amended to read:

15 **"60-11-120. Railroad and intermodal transportation facility loans -- authorization -- eligibility.** (1)  
16 Money appropriated by the legislature for the purposes provided for in this section and pursuant to 60-11-115  
17 must be used by the department, in consultation with the Montana railroad development authority, after deducting  
18 the necessary costs and expenses for administering this section, to provide loans for:

19 (a) the preservation and continued operation of railroad branch lines identified in 60-11-111; and

20 (b) the development, improvement, construction, purchase, maintenance, or rehabilitation of:

21 (i) intermodal transportation facilities except as prohibited by federal law;

22 (ii) branch lines or short lines;

23 (iii) sidings;

24 (iv) light density railroad lines; and

25 (v) rolling stock, including rail cars.

26 (2) An owner or operator of a railroad identified in 60-11-111(2) is eligible for a loan under this section  
27 if the owner or operator:

28 (a) undertakes to repair, improve, or replace rail facilities to allow the continued operation of the railroad  
29 for local rail transportation service; and

30 (b) derives revenue from the continued operation of the railroad.

- 1 (3) A port authority created under Title 7, chapter 14, part 11, is eligible for a loan under this section if:
- 2 (a) the port authority is included in the state transportation planning process as described in 23 U.S.C.
- 3 135; and
- 4 (b) the purpose for which a loan is sought is integrally related to the railroad transportation system of the
- 5 state.
- 6 (4) Applications for a loan must include:
- 7 (a) a financial statement;
- 8 (b) evidence of matching funds required pursuant to subsection (5);
- 9 (c) an operating or business plan that demonstrates the applicant's ability to repay the funds; and
- 10 (d) upon request of the department, an independent feasibility study.
- 11 (5) Pursuant to requirements of former 49 U.S.C. 1654, which is providing a portion of the funds under
- 12 60-11-115, rehabilitation projects must be matched with 30% in other funds and new construction projects must
- 13 be matched with 50% in other funds. The transportation commission, provided for in 2-15-2502, in consultation
- 14 with the Montana railroad development authority, shall establish matching fund requirements for other project
- 15 categories.
- 16 (6) The transportation commission, in consultation with the Montana railroad development authority, is
- 17 responsible for determining funding recipients. Recipients must be determined using the guidelines provided in
- 18 60-2-110.
- 19 (7) The department shall administer the Montana Essential Freight Rail Act with input from the
- 20 department of commerce, the department of agriculture, and the governor's office.
- 21 (8) Funding recipients shall pay the standard prevailing wage on any construction projects or
- 22 subcontracted construction projects conducted with funds received under this section."

- 23
- 24 **Section 46.** Section 60-11-123, MCA, is amended to read:
- 25 **"60-11-123. Disposition of revenue from state-owned railroads -- use of money.** (1) Unless
- 26 otherwise required by law, revenue from the lease or sale of assets of or revenue paid to the state of Montana
- 27 by an operator of a railroad owned by the state of Montana, other than a railroad owned by the Montana railroad
- 28 development authority as provided in [sections 1 through 24 20], must be deposited in the state general fund.
- 29 (2) The department of transportation is authorized ~~to administer~~, as provided in 60-11-120 through
- 30 60-11-123, to administer funding available to provide for improvement of railroad tracks and associated facilities

1 of any state-owned railroad in Montana, other than a railroad owned by the Montana railroad development  
 2 authority, and to provide loans and grants to railroad lines and intermodal transportation facilities as provided in  
 3 60-11-120."

4

5 **Section 47.** Section 69-1-110, MCA, is amended to read:

6 **"69-1-110. Conduct of commission business.** (1) The commission shall hold sessions at times and  
 7 places in this state as may be expedient. A majority of the commission constitutes a quorum for the transaction  
 8 of business.

9 (2) The members of the commission may administer oaths and affirmations.

10 (3) The commission may adopt rules to govern its proceedings and to regulate the mode and manner  
 11 of all investigations and hearings concerning railroad companies, the Montana railroad development authority  
 12 provided for in [section 3], and other parties before it in the establishment of rates, orders, charges, and other acts  
 13 required of it under the law."

14

15 **Section 48.** Section 69-1-112, MCA, is amended to read:

16 **"69-1-112. Prohibition on acceptance of favors from railroads.** (1) A public service commissioner  
 17 or the secretary may not, directly or indirectly, solicit or request from or recommend to any railroad corporation,  
 18 the Montana railroad development authority, or any officer, attorney, or agent ~~thereof~~ of a railroad corporation or  
 19 the Montana railroad development authority the appointment of any person to any place or position, ~~nor shall and~~  
 20 any railroad corporation or the Montana railroad development authority or its attorney or agent may not offer any  
 21 place, appointment, or position or other consideration to ~~such~~ commissioners or to any clerks or employees of  
 22 the commission; ~~neither shall the commissioners or Commissioners and~~ their secretary, clerks, agents,  
 23 employees, or experts may not accept, receive, or request any pass from any railroad in this state; for themselves  
 24 or for any other person, except as ~~herein~~ otherwise provided in 69-1-111, or any present, gift, or gratuity of any  
 25 kind from any railroad corporation or the Montana railroad development authority.

26 (2) ~~The~~ A request or acceptance by ~~them~~, except as ~~herein~~ specified in 69-1-111, of any ~~such~~ place or  
 27 position, pass, present, gift, or other gratuity ~~shall work a~~ referred to in subsection (1) results in forfeiture of the  
 28 office of the commissioner, secretary, clerk, agent, employee, or expert requesting or accepting the same. ~~Any~~  
 29 A person violating any of the provisions of this section is guilty of a misdemeanor."

30

1           **Section 49.** Section 69-11-108, MCA, is amended to read:

2           **"69-11-108. Prohibition on confiscation of fuel.** (1) It ~~shall be~~ is unlawful for ~~any~~ the Montana railroad  
3 development authority or a person, railway ~~railroad~~ company, or common carrier to confiscate or take for ~~his~~ the  
4 person's or its own use or for the use of another any coal or other fuel in transit except when ~~such~~ the coal or  
5 other fuel is necessary for the preservation of life or property or is required for the moving of trains of ~~such~~ the  
6 common carrier. In a suit under this section to recover the penalty and damages, the burden of proof ~~shall be~~ is  
7 on the Montana railroad development authority, person, railroad company, or common carrier confiscating the  
8 coal or other fuel to show that ~~such~~ the coal or other fuel was necessary for the preservation of life or property  
9 or was required for the moving of trains of ~~such~~ the common carrier.

10           (2) ~~Any~~ The Montana railroad development authority or any person, railroad company, or common carrier  
11 ~~who shall confiscate~~ that confiscates or ~~take~~ takes any coal or fuel, either for ~~his~~ the person's or its own use or  
12 for the use of another, ~~shall be~~ is liable to the consignee or owner of ~~such~~ the coal or fuel in double the value of  
13 ~~such~~ the coal or fuel at the point of shipment ~~and such~~ in addition to other damages ~~as that~~ may be caused by  
14 the confiscation of ~~such~~ the coal or fuel. ~~Such~~ The liability ~~shall be~~ is exclusive of and in addition to any and all  
15 charges for the transportation of ~~such~~ the coal or fuel, ~~which and the~~ charges for the transportation ~~shall~~ must  
16 be paid by the party confiscating ~~such~~ the coal or fuel. In every case ~~wherein~~ in which coal or other fuel is taken  
17 or used by the Montana railroad development authority or any ~~such~~ person, railroad company, or common carrier,  
18 it ~~shall be~~ is the duty of ~~such~~ the Montana railroad development authority or the person, railroad company, or  
19 common carrier to notify the consignee by telegram or letter, immediately, of the taking of ~~such~~ the coal or fuel  
20 and to pay and compensate ~~him therefor~~ the consignee within 30 days from the time of the taking.

21           (3) ~~Any~~ The Montana railroad development authority or any person, corporation, or common carrier ~~who~~  
22 ~~shall violate~~ that violates the provisions of this section ~~shall be~~ is guilty of a misdemeanor and upon conviction  
23 ~~thereof~~ shall be fined not less than \$50 or more than \$200."

24

25           **Section 50.** Section 69-14-101, MCA, is amended to read:

26           **"69-14-101. Definitions.** Unless the context requires otherwise, in this chapter the following definitions  
27 apply:

28           (1) "Paralleling" means the situation where the main tracks of parallel lines of railroad or railway are not  
29 more than 2,000 feet apart when measured from center to center.

30           (2) "Railroad" means the Montana railroad development authority provided for in [section 3] or a

1 corporation, company, or individual owning or operating a railroad in whole or in part in this state. The term also  
 2 includes express companies, sleeping-car companies, and a rail authority established under Title 7, chapter 14,  
 3 part 16.

4 (3) "Transportation" includes instrumentalities of shipment or carriage."  
 5

6 **Section 51.** Section 69-14-201, MCA, is amended to read:

7 **"69-14-201. General duties of railroad corporation and Montana railroad development authority.**

8 ~~Every~~ A railroad corporation and the railroad development authority must shall:

9 (1) start and run its cars for the transportation of persons and property at ~~such~~ regular times as ~~it shall~~  
 10 ~~fix by~~ provided by public notice;

11 (2) furnish sufficient ~~accommodations~~ railroad cars for the transportation of all ~~such~~ passengers and  
 12 property ~~as, that~~ within a reasonable preceding time ~~previous thereto, offer or are offered for~~ have been offered  
 13 for transportation at the place of starting, at the junction of other railroads, and at sidings or stopping places  
 14 established for receiving and discharging ~~way~~ passengers and freight; and

15 (3) take, transport, and discharge ~~such~~ passengers and property at, from, and to ~~such~~ places ~~on the due~~  
 16 upon payment of tolls, freight, or fare ~~therefor.~~"

17

18 **Section 52.** Section 69-14-202, MCA, is amended to read:

19 **"69-14-202. Duty to furnish shipping and passenger facilities.** (1) ~~Every~~ Except as provided in  
 20 subsection (2), the Montana railroad development authority or a person, corporation, or association operating a  
 21 railroad in the state on January 1, 1987, or a its successor ~~thereto,~~ shall maintain and staff facilities for shipment  
 22 and delivery of freight and shall ship and deliver freight and accommodate passengers in ~~such~~ facilities ~~as were~~  
 23 similar to those maintained and staffed on January 1, 1987.

24 (2) ~~However, if~~ If the Montana railroad development authority or a person, corporation, or association  
 25 operating a railroad demonstrates to the public service commission, following an opportunity for a public hearing  
 26 in the community where the facility is ~~situated~~ located, that a facility is not required for public convenience and  
 27 necessity, the commission shall authorize the closure, consolidation, or centralization of the facility. In determining  
 28 public convenience and necessity, the commission shall, prior to making its decision, weigh and balance the facts  
 29 and testimony presented at the hearing, including:

30 (a) the facts and testimony presented by the general public;

- 1           **(b)** the existing burdens on the railroad; ~~;~~
- 2           **(c)** the burdens placed upon the ~~shipping shippers~~ and general public if the application is granted; ~~;~~ and
- 3           **(d)** any other factors the commission considers significant to provide adequate rail service."

4

5           **Section 53.** Section 69-14-205, MCA, is amended to read:

6           **"69-14-205. Accommodations for and care to be taken of passengers.** (1) ~~Every~~ The Montana

7 railroad development authority or a railroad corporation ~~must shall~~ furnish on the inside of its passenger cars

8 sufficient room and accommodations for all passengers ~~to whom tickets are sold~~ who purchase tickets for any

9 one trip and for all persons presenting tickets entitling them to travel ~~thereon~~ in the passenger cars.

10           (2) When fare is taken for transporting passengers on any baggage, wood, gravel, or freight car, the

11 same care must be taken and the same responsibility is assumed by the corporation or the Montana railroad

12 development authority ~~as~~ for passengers on passenger cars."

13

14           **Section 54.** Section 69-14-206, MCA, is amended to read:

15           **"69-14-206. Rules for fare and conduct of passengers.** (1) ~~Every~~ The Montana railroad development

16 authority or a railroad corporation ~~must have printed~~ shall print and conspicuously ~~posted~~ post on the inside of

17 its passenger cars its rules regarding fare and conduct of ~~its~~ passengers.

18           (2) ~~In case any~~ If a passenger is injured on or from the platform of a car or on any baggage, wood,

19 gravel, or freight car, in violation of ~~such the~~ printed regulations or in violation of ~~positive~~ verbal instructions or

20 injunctions given to ~~such the~~ passenger ~~in person~~ by any officer of the train, the Montana railroad development

21 authority or corporation is not responsible for damages for ~~such the~~ injuries unless the authority or corporation

22 failed to comply with the provisions of 69-14-205."

23

24           **Section 55.** Section 69-14-208, MCA, is amended to read:

25           **"69-14-208. Officers and employees of corporation or authority to wear badges.** (1) ~~Every~~ A

26 conductor, baggage master, engineer, ~~brakeman~~ brake tender, or other employee of the Montana railroad

27 development authority or any railroad corporation who is employed on a passenger train or at stations for

28 passengers ~~must shall~~ wear, upon ~~his~~ the person's hat or cap or in some conspicuous place on the breast of ~~his~~

29 the person's coat, a badge indicating ~~his~~ the person's office or station and the initial letters of the name of the

30 authority or corporation by which ~~he~~ the person is employed.

1           (2) ~~No~~ A collector or conductor without ~~such a~~ badge is not authorized to demand or to receive from any  
 2 passenger any fare, toll, or ticket or exercise any of the powers of ~~his~~ the person's office or station, and ~~no~~ any  
 3 other officer or employee without ~~such a~~ badge ~~has any~~ does not have authority to meddle or interfere with any  
 4 passenger or property."

5

6           **Section 56.** Section 69-14-209, MCA, is amended to read:

7           **"69-14-209. Issuance of passenger tickets.** (1) ~~Every~~ The Montana railroad development authority or  
 8 a railroad corporation ~~must shall, upon provide and, on~~ being tendered the regular rates of fare, furnish a ticket  
 9 to ~~every~~ each person desiring a passage on its passenger cars, which entitles the purchaser to a ride and to the  
 10 accommodations provided on its cars from the depot or station where the ~~same~~ ticket is purchased to any other  
 11 depot or station on the line of its road. ~~Every such~~ A ticket entitles the holder ~~thereof~~ to ride on ~~its~~ the passenger  
 12 cars to the station or depot of destination or any intermediate station and from any intermediate station to the  
 13 depot of destination designated in the ticket at any time within 6 months ~~thereafter~~ after purchase.

14           (2) ~~Any~~ The Montana railroad development authority or a corporation ~~failing that fails~~ to provide and  
 15 furnish tickets or ~~refusing~~ refuses the passage ~~which the same calls for when sold to the purchaser~~ must shall  
 16 pay \$200 to the person who is refused passage ~~the sum of \$200.~~"

17

18           **Section 57.** Section 69-14-210, MCA, is amended to read:

19           **"69-14-210. Baggage checks.** A check must be affixed to ~~every~~ each package or parcel of baggage  
 20 when taken for transportation by ~~any an~~ agent or employee of ~~such a~~ railroad corporation or the Montana railroad  
 21 development authority, and a duplicate ~~thereof~~ check must be given to the passenger or person delivering the  
 22 ~~same~~ package or parcel in his on the passenger's behalf. If ~~such the~~ check is refused on demand, the railroad  
 23 corporation or the Montana railroad development authority ~~must shall~~ pay to ~~such the~~ passenger the sum of \$20,  
 24 to be recovered in an action for damages, and ~~no a~~ fare or toll ~~must may not~~ be collected or received from ~~such~~  
 25 the passenger, ~~and if such~~ If the passenger has paid ~~his the~~ fare, the ~~same fare~~ must be returned by the  
 26 conductor in charge of the train. On producing the check, if ~~his the~~ baggage is not delivered to ~~him the person~~  
 27 by the agent or employee of the railroad corporation or the Montana railroad development authority, ~~he the person~~  
 28 may recover the value ~~thereof~~ of the baggage from the corporation or the authority."

29

30           **Section 58.** Section 69-14-214, MCA, is amended to read:

1           **"69-14-214. Penalty for failure to redeem ticket.** ~~Any~~ An authorized ticket-selling agent who represents  
 2 the Montana railroad development authority, a railroad company, or a steamboat company which shall by any  
 3 of its and who unreasonably refuses to redeem any coupon of a ticket or any ticket as required by 69-14-213  
 4 authorized ticket-selling agents within this state unreasonably refuse to redeem any coupon of a ticket or any  
 5 ticket as required by 69-14-213 shall pay to the state a fine not exceeding \$500 for each offense."

6

7           **Section 59.** Section 69-14-232, MCA, is amended to read:

8           **"69-14-232. Size and equipment of caboose.** (1) Occupied cabooses must be at least 24 feet in  
 9 length, exclusive of platforms, and must ~~be provided with~~ have a door in each end and ~~with~~ cupolas or bay  
 10 windows, platforms, guardrails, grabirons, and steps for the safety of persons in alighting or getting on cabooses.  
 11 Cabooses must be of metal frame construction and must be sufficiently insulated to eliminate track and other  
 12 related noise above 85 decibels in any octave in the speech range. Other requirements for cabooses are as  
 13 follows:

14           (a) The trucks ~~shall~~ must provide riding qualities at least equal to ~~those of freight type~~ freight-type trucks  
 15 modified with elliptical or additional coil springs or other means of equal or greater efficiency and must have at  
 16 least two four-wheel trucks with standard steel wheels or their equivalent. Draft gears must have a minimum travel  
 17 of 2 1/2 inches and a minimum capacity of 18,000 foot-pounds and must comply with ~~Association~~ the association  
 18 ~~of American Railroads Standard~~ railroads standard M-901 or its equivalent.

19           (b) Electric lighting of at least 40 foot-candles must be provided for direct illumination of the caboose  
 20 desk, reading areas, and lavatory facilities.

21           (c) A spotlight must be ~~provided~~ located on the rear of the caboose ~~with~~ and provide sufficient  
 22 candlepower to illuminate the track for a distance of at least 300 feet to the rear of the caboose during the hours  
 23 of darkness.

24           (d) The caboose marker or markers must be either reflectorized or capable of illumination when required.

25           (e) Only ~~glass of the~~ safety-glass type may be used in partitions, doors, windows, or wind deflectors.

26           (f) All seats and seat backs must conform to the safety standards designated by the United States  
 27 department of transportation in its ~~Federal Motor Vehicle Safety Standards, Motor Vehicle Safety Standard~~ federal  
 28 motor vehicle safety standards motor vehicle safety standard No. 201. All edges and protrusions on seats and  
 29 seat backs must be rounded to prevent injury to employees.

30           (2) ~~Any~~ The Montana railroad development authority or a person, corporation, or company, operating

1 ~~any that operates a~~ railroad or railway in this state, ~~violating and that violates~~ any of the provisions of this section  
 2 and 69-14-233 is guilty of a misdemeanor and upon conviction shall be fined not less than \$500 or more than  
 3 \$1,000 for each offense."

4  
 5 **Section 60.** Section 69-14-236, MCA, is amended to read:

6 **"69-14-236. Headlights and speedometers for locomotives.** (1) ~~A~~ The Montana railroad development  
 7 authority or a person, corporation, or company operating a railroad or railway in this state ~~must~~ shall equip all  
 8 locomotive engines used in the transportation of trains over the railroad or railway with:

9 (a) electric headlights of at least 1,500 candlepower, measured without the aid of a reflector; and  
 10 (b) a speedometer that is ~~maintained~~ in good working order at all times and that is located in the lead  
 11 or controlling unit.

12 (2) A locomotive used exclusively in yard service is not required to be equipped with a speedometer.

13 (3) If the speedometer fails en route, it ~~will be deemed as being~~ is considered in good working order until  
 14 it reaches the next terminal where it ~~will~~ must be exchanged with an engine with a working speedometer if one  
 15 is available.

16 (4) ~~Any~~ The Montana railroad development authority or a person, corporation, or company, ~~operating~~  
 17 ~~any that is operating a~~ railroad or railway in this state, ~~violating and that violates~~ the provisions of this section ~~shall~~  
 18 ~~be deemed~~ is guilty of a misdemeanor and upon conviction ~~thereof~~ shall be fined not less than \$100 or more than  
 19 \$1,000 for each offense."

20  
 21 **Section 61.** Section 69-14-237, MCA, is amended to read:

22 **"69-14-237. Locomotive engines and electric motors to be marked with identifying numbers.** (1)  
 23 It ~~shall be~~ is the duty of ~~every~~ the Montana railroad development authority or a person, corporation, or company  
 24 operating a railroad or railway in this state to equip all locomotive engines and electric motors used in hauling  
 25 trains over ~~said the~~ railroad or railway with suitable numbers, which ~~numbers shall~~ must be displayed at the front  
 26 and both sides of the headlight on ~~said the~~ locomotive engine or electric motor and ~~to be such size as to be~~ of  
 27 a size easily read from a passing or meeting train.

28 (2) When a complaint is made to the commission that ~~any~~ the Montana railroad development authority  
 29 or a person, corporation, or company operating a railroad or railway in this state has failed to comply with the  
 30 provisions of this section, ~~such the~~ commission shall order a hearing and shall serve a notice on ~~such the~~

1 Montana railroad development authority, person, corporation, or company at least 15 days before the date set  
 2 for ~~such the~~ hearing. The notice may be served upon any agent of ~~such the~~ Montana railroad development  
 3 authority, person, corporation, or company. At the conclusion of ~~such the~~ hearing, the commission may ~~make~~  
 4 ~~such issue an order in the premises as is deemed~~ considered necessary and may prescribe the time ~~within which~~  
 5 ~~that all~~ such locomotive engines ~~shall must~~ be equipped with ~~such the~~ numbers.

6 (3) ~~Any~~ The Montana railroad development authority or a person, corporation, or company operating a  
 7 railroad or railway in this state who violates any of the provisions of this section ~~shall be deemed~~ is guilty of a  
 8 misdemeanor and upon conviction ~~thereof~~ shall be fined not less than \$50 or more than \$100 for each offense."  
 9

10 **Section 62.** Section 69-14-238, MCA, is amended to read:

11 **"69-14-238. Equipment for track motor cars.** (1) ~~Every~~ The Montana railroad development authority  
 12 or a person, firm, or corporation operating or controlling ~~any a~~ railroad running through or within this state as a  
 13 common carrier shall:

14 (a) equip each of its track motor cars with:

15 (i) a windshield of safety glass and a device for wiping rain, snow, and other moisture ~~therefrom; such~~  
 16 from the windshield, and the device shall must be maintained in good order and ~~so must be constructed as~~ to be  
 17 controlled by the operator of ~~said the~~ track motor car; and

18 (ii) upon request of the ~~foreman lead supervisor~~, a canopy or top ~~of such construction as to constructed~~  
 19 so that it adequately protect protects the occupants ~~thereof of the track motor car~~ from the rays of the sun, rain,  
 20 snow, or other inclement weather;

21 (b) equip each of its track motor cars used during the period from 30 minutes before sunset to 30  
 22 minutes after sunrise with:

23 (i) an electric headlight ~~of such construction~~ constructed and with sufficient candlepower to be plainly  
 24 visible at a distance of not less than 300 feet in advance of ~~such the~~ track motor car, any track obstruction,  
 25 landmark, warning sign, or grade crossing; and

26 (ii) a red rear electric light of sufficient candlepower to be plainly visible at a distance of not less than 300  
 27 feet.

28 (2) ~~Every~~ Each violation of this section is a misdemeanor."  
 29

30 **Section 63.** Section 69-14-239, MCA, is amended to read:

1           **"69-14-239. Operation of trains at grade crossings.** (1) Except as provided in subsection (2), ~~no the~~  
 2 Montana railroad development authority or a railway company operating trains within this state ~~shall~~ may not  
 3 permit any locomotives or cars to cross the tracks of any other railroad, at grade, without coming to a full stop  
 4 immediately before crossing.

5           (2) (a) ~~If any~~ Except as provided in subsection (2)(b), if the Montana railroad development authority or  
 6 a railway company or companies using one or more tracks crossing each other or connecting in any way at a  
 7 common grade ~~shall~~, by an interlocking plant, signal station, or any other works or fixtures, ~~to be erected by them~~  
 8 ~~or either of them~~, renders it safe to pass over ~~said the~~ crossings without stopping and if ~~such the~~ plant,  
 9 works, or fixtures ~~shall have been first~~ are approved by the county commissioners of the county ~~wherein such~~  
 10 where the works are ~~to be~~ constructed and used and the plans ~~of such for the~~ works and fixtures for ~~such the~~  
 11 crossing, designating the place of ~~such the~~ crossing, ~~shall have been~~ are filed with ~~such the~~ commissioners, then  
 12 and in that case the foregoing provisions of this section requiring the stopping of trains at such crossing shall  
 13 subsection (1) does not apply to ~~said the Montana railroad development authority or the company or companies~~  
 14 ~~or either of them.~~

15           (b) If ~~said the~~ county commissioners ~~shall~~ disapprove ~~any such the~~ plans ~~so~~ filed with them or fail to  
 16 approve the ~~same plans~~ within 20 days after the filing thereof ~~with them~~, ~~such the Montana railroad development~~  
 17 authority or railway company or companies ~~or either of them~~ may apply by written petition to the district court in  
 18 the county where ~~such the~~ crossing is ~~situated located~~ located ~~to the district court in and for said county or to a judge~~  
 19 ~~thereof in vacation, by petition in writing setting forth the object of such application to make a ruling on the plan.~~  
 20 Said court or judge Upon receipt of the petition, the court shall thereupon appoint a time and place for the hearing  
 21 of said petition set a hearing, and a copy of the order appointing such time and place, together with a copy of said  
 22 setting the hearing and a copy of the petition, shall must be served ~~upon on~~ said the county commissioners at  
 23 least 10 days before the ~~day appointed for said hearing.~~ Said district ~~The court or a judge thereof in vacation shall~~  
 24 have full power upon the hearing of said petition to grant the prayer thereof or to make such other order thereon  
 25 as may be proper in the premises, ~~and the foregoing provisions of this section requiring the stoppage of trains~~  
 26 ~~at crossings shall not apply to said railway companies or either of them if said district court shall by its order upon~~  
 27 ~~said petition grant the prayer thereof or otherwise and to any extent approve the construction and use of the~~  
 28 ~~interlocking plant or other structures therein referred to~~ may grant, condition, or deny the plans."

29

30           **Section 64.** Section 69-14-240, MCA, is amended to read:

1           **"69-14-240. Duty to construct drains and ditches.** (1) ~~It shall be the duty of every~~ Within 3 months  
 2 of the completion of a railroad or branch through a county, the Montana railroad development authority or a  
 3 corporation, company, or person owning or operating any a railroad or branch thereof in this state and of any  
 4 corporation, company, or person constructing any a railroad in this state, within 3 months after the completion  
 5 of the same through any county in this state, to cause to be constructed and maintained shall construct and  
 6 maintain suitable ditches and drains along each side of the roadbed of ~~such the~~ the road or ~~to construct culverts or~~  
 7 ~~openings through such the~~ roadbed to connect with ditches, drains, or watercourses, so as to afford sufficient  
 8 ~~outlet to drain and carry off the water along such the~~ railroad whenever the draining drainage of such the water  
 9 ~~has been is~~ obstructed or rendered necessary by because of the construction of ~~such the~~ the railroad. ~~None of the~~  
 10 The drains or ditches herein referred to shall be required to be constructed by any of the persons or corporations  
 11 ~~herein named or described~~ are not required except when ~~required~~ needed to remove and drain off water  
 12 accumulated upon property adjacent to or upon the right-of-way ~~whose~~ where the natural channel or outlet has  
 13 been destroyed or impaired by the embankment of ~~such railway so constructed as aforesaid~~ the railroad.

14           (2) ~~In case such~~ If the Montana railroad development authority, corporation, company, or person shall  
 15 ~~fail fails~~ or ~~neglect~~ neglects to construct and maintain ~~such the~~ the ditches or drains ~~as are herein required within the~~  
 16 ~~time limited in this section~~ pursuant to subsection (1), the board of county commissioners of any county through  
 17 ~~which such~~ where the railroad has been or may be constructed and located and in which the ~~draining herein~~  
 18 ~~required has been neglected is hereby authorized and required,~~ where the ditches or drains have not been  
 19 constructed or maintained shall, upon the petition of 20 landowners of such the county along the line of and  
 20 contiguous to ~~such the~~ the railroad, ~~to cause such~~ require the ditches or drains, ~~as are herein required,~~ to be  
 21 constructed and maintained. ~~Said~~ If the Montana railroad development authority, corporation, company or person  
 22 fails to comply with subsection (1) or fails to reimburse the board of county commissioners for the costs and  
 23 expenses incurred by the county in constructing and maintaining the drains or ditches, the board may apply by  
 24 written petition to any court in the county maintain an action against such corporation, company, or person so  
 25 failing to comply with the provisions of this section, in any court of competent jurisdiction and in the name of such  
 26 county, and shall be entitled to recover all the costs and expenses incurred in the construction and maintenance  
 27 of said drains or ditches."

28

29           **Section 65.** Section 69-14-252, MCA, is amended to read:

30           **"69-14-252. Accident reports.** ~~Every~~ The Montana railroad development authority or a railroad company

1 operating any line of railroad within this state shall promptly upon the occurrence of any accident ~~mentioned in~~  
 2 subject to 69-14-112(2) report the ~~same accident~~ to the commission. ~~In the~~ The report shall be stated must  
 3 include the time and place of the accident, the names of the persons killed or injured, and the value of any  
 4 property destroyed."

5

6 **Section 66.** Section 69-14-513, MCA, is amended to read:

7 **"69-14-513. Lease or purchase of other railroads.** (1) ~~Any~~ The Montana railroad development  
 8 authority, in accordance with [section 6] and this chapter, or a railroad corporation, whether chartered ~~by~~ or  
 9 organized under the laws of Montana, the United States, or any other state, may lease or purchase the whole  
 10 or any part of the railroad or rail line of any railroad corporation or the Montana railroad development authority,  
 11 constructed or unconstructed, ~~together~~ with all the rights, powers, immunities, privileges, franchises, and all other  
 12 property or appurtenances to the railroad or rail line. ~~The~~ A railroad company ~~of any other~~ from another state ~~of~~  
 13 ~~the United States~~ or the Montana railroad development authority that purchases or leases a railroad or any part  
 14 of a railroad in this state:

15 (a) ~~possesses and may exercise and enjoy, as to the control, management, and operation of~~ manage,  
 16 and operate the road;:

17 (b) except as provided in [section 4(2)], has all the rights, powers, privileges, and franchises possessed  
 18 by railroad corporations organized under the laws of this state, including the exercise of the power of eminent  
 19 domain, as provided in Title 70, chapter 30; and

20 (b)(c) ~~shall establish and maintain~~ must have an office or offices in this state at some point or points on  
 21 its line ~~at which~~ where legal process and notice may be served, ~~as upon railroad corporations of this state.~~

22 (2) ~~Any~~ The Montana railroad development authority, in accordance with [section 6] and this chapter,  
 23 or a railroad company may sell or lease the whole or any part of its railroad or branches within this state,  
 24 constructed or to be constructed, together with all property and rights, privileges, and franchises pertaining to the  
 25 railroad or branches, to ~~any~~ the railroad development authority or a railroad company organized or existing  
 26 pursuant to the laws of the United States, this state, or any other state ~~of the United States.~~

27 (3) All roads or branches of a railroad in this state, whether purchased or leased, are subject to taxation,  
 28 ~~and to~~ regulation, and control by ~~the laws of this~~ the state in all respects as if the line were constructed by  
 29 ~~corporations organized under the laws of this state.~~

30 (4) ~~Before~~ Except as provided in [sections 1 through 24 20], before any a lease or purchase is effective,

1 the lease or purchase must be ~~assented to or~~ approved or ratified by the stockholders of each corporation by a  
 2 vote ~~in favor of the lease or purchase~~, at a general or special meeting of stockholders; or by the holders of a  
 3 majority of all the outstanding capital stock of the company."

4

5 **Section 67.** Section 69-14-514, MCA, is amended to read:

6 **"69-14-514. Interrailroad business arrangements and out-of-state operations.** (1) ~~Any~~ The Montana  
 7 railroad development authority, in accordance with [section 6] and this chapter, or a railroad company  
 8 incorporated pursuant to the laws of this state, the United States, or any state ~~or territory of the United States~~ may  
 9 ~~at any time, by means of subscription~~ subscribe to the capital stock of any other railroad company or by the  
 10 purchase of its stock or bonds or by guaranteeing its bonds or otherwise, aid ~~such~~ the company in the  
 11 construction of its railroad within or ~~without~~ outside this state and may take, purchase, hold, sell, and dispose of  
 12 or guarantee the payment of the capital, stock, bonds, and securities of any other railroad corporation ~~whose~~ with  
 13 a line of railroad within this state that is continuous of or connects with its own line.

14 (2) ~~Any~~ The Montana railroad development authority, in accordance with [section 6] and this chapter,  
 15 or a company owning or operating a railroad within this state may:

- 16 (a) extend the ~~same~~ railroad into any other state ~~or territory~~;
- 17 (b) build, buy, lease, or consolidate with any railroad or railroads in ~~such other~~ another state ~~or territory~~;
- 18 (c) operate the ~~same~~ railroad; and
- 19 (d) own ~~such~~ real estate and other property in ~~such other~~ another state ~~or territory as may be~~ that is  
 20 necessary or convenient ~~in for~~ the operation of ~~such~~ the road.

21 (3) ~~Such~~ Except as provided in [section 6], the purchase, sale, consolidation ~~with~~, or lease may be made  
 22 or ~~such~~ aid may be furnished upon ~~such~~ terms or conditions ~~as may be~~ agreed upon by the directors or trustees  
 23 of the respective companies or the members of the Montana railroad development authority, but the ~~same shall~~  
 24 ~~be~~ terms must be approved or ratified by:

- 25 (a) the Montana railroad development authority pursuant to [section 6]; or
- 26 (b) persons holding or representing a majority ~~in an amount~~ of the capital stock of each of ~~such~~ the  
 27 companies, ~~respectively~~, at any annual stockholders' meeting, or at a special meeting of the stockholders called  
 28 for that purpose, or by with the written approval ~~in writing~~ of a majority in interest of the stockholders of each  
 29 company ~~respectively~~.

30 (4) Before ~~any~~ a railroad corporation organized under the laws of ~~any other~~ another state ~~or territory~~ or

1 of the United States shall be permitted to avail avails itself of the benefits of this section, ~~such the~~ corporation  
 2 shall file ~~with the secretary of state~~ a true copy of its charter or articles of incorporation with the secretary of state."

3

4 **Section 68.** Section 69-14-531, MCA, is amended to read:

5 **"69-14-531. Authorization to operate railroad.** Any The Montana railroad development authority, in  
 6 accordance with [section 6], or a railroad corporation ~~shall be~~ is authorized to locate, construct, maintain, and  
 7 operate a railroad with a single or double track, with ~~such~~ sidetracks, turnouts, machine shops, offices, and  
 8 depots as ~~may be~~ necessary, between any points it ~~may select~~ selects within the places named in the articles  
 9 of incorporation as termini of ~~such the~~ the road or in the case of the Montana railroad development authority, as  
 10 provided for in [sections 1 through 24 20]. It may construct branches to any point in this state and connect its road  
 11 with ~~that~~ road belonging to ~~any other~~ another person or corporation and may consolidate with any road that is  
 12 not a parallel or competing line."

13

14 **Section 69.** Section 69-14-532, MCA, is amended to read:

15 **"69-14-532. Authority to plan, lay out, and construct rail lines.** Every The Montana railroad  
 16 development authority, in accordance with [section 6], or a railroad corporation may:

17 (1) ~~cause such~~ require examination and surveys to be made ~~as may be necessary to the selection of~~  
 18 select the most advantageous route for the railroad;

19 (2) lay ~~out~~ its road, not exceeding in width 100 feet on each side of its centerline, unless a greater width  
 20 is required for ~~the purpose of~~ excavation or embankment, and construct and maintain the ~~same~~ road, with a single  
 21 or double track and with ~~such~~ appendages and adjuncts ~~as may be~~ necessary for the convenient use of the ~~same~~  
 22 road;

23 (3) construct its road across, along, or upon ~~any a~~ a stream of water, watercourse, roadstead, bay,  
 24 navigable stream, street, avenue, or highway or across ~~any a~~ a railway, canal, ditch, or flume ~~which the route of~~  
 25 ~~its that the~~ road intersects, crosses, or runs along, ~~in such manner as~~ to afford security for life and property; ~~but~~  
 26 However, the Montana railroad development authority or the corporation shall restore the stream, or watercourse,  
 27 road, street, avenue, highway, railroad, canal, ditch, or flume ~~thus~~ that is intersected to its former state of  
 28 ~~usefulness,~~ as near as possible, or so that the railroad ~~shall~~ does not unnecessarily impair ~~its usefulness~~ or injure  
 29 its franchise;

30 (4) erect and maintain ~~all~~ necessary and convenient buildings, stations, depots, fixtures, and machinery

1 for the accommodation and use of its passengers, freight, and business; and  
 2 (5) change the line of its road, in whole or in part;  
 3 (a) whenever if a majority of the directors ~~so~~ determine, as is provided in 69-14-534~~;~~, but ~~no such a~~  
 4 change may not vary the general route of ~~such~~ the road, as contemplated in its articles of incorporation; or  
 5 (b) if the Montana railroad development authority members determine to do so as provided in [sections  
 6 1 through 24 20]."

7  
 8 **Section 70.** Section 69-14-533, MCA, is amended to read:

9 **"69-14-533. Authority to enter land for survey purposes.** (1) For the purposes of 69-14-532(1), the  
 10 officers, agents, and employees of a railroad corporation or the Montana railroad development authority may  
 11 enter ~~upon the lands or waters of any person~~ private land or water; ~~subject to liability~~  
 12 (2) The Montana railroad development authority or railroad corporation is liable for all damages ~~which~~  
 13 ~~they do thereto~~ done to the land or water."

14  
 15 **Section 71.** Section 69-14-534, MCA, is amended to read:

16 **"69-14-534. Change of location or grade.** ~~Whenever any~~ If the Montana railroad development authority  
 17 established pursuant to [section 3] or a corporation organized under this part, ~~shall find it necessary, for the~~  
 18 ~~purpose of avoiding~~ in order to avoid annoyance to public travel, finds it necessary to avoid dangerous or difficult  
 19 curves, ~~or~~ grades, or unsafe or unsubstantial grounds or foundations or for other reasonable causes, to change  
 20 the location or grade of ~~any a~~ a portion of its road, ~~such~~ the Montana railroad development authority or railroad  
 21 corporation ~~is hereby authorized to~~ may make ~~such~~ the changes, ~~not departing from~~ in compliance with the  
 22 general route prescribed in the articles of incorporation of the corporation or, in the case of the Montana railroad  
 23 development authority, as prescribed in [sections 1 through 24 20]."

24  
 25 **Section 72.** Section 69-14-536, MCA, is amended to read:

26 **"69-14-536. Extension of rail lines into Montana.** (1) (a) ~~Any~~ The Montana railroad development  
 27 authority, as provided in [sections 1 through 24 20], or a railroad corporation chartered by or organized under the  
 28 laws of the United States or of ~~any~~ another state may extend, construct, maintain, and operate its railroad ~~into~~  
 29 in and through this state to any place within the state and may build branches from any point on the extension  
 30 or continuation of ~~any~~ an extension or branch.

1           (b) Before making an extension into the state, or building any a branch road, or any continuation  
 2 continuing a road, the board of directors of a corporation or the Montana railroad development authority members  
 3 shall, by approve a resolution of its board of directors, to be entered in the records of its proceedings, designate  
 4 designating the general route of the proposed extension, branch, or continuation.

5           (c) The Montana railroad development authority or railroad corporation shall enter its findings into the  
 6 record and file a copy of the record, certified by the president and secretary of the corporation or the presiding  
 7 officer of the Montana railroad development authority, in the office of with the secretary of state. The secretary  
 8 of state shall record the resolution.

9           (d) ~~After the~~ Except as provided in [section 6], after recording the extension, branch, or continuation, the  
 10 corporations corporation or the Montana railroad development authority have all the rights, powers, privileges,  
 11 immunities, and franchises to make, may maintain, and operate the extension and build, maintain, and operate  
 12 the branch or continuation, including and, subject to [section 4(2)] has the right of eminent domain as provided  
 13 in Title 70, chapter 30, that it would have if it had been incorporated under the general laws of Montana.

14           (2) Any A corporation of another state or of the United States extending that extends its railroad or any  
 15 portion of its railroad into or through this state:

16           (a) ~~shall establish and maintain~~ must have an office or offices in this state at some point or points on its  
 17 line at which where legal process and notice may be served, as upon railroad corporations of this state; and

18           (b) is subject to taxation, and regulation, and control by the laws of this the state, in all respects as if the  
 19 line were constructed by corporations organized under the laws of this state.

20           (2)(3) Before any a railroad corporation organized under the laws of any other another state or of the  
 21 United States is permitted to avail avails itself of the benefits of this section, the corporation shall file with the  
 22 secretary of state a copy of its charter or articles of incorporation with the secretary of state."

23  
 24           **Section 73.** Section 69-14-538, MCA, is amended to read:

25           **"69-14-538. Railroads on Indian and military reservations.** Any The Montana railroad development  
 26 authority or a railroad corporation organized under the laws of this state for the purpose of building railroads which  
 27 that extend upon into Indian or military reservations within this state shall does not forfeit its charter or any rights  
 28 or privileges by reason of its failure failing to build and complete any portion of its road upon such on the  
 29 reservations until while seeking a grant of a right-of-way therefor has been obtained from the United States or  
 30 any parties authorized in that behalf on behalf of the United States; and thereafter After being granted a

1 ~~right-of-way,~~ the provisions of this part ~~shall be applicable to said~~ apply to the Montana railroad development  
 2 authority in accordance with [sections 1 through 24 20] or to corporations."

3  
 4 **Section 74.** Section 69-14-539, MCA, is amended to read:

5 **"69-14-539. Connections between lines of different railroads.** ~~Every~~ The Montana railroad  
 6 development authority or a railroad corporation ~~has power to~~ may cross, intersect, join, or unite its railroad with  
 7 any other railroad, either before or after construction, at any point ~~upon~~ on its route and ~~upon~~ on the grounds of  
 8 ~~such~~ the other railroad corporation, with the necessary turnouts, sidings, ~~and~~ switches, and ~~other~~ conveniences  
 9 ~~in furtherance of the objects of its connections~~ necessary for connection. ~~Every~~ The Montana railroad  
 10 development authority or a corporation whose railroad ~~is or shall be hereafter intersected by any~~ intersects a new  
 11 railroad shall ~~unite with~~ join the owners of ~~such~~ the new railroad ~~in forming such and form~~ intersections and  
 12 connections and ~~grant~~ allow facilities ~~therefor~~ needed for the intersection or connection. If the two ~~corporations~~  
 13 parties cannot agree ~~upon~~ on the amount of compensation ~~to be made therefor~~ for the intersection or connection  
 14 or the points or ~~the~~ manner of ~~such~~ the crossings, intersections, and connections, ~~the same shall be ascertained~~  
 15 and amount of compensation must be determined as is provided in Title 70, chapter 30."

16  
 17 **Section 75.** Section 69-14-552, MCA, is amended to read:

18 **"69-14-552. Authority to hold and transfer property.** ~~Every~~ The Montana railroad development  
 19 authority, in accordance with [section 6], or a railroad corporation may:

20 (1) receive, hold, take, and convey, by deed or otherwise, as a natural person, ~~voluntary~~ grants and  
 21 donations of real estate and other property ~~that may be~~ made to the corporation or authority to aid and encourage  
 22 the construction, maintenance, and accommodation of the railroad;

23 (2) purchase or by ~~voluntary~~ grants or donations receive, enter, take possession of, hold, and use ~~all~~ real  
 24 estate and other property ~~that may be absolutely~~ necessary for the construction and maintenance of the railroad  
 25 and for ~~all~~ stations, depots, and other purposes necessary to successfully work and conduct the business of the  
 26 railroad;

27 (3) purchase land, timber, stone, gravel, or other material to be used ~~in~~ for the construction and  
 28 maintenance of its road ~~and all~~ or for the construction of related projects necessary for the construction and  
 29 maintenance of the railroad; or

30 (4) subject to [section 4(2)], acquire ~~them~~ land, timber, stone, gravel, or other material as in the manner

1 provided in Title 70, chapter 30, ~~for the by~~ condemnation of lands."

2

3 **Section 76.** Section 69-14-553, MCA, is amended to read:

4 **"69-14-553. Acquisition and transfer of real estate.** A railroad corporation or, in accordance with  
 5 [section 6], the Montana railroad development authority may acquire by purchase or gift any land in the vicinity  
 6 of its road or through which the road may pass if the land is convenient or necessary to secure the right-of-way  
 7 or if the land is granted to aid in the construction of the road and, except as provided in [section 6], 69-14-931,  
 8 and 69-14-932, may convey the land in any manner that the directors or Montana railroad development authority  
 9 members may prescribe. All deeds and conveyances made by the corporation or the authority must be signed  
 10 by the president, under the seal of the corporation or, in the case of the authority, by the authority's presiding  
 11 officer."

12

13 **Section 77.** Section 69-14-554, MCA, is amended to read:

14 **"69-14-554. Right-of-way through canyons.** (1) (a) ~~Any such~~ If the right-of way or track on the  
 15 right-of-way belonging to the Montana railroad development authority or a railroad corporation whose right-of-way  
 16 ~~or whose track upon such right-of-way~~ extends through any a canyon, pass, or defile, ~~shall the authority or~~  
 17 corporation may not exclude any other such prohibit another corporation from a passage through the ~~same~~  
 18 canyon, pass, or defile upon equitable terms. ~~In case of disagreement, upon application of either of the parties,~~

19 (b) If the parties disagree, with notice to the other party, the same shall be adjusted by a party may apply  
 20 to a court of competent jurisdiction for resolution.

21 (c) If it shall become necessary for any other the Montana railroad development authority or another  
 22 railroad company passing through the state to cross or pass any other crosses or passes another railroad track  
 23 or defile already constructed or surveyed, the ~~same~~ crossing or passage may be ~~so~~ done without ~~any~~  
 24 compensation therefor, except the for actual damage done caused by so doing the crossing or passage.

25 (d) When two or more companies parties desire to pass passage through the same canyon, pass, or  
 26 defile, neither ~~shall~~ may exclude the other from passing through the ~~same~~ canyon, pass, or defile and neither  
 27 ~~shall have any compensation therefor~~ may be compensated for the passage, except the ~~for~~ for actual damage ~~done~~  
 28 caused by so doing the passage.

29 (e) Should it be necessary that the said companies If the parties should use the same track or bed in  
 30 passing through ~~such~~ the canyon, pass, or defile, the ~~same~~ passage may be done without ~~any~~ compensation

1 therefor from one to the other, except the for actual damage ~~by so doing~~ caused by the passage.

2 (2) If the passage of ~~any such~~ a railroad through the canyon, pass, or defile causes the disuse or change  
3 of location of ~~any a~~ a public wagon road that ~~may traverse~~ traverses the ~~same~~ canyon, pass, or defile, damages  
4 ~~shall~~ must be awarded ~~therefor~~ for the disuse or change of location, as provided by law."

5

6 **Section 78.** Section 69-14-555, MCA, is amended to read:

7 "**69-14-555. Judgment liens against railroad property.** A judgment against ~~any the~~ the Montana railroad  
8 development authority or a railroad corporation for ~~any an~~ an injury to a person or property or for material furnished  
9 or for work or labor ~~done upon any of~~ on the property of ~~such the~~ the authority or corporation ~~shall~~ must be a lien  
10 ~~within the county where recovered~~ on the property of ~~such the~~ the authority or corporation in the county where it is  
11 recovered, and ~~such the~~ the lien ~~shall~~ must be prior and superior to the lien of any mortgage or trust deed provided  
12 for in this part."

13

14 **Section 79.** Section 69-14-557, MCA, is amended to read:

15 "**69-14-557. State not liable for obligations of railroad.** Nothing in ~~[section 48 17]~~ [section 17] or this part ~~shall~~ may  
16 be construed to make the state or any municipality ~~therein~~ in the state liable for any debts or obligations of any  
17 character ~~which that may be~~ are contracted by ~~such the~~ the Montana railroad development authority, provided for  
18 in [sections 1 through 24 20], or by railroad corporations."

19

20 **Section 80.** Section 69-14-558, MCA, is amended to read:

21 "**69-14-558. Transportation of passengers and property.** ~~Every~~ The Montana railroad development  
22 authority or a railroad corporation ~~has power to~~ may:

23 (1) carry persons and property on ~~their~~ its railroad and receive tolls or compensation ~~therefor~~ for carrying  
24 persons and property;

25 (2) regulate the time and manner ~~in which that~~ that passengers and property ~~shall be~~ are transported and  
26 the tolls and compensation to be paid ~~therefor~~ for the transportation within the limits prescribed by law and subject  
27 to alteration, change, or amendment by the legislature at any time."

28

29 **Section 81.** Section 69-14-560, MCA, is amended to read:

30 "**69-14-560. Regulation of rates of railroad corporations and Montana railroad development**

1 **authority.** (1) The Montana railroad development authority or a railroad corporation may not:  
 2 (a) ask, charge, or demand an exorbitant rate of compensation for the transportation of freight, baggage,  
 3 express matter, or a passenger;  
 4 (b) make unjust discrimination in rates; or  
 5 (c) neglect to keep a table of passenger tariff and rates of freight conspicuously posted in each depot  
 6 within this state.  
 7 (2) ~~Any~~ If the Montana railroad development authority or a railroad corporation within this state shall be  
 8 ~~deemed~~ violates subsection (1), the authority or corporation is guilty of a misdemeanor and upon conviction  
 9 thereof shall be fined:  
 10 (a) \$1,000 for the first offense;  
 11 (b) in the sum of \$1,000, \$2,000 for the second violation of the same provision, offense; \$2,000, and for  
 12 every other and further violation of any provision of which it has been twice before found guilty, a sum  
 13 (c) not less than \$5,000 or more than \$10,000; for subsequent violations of a provision for which it has  
 14 twice been found guilty if the corporation shall:  
 15 ~~———(1) ask, charge, or demand any exorbitant rate of compensation for the transportation of any freight,~~  
 16 ~~baggage, express matter, or passenger;~~  
 17 ~~———(2) make any unjust discrimination in its rates;~~  
 18 ~~———(3) willfully neglect to keep a table of its passenger tariff and rates of freight conspicuously posted in each~~  
 19 ~~depot within this state."~~

20  
 21 **Section 82.** Section 69-14-561, MCA, is amended to read:  
 22 **"69-14-561. Regulation of railroad equipment.** ~~Every~~ The Montana railroad development authority or  
 23 a railroad corporation has power to may:  
 24 (1) regulate the force and speed of their locomotives, cars, trains, or other machinery used ~~and employed~~  
 25 ~~on their~~ its road; and  
 26 (2) establish, execute, and enforce ~~all needful and proper rules necessary for the management of its~~  
 27 ~~business transactions usual and proper for railroad corporations."~~

28  
 29 **Section 83.** Section 69-14-562, MCA, is amended to read:  
 30 **"69-14-562. Regulation of safety on railroads.** (1) A railroad corporation within this state or the

1 Montana railroad development authority is guilty of a misdemeanor and upon conviction is subject to the penalties  
2 provided in subsection (2) if the corporation or authority:

3 (a) neglects to provide comfortable and convenient cars or coaches for the transportation of ~~its~~  
4 passengers and their baggage or safe cars for the transportation of express matter and freight;

5 (b) runs a train over an unsafe bridge, trestlework, or aqueduct;

6 (c) fails to have a locomotive in use by it equipped with a properly functioning horn and bell;

7 (d) except as provided in 69-14-620, permits a locomotive to approach a public highway, public road,  
8 or public railroad crossing without causing the locomotive horn and bell to be sounded at the distance from the  
9 crossing provided in 61-8-347; or

10 (e) willfully fails to make any report required by law.

11 (2) For the purposes of subsection (1)(d):

12 (a) the horn and bell must be sounded from the specified point until the crossing is occupied, but if a train  
13 has stopped within 1,320 feet of a crossing, the horn and bell must be sounded for a minimum of 15 seconds prior  
14 to the train occupying the crossing;

15 (b) the railroad corporation or the Montana railroad development authority shall erect and maintain a sign  
16 at a minimum of 1,320 feet in advance of a crossing at which the horn and bell are required to be sounded to  
17 notify the locomotive crew in advance of a crossing that requires the locomotive horn and bell to be sounded;

18 (c) if the owner or permitholder of a private crossing makes a written request to the railroad corporation  
19 or the Montana railroad development authority to have the locomotive horn and bell sounded at a private  
20 crossing, the railroad or authority shall comply with the request, but the owner or permitholder is not subject to  
21 any liability as a result of not making a request; and

22 (d) the phrase "public highway, public road, or public railroad crossing" means that the easement,  
23 right-of-way, or fee title for the public highway, public road, or public railroad crossing is held in the name of a  
24 federal, state, tribal, or local government entity on both sides of the crossing and that the easement, right-of-way,  
25 or fee title is recorded in the office of the clerk and recorder in the county where the crossing is located.

26 (3) Upon conviction of the offenses provided in subsection (1), a railroad corporation or the Montana  
27 railroad development authority is subject to a fine of:

28 (a) \$1,000 for the first offense;

29 (b) \$2,000 for the second violation of the same provision; and

30 (c) not less than \$5,000 or more than \$10,000 for subsequent violations of a provision for which it has

1 twice been found guilty."

2

3 **Section 84.** Section 69-14-601, MCA, is amended to read:

4 **"69-14-601. Definition of railroad company.** ~~The words "railroad~~ "Railroad company", as used in  
5 69-14-601 through 69-14-611, ~~shall be taken and construed to mean any~~ means the Montana railroad  
6 development authority provided for in [section 3] or a corporation, person, or association of persons owning or  
7 operating a railroad."

8

9 **Section 85.** Section 69-14-612, MCA, is amended to read:

10 **"69-14-612. Reflectorized material on crossing signs required.** ~~Within 2 years after April 9, 1987,~~  
11 The Montana railroad development authority or a railroad company shall install and maintain reflectorized material  
12 on the front and back sides of crossbuck blades on all public crossing signs the ~~railroad company~~ or authority is  
13 required to construct and maintain under 69-14-602 and 69-14-603."

14

15 **Section 86.** Section 69-14-620, MCA, is amended to read:

16 **"69-14-620. Establishment of railroad quiet zones.** (1) For the purposes of this section, "quiet zone"  
17 means a segment of a railroad within which is situated one or a number of consecutive railroad crossings at which  
18 locomotive horns and bells are not routinely sounded.

19 (2) A governing body of a municipality or a board of county commissioners may petition to the secretary  
20 of the United States department of transportation to establish quiet zones at railroad crossings that meet the  
21 requirements established in the rules adopted to implement 49 U.S.C. 20153(c). In developing the petition, the  
22 governing body of the municipality or the board of county commissioners shall consult with the Montana railroad  
23 development authority or railroad corporations that operate operating the rail lines through crossings that are  
24 within the proposed quiet zone. The petition must include how the municipality or county intends to implement  
25 the supplemental safety measures that are required by the United States department of transportation at railroad  
26 crossings within quiet zones.

27 (3) A quiet zone may not be established at a railroad crossing unless the governing body of a  
28 municipality or a board of county commissioners follows the procedure provided in subsection (2) and receives  
29 the approval of the secretary of the United States department of transportation or the secretary's designee."

30

1           **Section 87.** Section 69-14-626, MCA, is amended to read:

2           "**69-14-626. Prohibition on extended obstruction of highway crossings.** (1) It ~~shall be~~ is unlawful  
3 for ~~any the Montana railroad development authority or a~~ corporation, association, or company to willfully obstruct,  
4 blockade, interfere with, or prevent the free use of ~~any a~~ public highway within the state where ~~such a~~ highway  
5 crosses ~~any a~~ railroad track outside of incorporated cities and towns by stopping ~~any a~~ railroad train, car, engine,  
6 or locomotive for more than 15 minutes at any one time or by placing, depositing, or leaving ~~any an~~ article or thing  
7 ~~whatsoever~~ on ~~any a~~ railroad track at the point where ~~any a~~ public highway crosses ~~such the~~ track outside of  
8 incorporated cities and towns.

9           (2) ~~Any If the Montana railroad development authority or a~~ corporation, association, or company ~~so~~  
10 ~~obstructing, blockading, or interfering~~ obstructs, blockades, or interferes with the free use of ~~any such a~~ highway,  
11 ~~shall be deemed~~ the authority, corporation, association, or company is guilty of a misdemeanor and upon  
12 conviction ~~thereof~~ shall be punished by a fine of not less than \$25 or more than \$100. This section ~~shall not be~~  
13 ~~construed as repealing~~ does not repeal any existing laws prohibiting encroachments upon or obstruction of public  
14 highways."  
15

16           **Section 88.** Section 69-14-701, MCA, is amended to read:

17           "**69-14-701. Maintenance of fences -- exception -- penalty.** (1) Railroad corporations and the Montana  
18 railroad development authority shall build and maintain a legal fence on both sides of their track and property and  
19 maintain cattle guards at all crossings over which cattle or other domestic animals cannot pass, except that a  
20 fence is not required in places where water ditches, embankments, terrain, or other sufficient protection prevents  
21 domestic animals from straying onto the right-of-way. An affected landowner or lessee may construct, maintain,  
22 or repair a fence subject to approval and reimbursement by the railroad corporation or the Montana railroad  
23 development authority.

24           (2) If a railroad corporation or the Montana railroad development authority does not build and maintain  
25 the fence and guards and its engines or cars, because of the lack of a fence or maintenance of a fence, kill or  
26 maim cattle or other domestic animals upon its line of road, ~~it must~~ the corporation or authority shall pay to the  
27 owner of the cattle or other domestic animals, in all cases, a fair market price for the animal, unless ~~it~~ the damage  
28 occurred through the neglect or fault of the owner of the animal killed or maimed; ~~however~~ However, ~~nothing in~~  
29 this section may not be construed to prevent a person from recovering damages from a railroad corporation or  
30 the Montana railroad development authority for its negligent killing or injury to cattle or other domestic animals

1 at spurs, sidings, Ys, crossings, and turntables.

2 (3) An affected landowner or lessee may file a complaint with the public service commission when a  
 3 fence is in disrepair or in need of maintenance. The public service commission shall certify that the fence is in  
 4 need of repair and notify the railroad corporation or the Montana railroad development authority, whichever is  
 5 responsible for the fence. The public service commission shall forward a copy of the complaint, a certification that  
 6 the fence is in need of repair, and a verification that the ~~railroad~~ corporation or the authority was notified to the  
 7 county attorney of the county within which the site of the fence in disrepair is located. Upon notice, the ~~railroad~~  
 8 corporation or the authority, whichever is responsible for the fence, shall repair the fence within 30 days, weather  
 9 permitting. ~~A railroad~~ If the corporation failing or the authority fails to repair the fence within 30 days of notification  
 10 the corporation or authority shall pay a fine of \$100, plus \$50 a day each day after the 30th day of notification,  
 11 for failure to repair the fence. The fine must be recovered in a civil action and deposited in the county general  
 12 fund. It is the duty of the county attorney of the county within which the site of the fence in disrepair is located to  
 13 prosecute the action."

14  
 15 **Section 89.** Section 69-14-702, MCA, is amended to read:  
 16 **"69-14-702. Crossings to be maintained.** (1) ~~Any~~ If the Montana railroad development authority, a  
 17 railroad corporation, or a lessee, person, company, or corporation operating any a railroad in this state which may  
 18 ~~fence fences~~ its right-of-way, the authority, railroad corporation, lessee, person, company, or corporation shall  
 19 make crossings through its fence and over its roadbed along its right-of-way every 4 miles ~~thereof~~ or as near  
 20 ~~thereat~~ to 4 miles as ~~may be~~ is practicable.

21 (2) ~~Such openings shall~~ Openings may not be less than 60 feet in width."  
 22

23 **Section 90.** Section 69-14-703, MCA, is amended to read:  
 24 **"69-14-703. Placement of cattle guards.** The Montana railroad development authority, a railroad  
 25 ~~company corporation,~~ or a lessee, person, company, or corporation operating any a railroad shall place cattle  
 26 guards on either side of the openings required by 69-14-702; that are sufficient to prevent ~~any~~ cattle from entering  
 27 ~~upon the enclosed~~ right-of-way enclosed."

28  
 29 **Section 91.** Section 69-14-704, MCA, is amended to read:  
 30 **"69-14-704. Openings under trestles.** The Montana railroad development authority, railroad company

1 corporation, lessee, person, or company, or corporation operating ~~any a~~ a railroad, in addition to the openings  
 2 required by 69-14-702, shall leave unfenced ~~any~~ places where the railroad runs over trestles that are sufficiently  
 3 high for cattle to go underneath ~~the same~~."

4

5 **Section 92.** Section 69-14-706, MCA, is amended to read:

6 **"69-14-706. Violation of crossing provisions.** ~~Any~~ If the Montana railroad development authority, a  
 7 railroad corporation, or a lessee, person, company, or corporation operating any a railroad in this state ~~violating~~  
 8 violates the provisions of 69-14-702 through 69-14-705, ~~shall be deemed the authority, railroad corporation,~~  
 9 lessee, person, company, or corporation operating the railroad is guilty of a misdemeanor and upon conviction  
 10 ~~thereof~~ in any court of competent jurisdiction shall be fined in a sum not less than \$100 and not more than \$500."

11

12 **Section 93.** Section 69-14-707, MCA, is amended to read:

13 **"69-14-707. Liability for negligent destruction of domestic animals.** ~~Every~~ The Montana railroad  
 14 development authority or a railroad corporation or company operating any a railroad or branch ~~thereof of the~~  
 15 authority, corporation, or company within the limits of this state ~~which shall that~~ negligently injure ~~or kill~~ injures  
 16 or kills any horse, mare, gelding, filly, jack, jenny, mule, cow, heifer, bull, ox, steer, calf, or other domestic animal  
 17 by running any engine or car over or against ~~any such the~~ animal ~~shall be is~~ liable to the owner of ~~such the~~ animal  
 18 for the damages sustained by ~~such the~~ owner ~~by reason thereof~~. The killing or injury ~~shall be is~~ prima facie  
 19 evidence of negligence on the part of ~~such the~~ authority, corporation, or company."

20

21 **Section 94.** Section 69-14-708, MCA, is amended to read:

22 **"69-14-708. Records of accidents involving livestock.** (1) ~~A~~ The Montana railroad development  
 23 authority or a railroad company must shall report to the department of livestock any livestock killed or injured by  
 24 a train or railroad equipment on the railroad right-of-way within 30 days after the killing or injuring of any livestock.

25 (2) ~~A~~ If the Montana railroad development authority or a railroad company failing fails to provide the  
 26 notice provided for in subsection (1), the authority or company is liable to the owner of the animal killed or injured,  
 27 whether negligently done or not. The court or jury ~~before whom~~ where an action is tried for the recovery of  
 28 damages may ~~in its discretion~~ render a verdict and judgment for the amount of the value of the livestock killed  
 29 or the amount of damages sustained by reason of injury."

30

1           **Section 95.** Section 69-14-710, MCA, is amended to read:

2           **"69-14-710. Tender or deposit of value of animal.** If the Montana railroad development authority or  
 3 a corporation, association, company, or person ~~se~~ owning, controlling, or operating a railroad or branch ~~thereof~~  
 4 of a railroad kills or injures an animal as aforesaid as described in 69-14-707 and tenders to the owner thereof  
 5 or to his the owner's agent in that behalf the amount which they consider that the authority, corporation,  
 6 association, company, or person considers to be the value ~~thereof of the animal~~ or the damage ~~thereto to the~~  
 7 animal, as the case may be or if the railroad development authority, railroad, corporation, association, company,  
 8 or person deposits with the department of livestock ~~such that~~ amount for the owner ~~thereof of the animal~~ and the  
 9 owner or ~~his~~ the owner's agent refuses to accept the amount in settlement ~~thereof~~, then the owner shall pay all  
 10 costs incurred in any action instituted, after the tender or deposit, to recover the value or damage unless ~~he~~ the  
 11 owner recovers in the action more than the amount ~~se~~ tendered."

12

13           **Section 96.** Section 69-14-711, MCA, is amended to read:

14           **"69-14-711. Payment of damages to department of livestock.** (1) If livestock are killed by a railroad  
 15 ~~corporations~~ corporation or the Montana railroad development authority in violation of 69-14-701 and if the owner  
 16 of the livestock does not claim or assert a claim against the ~~railroad or railroad~~ corporation or authority for the  
 17 value of the livestock killed within 6 months from the date the animal is killed, the department of livestock shall  
 18 demand from the ~~railroad or railroad~~ corporation or authority payment in damages for the livestock. The  
 19 department shall institute and prosecute, in the name of the state, actions against the ~~railroad or railroad~~  
 20 ~~companies~~ corporation or authority in a court of competent jurisdiction to recover damages if the ~~railroad~~  
 21 corporation or authority fails, neglects, or refuses to make payment of the amount of the claim filed by the  
 22 department.

23           (2) The money recovered ~~shall~~ must be paid to the department and ~~shall~~ must be held by the department  
 24 for a period of 2 years after the date of its receipt. If the lawful owner of the animal killed does not present and  
 25 prove ~~his~~ the owner's claim to the net proceeds received from the animal killed within the 2 years, the money ~~shall~~  
 26 must be paid to the state treasurer and credited to the stock estray fund. If the owner of the animal killed proves  
 27 ~~his~~ the owner's claim within the 2 years, the department may pay the claimant the amount of money to which ~~he~~  
 28 the claimant is entitled for the animal killed by the ~~railroad or railroad company,~~ corporation or authority from the  
 29 ~~damages for which have been~~ collected by the department.

30           (3) In actions prosecuted under this section for the recovery of the value of livestock killed ~~under this~~

1 ~~section~~, the prevailing ~~or successful~~ party shall recover all costs. If the owner of an animal killed has not  
 2 presented his a claim against the ~~railroad or railroad company which~~ corporation or the authority, whichever  
 3 caused it to be killed, a settlement made by the department constitutes a bar against an action by the owner of  
 4 the animal."

5

6 **Section 97.** Section 69-14-714, MCA, is amended to read:

7 **"69-14-714. Payment of claim -- penalty.** Upon determining liability for the amount of the value of an  
 8 animal killed or maimed under the circumstances described in 69-14-701, the railroad corporation or the Montana  
 9 railroad development authority shall pay the plaintiff within 30 days. Upon failure to pay the plaintiff within 30 days,  
 10 interest at a rate of 10% a year accrues on the amount due until the claim is paid."

11

12 **Section 98.** Section 69-14-721, MCA, is amended to read:

13 **"69-14-721. Control of fire hazard along right-of-way.** ~~A~~ The Montana railroad development authority,  
 14 a railroad corporation, ~~or a~~ railroad company operating a railroad within this state shall keep its railroad track and  
 15 either side of the track for a reasonable distance within its right-of-way, free from dead grass, weeds, or any  
 16 dangerous or combustible material. ~~A~~ If the authority, railroad corporation, ~~or company~~ failing ~~fails~~ to keep its  
 17 railroad track and each side of the track free of combustible material as specified in this section, the authority,  
 18 corporation, or company is liable for any damages ~~on account of~~ caused by fire emanating from trains, track  
 19 maintenance, or other railroad operations. ~~A~~ The Montana railroad development authority, railroad corporation,  
 20 or railroad company may not be required to keep free of combustible material, as specified in this section, land  
 21 that is not a part of its right-of-way."

22

23 **Section 99.** Section 69-14-722, MCA, is amended to read:

24 **"69-14-722. Maintenance of fireguards.** (1) ~~Every~~ Except as provided in subsection (3), the Montana  
 25 railroad development authority or a railroad corporation operating its lines of road or any part ~~thereof~~ or its lines  
 26 of road within this state shall, between April 15 and July 1 in each year, plow a continuous strip of not less than  
 27 6 feet in width on each side of its track ~~in a good and workmanlike manner~~, covering the sod ~~well, upon~~ on each  
 28 side of its line of road, wherever it passes through a range or grazing country, ~~a continuous strip of not less than~~  
 29 ~~6 feet in width on each side of its track~~, as a fireguard. ~~Said~~ The strip must ~~shall~~, as near as practicable, run  
 30 parallel with the line or lines of ~~said~~ the railroad, ~~and, in~~ In addition to ~~such~~ plowing, ~~said~~ the Montana railroad

1 development authority or a railroad company corporation shall ~~cause to be burned~~, between July 15 and  
 2 September 15 of each year, burn all the grass and vegetation between the ~~said~~ plowed strips and a line of 50 feet  
 3 inside ~~said~~ the plowed strips. ~~Said~~ The plowing shall may not be ~~not~~ less than 300 feet from the center of the  
 4 railroad track on each side of ~~same~~ the track except in cases of cultivated fields, and then ~~such~~ the plowing and  
 5 burning shall must be ~~done~~ closer to ~~such~~ the railroad but not less than 70 feet from the center of the track.

6 (2) ~~Such~~ A fireguard, ~~so that is~~ plowed and burned, ~~need is not be constructed~~ required:

7 (a) within the limits of any town, village, or city;

8 (b) in private fields under cultivation;

9 (c) along the line of ~~such~~ the railroad whenever the ~~same~~ railroad runs through the mountains; or

10 (d) elsewhere where ~~such~~ plowing or burning would be impracticable.

11 (3) ~~Said~~ The fireguard or portion ~~thereof~~ of fireguard ~~need not~~ is not required to be plowed or burned on  
 12 or through ~~any lands which may be~~ released from ~~the operation~~ the requirements of this section by the board of  
 13 county commissioners of the county ~~wherein~~ such ~~where~~ the land is situated, by ~~their~~ written certificate of release  
 14 filed in the office of the county clerk of the county.

15 (3)(4) ~~If any~~ the Montana railroad development authority or a railroad ~~company~~ corporation fails to  
 16 comply with ~~any of~~ the provisions of this section, the board of county commissioners of the county ~~wherein~~ such  
 17 ~~where~~ a violation occurs shall ~~cause the neglected plowing, burning, or both to be done~~ may plow or burn the land  
 18 and may, ~~in~~ bring a suit ~~to be brought in their name as said board~~ in the district court having jurisdiction; to  
 19 recover double the amount of the cost of ~~such~~ the plowing, burning, or both, along with reasonable attorney fees  
 20 ~~to be~~ fixed by the court. ~~Such~~ The Montana railroad development authority or a railroad ~~company~~ shall be  
 21 corporation is liable ~~further~~ for all damages caused by its failure to comply with this section."  
 22

23 **Section 100.** Section 69-14-801, MCA, is amended to read:

24 "**69-14-801. Maintenance of loading platform by railroad.** (1) ~~A~~ The Montana railroad development  
 25 authority or a railroad company doing business in this state shall, within 60 days after notice from the commission,  
 26 erect one or more safe platforms for the transfer of commodities to cars. The platforms must be erected to not  
 27 endanger life and property.

28 (2) ~~If a~~ the Montana railroad development authority or a railroad company, after receiving notice as  
 29 provided for in this section, fails, refuses, or neglects to erect platforms as required by this section within 60 days,  
 30 the commission shall notify the authority or ~~railroad~~ company to appear before it at a certain time and place and

1 show cause why the commission should not issue an order requiring the authority or railroad company to comply  
 2 with the requirements of this section. The commission may, after the hearing, issue an order commanding the  
 3 railroad company or authority to erect the platform.

4 (3) A notice required to be served upon a railroad company or the Montana railroad development  
 5 authority to carry out any of the provisions of this section or similar provisions relating to the enlarging of platforms  
 6 may be served upon any agent of the railroad company or authority within the state."

7

8 **Section 101.** Section 69-14-804, MCA, is amended to read:

9 **"69-14-804. Erection of scales.** ~~Every~~ The Montana railroad development authority or a railroad  
 10 company shall allow suitable scales to be erected either upon the platform or upon the grounds adjacent ~~thereto~~  
 11 to the platform, if upon their located on its right-of-way, for weighing and shipping purposes."

12

13 **Section 102.** Section 69-14-805, MCA, is amended to read:

14 **"69-14-805. Violations of loading platform provisions.** ~~Every~~ If the Montana railroad development  
 15 authority or a railroad company ~~neglecting or refusing~~ neglects or refuses to comply with the requirements of  
 16 69-14-801 and 69-14-803 through 69-14-805 ~~shall be deemed~~ the authority or company is guilty of a  
 17 misdemeanor and ~~be is~~ subject to a fine of not less than \$500 for every 30 days ~~such the~~ failure ~~shall continue~~  
 18 continues after notice ~~as aforesaid is provided."~~

19

20 **Section 103.** Section 69-14-811, MCA, is amended to read:

21 **"69-14-811. Industrial and commercial spurs.** (1) Except as provided in subsection (2), the  
 22 commission ~~shall have~~ has full power and authority, after notice and hearing, to compel railroad companies or  
 23 the Montana railroad development authority operating in the state to construct industrial or commercial spurs to  
 24 industries when there is or will be sufficient traffic to require ~~such the~~ facilities. Any ~~such~~ industrial or commercial  
 25 spur ~~shall~~ must be constructed pursuant to the usual and customary contract of the particular railroad company  
 26 or the Montana railroad development authority in constructing ~~such the~~ spurs.

27 (2) (a) ~~Any such~~ An industrial or commercial spur ~~will~~ may not exceed 1 mile in length from headblock  
 28 to end of track.

29 (b) ~~Such~~ The industrial or commercial spur ~~shall~~ may not be ordered constructed except within the limits  
 30 of extreme switches of stations or yards or at sidings unless ~~such the~~ stations, yards, sidings, or spurs are more

1 than 7 miles apart or unless ~~such the~~ spurs can be ~~so~~ safely and reasonably placed ~~as to be reasonably safe~~ and  
 2 not unnecessarily interfere with main-line operation."

3

4 **Section 104.** Section 69-14-901, MCA, is amended to read:

5 **"69-14-901. Authorization to locate and erect grain warehouse or elevator on railroad right-of-way.**

6 (1) ~~Any The Montana railroad development authority or a person, firm, or corporation desirous of erecting that~~  
 7 ~~desires to erect and operating operate~~ at or contiguous to any railway station or siding a warehouse or elevator  
 8 for the purchase, sale, shipment, or storage of grain, (including flaxseed), for the public for hire may make  
 9 application in writing, containing a description of that portion of the right-of-way of ~~said the~~ railroad on which ~~such~~  
 10 ~~the~~ person, firm, or corporation desires to erect a warehouse or elevator, the size and capacity of the warehouse  
 11 or elevator proposed to be erected, and the time for which it is desired to maintain ~~such the~~ warehouse or  
 12 elevator. ~~The application must be made to the Montana railroad development authority or a person, firm, or~~  
 13 ~~corporation owning, leasing, or operating the railroad at such the~~ station or siding; for the right, privilege, and  
 14 easement of erecting and maintaining for the time stated in ~~such the~~ application and for reasonable compensation  
 15 for ~~such the~~ warehouse or elevator, ~~as aforesaid~~, upon the right-of-way pertaining to ~~such the~~ railway at ~~such the~~  
 16 siding or station and within and between the outside switches of the yard of ~~such the~~ railway station or siding;  
 17 ~~and upon~~ Upon paying or securing in the manner ~~hereinafter~~ prescribed in this section reasonable compensation  
 18 for the right, privilege, and easement, ~~aforesaid~~, ~~shall the authority, person, firm, or corporation is~~ absolutely and  
 19 unconditionally ~~be~~ entitled to the ~~same right, privilege, and easement~~.

20 (2) The application ~~shall~~ must also state the amount ~~that~~ the applicant ~~deems~~ considers reasonable  
 21 compensation for the right, privilege, and easement ~~he~~ the applicant desires to acquire, and ~~said the~~ applicant  
 22 shall tender and pay to ~~such the Montana railroad development authority~~, person, firm, or corporation from whom  
 23 ~~such the~~ easement is sought the sum stated in ~~such the~~ application.

24 (3) If the Montana railroad development authority or the person, firm, or corporation owning, leasing, or  
 25 operating the railroad is not willing ~~that to allow~~ the portion of the right-of-way selected by the applicant ~~should~~  
 26 to be appropriated for such the stated purpose and the parties cannot agree as to the quantity and location of the  
 27 land upon which ~~such grain the~~ warehouse or ~~grain~~ elevator ~~shall is to~~ be erected, the matter ~~shall~~ must be  
 28 determined by the district court in the same manner and by the same proceeding for determining the amount of  
 29 compensation to be paid ~~where~~ when the parties cannot agree as to the amount."

30

1           **Section 105.** Section 69-14-902, MCA, is amended to read:

2           **"69-14-902. Decision on application by railroad.** It ~~shall be~~ is the duty of the Montana railroad  
 3 development authority or any person, firm, or corporation to whom application is made for the right to erect and  
 4 maintain an elevator or warehouse under the provisions of 69-14-901 through 69-14-911, within 30 days after  
 5 the receipt of ~~such the~~ application, to notify ~~said the~~ applicant in writing of the acceptance or rejection of the  
 6 amount stated in ~~said the~~ application to be reasonable compensation for the right, privilege, and easement sought  
 7 to be acquired. In case ~~such the authority,~~ person, firm, or corporation fails to notify the applicant within ~~said~~ 30  
 8 days, ~~such the authority,~~ person, firm, or corporation ~~shall be deemed to have accepted said~~ must be considered  
 9 to have accepted the amount, and upon the payment or tender ~~thereof of the amount,~~ ~~said the~~ applicant ~~shall be~~  
 10 ~~deemed to have acquired~~ acquires the right, privilege, and easement applied for."  
 11

12           **Section 106.** Section 69-14-904, MCA, is amended to read:

13           **"69-14-904. Procedure in district court.** (1) The parties seeking the right, privilege, and easement  
 14 ~~aforsaid~~ shall present to and file with the district court a petition in writing and under oath, specifying and  
 15 describing the right, privilege, and easement sought, the time for which the same is sought, and the fact that the  
 16 parties to the proceedings are unable to agree upon the amount of compensation ~~therefor~~.

17           (2) A copy of the application for ~~such the~~ privilege ~~shall~~ must be attached to ~~said the~~ petition, and  
 18 ~~thereupon it shall be at once~~ is the duty of the court by its order in writing to fix a time not more than 30 days  
 19 ~~thereafter~~ after receipt of the application within which the Montana railroad development authority, person, firm,  
 20 or corporation ~~so~~ owning, managing, or controlling ~~such the~~ railroad shall appear and join issue in ~~said the~~  
 21 proceeding. ~~Such The~~ notice ~~shall be~~ must be served as a summons ~~is served~~ in civil actions, ~~and shall be~~ is  
 22 ample notice to the parties ~~so~~ served to appear and join in the proceedings, ~~and shall be~~ is ample to give the  
 23 court full jurisdiction over the party against whom the proceedings are instituted and the property involved in the  
 24 proceeding.

25           (3) The manner of joining issue and the procedure at the trial ~~shall~~ must be the same as that in any other  
 26 civil action at law.

27           (4) The trial of ~~such issue shall~~ must be expedited by the court as much as possible. At the trial, the court  
 28 or jury, ~~as the case may be,~~ shall find and assess the compensation, both in the form of an annual rental and in  
 29 the form of a gross sum, for the right, privilege, and easement sought. Immediately after the finding or verdict ~~has~~  
 30 ~~been~~ is made, the party against whom the proceedings have been taken shall elect whether to receive the annual

1 rental or the gross sum found. ~~In case such~~ If the election is not made by ~~said the~~ party, then the other party to  
 2 the proceedings may make ~~such the~~ election. After election is made ~~as aforesaid~~, judgment ~~shall be rendered~~  
 3 ~~adjudging, among other things, must be rendered~~ that upon payment of the gross sum found or the annual rental  
 4 found, yearly in advance, ~~as the case may be~~, the party instituting the proceedings ~~shall be~~ is entitled to the right,  
 5 privilege, and easement of erecting and maintaining the elevator or warehouse asked for in the application and  
 6 petition ~~aforesaid~~ and for the time ~~therein~~ specified. ~~Thereupon the~~ The party in whose favor ~~said the~~ judgment  
 7 is rendered ~~shall be~~ is entitled to a writ of execution in proper form to immediately invest ~~such the~~ party with the  
 8 right, privilege, and easement ~~aforesaid~~."

9

10 **Section 107.** Section 69-14-910, MCA, is amended to read:

11 **"69-14-910. Connection of railroad to elevator or warehouse.** (1) ~~Every~~ The Montana railroad  
 12 development authority or a railroad company or corporation organized under the laws of this state or doing  
 13 business ~~therein~~ in this state shall, upon application in writing, provide reasonable sidetrack facilities and running  
 14 connections between its main track and elevators and warehouses upon or contiguous to its right-of-way at  
 15 stations. ~~Every such~~ The Montana railroad development authority or a railroad corporation shall permit  
 16 connections to be made and maintained in a reasonable manner with its sidetracks to and from any warehouse  
 17 or elevator, without reference to its size, cost, or capacity, where grain is or may be stored. ~~Such~~ The Montana  
 18 railroad development authority or a railroad company ~~shall~~ may not be required to construct or furnish  
 19 any sidetracks except upon its own land or right-of-way. The reasonable cost of the construction of ~~such the~~  
 20 sidetracks and connections, except the cost of the rails and fastenings, ~~shall~~ must be paid by the person or  
 21 persons for whose benefit ~~such the~~ sidetracks are provided or connections made.

22 (2) ~~Where~~ When stations are 10 miles or more apart, the ~~railroad company~~ Montana railroad  
 23 development authority or the railroad corporation, when required to do so by the public service commission, shall  
 24 construct and maintain a sidetrack for the use of shippers between ~~such~~ stations."

25

26 **Section 108.** Section 69-14-1005, MCA, is amended to read:

27 **"69-14-1005. Medical aid for injured trainmen train operators.** (1) ~~In case any~~ If a railroad ~~trainman~~  
 28 train operator or employee of ~~any the~~ the Montana railroad development authority or a railroad corporation doing  
 29 business in this state ~~shall be~~ is injured during ~~his the operator's or employee's~~ regular course of employment,  
 30 any employee of ~~said the~~ the authority or railroad is ~~hereby~~ empowered and authorized to call upon and retain the

1 services of the nearest practicing physician or surgeon to care for and treat ~~any such~~ the injured trainman train  
 2 operator or employee; during and until ~~such the time as that~~ one of the regularly employed and paid physicians  
 3 or surgeons of ~~such the~~ railroad corporation or the Montana railroad development authority is able to render ~~such~~  
 4 service.

5 (2) ~~In cases where~~ If the services of any physician or surgeon other than the regularly employed  
 6 physician or surgeon of the railroad corporation or the Montana railroad development authority are retained and  
 7 hired; as provided in this section, ~~such the~~ physician or surgeon ~~shall~~ must be compensated and paid a  
 8 reasonable fee for ~~such the~~ services performed by him.

9 (3) ~~If any a~~ railroad corporation or the Montana railroad development authority refuses or neglects to pay  
 10 for the services of ~~any such a~~ physician as hereinbefore provided for in subsection (2) within a reasonable time  
 11 after ~~such the~~ physician or surgeon has rendered the services therefor, ~~such railroad the~~ corporation or the  
 12 authority shall be is guilty of a misdemeanor."

13

14 **Section 109.** Section 69-14-1006, MCA, is amended to read:

15 **"69-14-1006. Liability for death or injury to railroad employees.** (1) Every The Montana railroad  
 16 development authority or a person or corporation operating a railroad in this state shall be is liable in damages  
 17 to any person suffering injury while ~~he~~ the person is employed by ~~such the~~ authority, person, or corporation so  
 18 operating any such the railroad or, in case of the death of ~~such an~~ employee, instantaneously or otherwise, to  
 19 ~~his or her~~ the employee's personal representative, for the benefit of the surviving ~~widow or husband~~ spouse and  
 20 children of ~~such the~~ employee and, if none, then of ~~such the~~ employee's parents and, if none, then of the next  
 21 of kin dependent upon ~~such the~~ employee; The damages must be for such an injury or death resulting in whole  
 22 or in part from the negligence of any of the officers, agents, or employees of such the Montana railroad  
 23 development authority or the person or corporation so operating such the railroad, in or about the handling,  
 24 movement, or operation of any train, engine, or car on or over ~~such the~~ railroad or by reason of any defect or  
 25 insufficiency, due to its negligence, in its cars, engines, appliances, machinery, track, roadbed, works, boats,  
 26 wharves, or other equipment.

27 (2) (a) In all actions brought against ~~any such the~~ Montana railroad development authority or a person  
 28 or corporation ~~so~~ operating such the railroad; under or by virtue of any of the provisions of this section, the fact  
 29 that the employee may have been guilty of contributory negligence ~~shall~~ may not bar a recovery, but the damages  
 30 ~~shall~~ must be diminished by the jury in proportion to the amount of negligence attributable to ~~such the~~ employee;

1 provided, that no such ~~However, an~~ employee who ~~may be~~ is injured or killed ~~shall~~ may not be held to have been  
 2 guilty of contributory negligence in any case ~~where~~ in which the violation by ~~such~~ the Montana railroad  
 3 development authority or person or corporation, ~~so~~ operating ~~such~~ the railroad; of any statute enacted for the  
 4 safety of employees contributed to the injury or death of ~~such~~ the employee.

5 (b) An employee of ~~any such~~ the Montana railroad development authority or a person or corporation ~~so~~  
 6 operating ~~such a~~ railroad ~~shall~~ may not be ~~deemed~~ considered to have assumed any risk incident to ~~his~~ the  
 7 employee's employment when ~~such~~ the risk arises by reason of the negligence of ~~his~~ the employer or of any  
 8 person in the service of ~~such~~ the employer.

9 (3) ~~Any~~ A contract, rule, or device ~~whatsoever~~, the purpose or intent of which ~~shall be~~ is to enable ~~any~~  
 10 ~~such~~ the Montana railroad development authority or a person or corporation ~~so~~ operating ~~such a~~ railroad to  
 11 exempt itself from any liability created by this section, ~~shall~~ is, to that extent, ~~be~~ void. In ~~any~~ an action brought  
 12 against ~~any such~~ the Montana railroad development authority or a person or corporation ~~so~~ operating ~~such a~~  
 13 railroad; under or by virtue of any of the provisions of this section, ~~such~~ the authority, person, or corporation may  
 14 set off ~~therein~~ any sum it has contributed or paid to any insurance, relief benefit, or indemnity that may have been  
 15 paid to the injured employee or the person entitled ~~thereto~~ to the payment on account of the injury or death for  
 16 which ~~said~~ the action is brought."

17

18 **Section 110.** Section 69-14-1101, MCA, is amended to read:

19 **"69-14-1101. Definitions.** As used in this part, the following definitions apply:

20 (1) "Buyer" means a person, corporation, association, business entity, labor organization, the state of  
 21 Montana or any of its political subdivisions, or any other entity that acquires a line of railroad, by purchase, lease,  
 22 or other agreement, to continue the commercial transportation of goods or passengers.

23 (2) "Labor organization" means any organization or association of any kind in which employees  
 24 participate and that exists for the primary purpose of dealing with employers concerning grievances, labor  
 25 disputes, wages, rates of pay, hours of employment, fringe benefits, or other conditions of employment.

26 (3) "Seller" means the Montana railroad development authority or a person, corporation, association, or  
 27 business entity that transfers a line of railroad by sale, lease, or other agreement.

28 (4) "Transaction" means the limited purchase, sale, or transfer of part of a line of railroad that will be  
 29 operated by a common rail carrier."

30

1           **Section 111.** Section 70-30-102, MCA, is amended to read:

2           **"70-30-102. Public uses enumerated.** Subject to the provisions of this chapter, the right of eminent  
3 domain may be exercised for the following public uses:

4           (1) all public uses authorized by the government of the United States;

5           (2) public buildings and grounds for the use of the state and all other public uses authorized by the  
6 legislature of the state;

7           (3) public buildings and grounds for the use of any county, city, town, or school district;

8           (4) canals, aqueducts, flumes, ditches, or pipes conducting water, heat, or gas for the use of the  
9 inhabitants of any county, city, or town;

10          (5) projects to raise the banks of streams, remove obstructions from streambanks, and widen, deepen,  
11 or straighten stream channels;

12          (6) water and water supply systems as provided in Title 7, chapter 13, part 44;

13          (7) roads, streets, alleys, controlled-access facilities, and other publicly owned buildings and facilities  
14 for the benefit of a county, city, or town or the inhabitants of a county, city, or town;

15          (8) acquisition of road-building material as provided in 7-14-2123;

16          (9) stock lanes as provided in 7-14-2621;

17          (10) parking areas as provided in 7-14-4501 and 7-14-4622;

18          (11) airport purposes as provided in 7-14-4801, 67-2-301, 67-7-210, and Title 67, chapters 10 and 11;

19          (12) urban renewal projects as provided in Title 7, chapter 15, parts 42 and 43, except that private  
20 property may be acquired for urban renewal through eminent domain only if the property is determined to be a  
21 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  
22 through eminent domain if the purpose of the project is to increase government tax revenue;

23          (13) housing authority purposes as provided in Title 7, chapter 15, part 44;

24          (14) county recreational and cultural purposes as provided in 7-16-2105;

25          (15) city or town athletic fields and civic stadiums as provided in 7-16-4106;

26          (16) county cemetery purposes as provided in 7-35-2201, cemetery association purposes as provided  
27 in 35-20-104, and state veterans' cemetery purposes as provided in 10-2-604;

28          (17) preservation of historical or archaeological sites as provided in 23-1-102 and 87-1-209(2);

29          (18) public assistance purposes as provided in 53-2-201;

30          (19) highway purposes as provided in 60-4-103 and 60-4-104;

- 1 (20) common carrier pipelines as provided in 69-13-104;
- 2 (21) water supply, water transportation, and water treatment systems as provided in 75-6-313;
- 3 (22) mitigation of the release or threatened release of a hazardous or deleterious substance as provided  
4 in 75-10-720;
- 5 (23) the acquisition of nonconforming outdoor advertising as provided in 75-15-123;
- 6 (24) screening for or the relocation or removal of junkyards, motor vehicle graveyards, motor vehicle  
7 wrecking facilities, garbage dumps, and sanitary landfills as provided in 75-15-223;
- 8 (25) water conservation and flood control projects as provided in 76-5-1108;
- 9 (26) acquisition of natural areas as provided in 76-12-108;
- 10 (27) acquisition of water rights for the natural flow of water as provided in 85-1-204;
- 11 (28) property and water rights necessary for waterworks as provided in 85-1-209 and 85-7-1904;
- 12 (29) conservancy district purposes as provided in 85-9-410;
- 13 (30) wharves, docks, piers, chutes, booms, ferries, bridges, private roads, plank and turnpike roads, and  
14 railroads, except as provided in [section 4(2)];
- 15 (31) canals, ditches, flumes, aqueducts, and pipes for:
- 16 (a) supplying mines, mills, and smelters for the reduction of ores;
- 17 (b) supplying farming neighborhoods with water and drainage;
- 18 (c) reclaiming lands; and
- 19 (d) floating logs and lumber on streams that are not navigable;
- 20 (32) sites for reservoirs necessary for collecting and storing water. However, reservoir sites must possess  
21 a public use demonstrable to the district court as the highest and best use of the land.
- 22 (33) roads, tunnels, and dumping places for working mines, mills, or smelters for the reduction of ores;
- 23 (34) outlets, natural or otherwise, for the flow, deposit, or conduct of tailings or refuse matter from mines,  
24 mills, and smelters for the reduction of ores;
- 25 (35) an occupancy in common by the owners or the possessors of different mines of any place for the  
26 flow, deposit, or conduct of tailings or refuse matter from their several mines, mills, or smelters for reduction of  
27 ores and sites for reservoirs necessary for collecting and storing water for the mines, mills, or smelters. However,  
28 the reservoir sites must possess a public use demonstrable to the district court as the highest and best use of  
29 the land.
- 30 (36) private roads leading from highways to residences or farms;

- 1 (37) telephone or electrical energy lines, except that local government entities as defined in 2-7-501,  
2 municipal utilities, or competitive electricity suppliers may not use this chapter to acquire existing telephone or  
3 electrical energy lines and appurtenant facilities owned by a public utility or cooperative for the purpose of  
4 transmitting or distributing electricity or providing telecommunications services;
- 5 (38) telegraph lines;
- 6 (39) sewerage of any:
- 7 (a) county, city, or town or any subdivision of a county, city, or town, whether incorporated or  
8 unincorporated;
- 9 (b) settlement consisting of not less than 10 families; or
- 10 (c) public buildings belonging to the state or to any college or university;
- 11 (40) tramway lines;
- 12 (41) logging railways;
- 13 (42) temporary logging roads and banking grounds for the transportation of logs and timber products to  
14 public streams, lakes, mills, railroads, or highways for a time that the court or judge may determine. However,  
15 the grounds of state institutions may not be used for this purpose.
- 16 (43) underground reservoirs suitable for storage of natural gas;
- 17 (44) projects to mine and extract ores, metals, or minerals owned by the condemnor located beneath or  
18 upon the surface of property where the title to the surface vests in others. However, the use of the surface of  
19 property for strip mining or open-pit mining of coal (i.e., any mining method or process in which the strata or  
20 overburden is removed or displaced in order to extract the coal) is not a public use, and eminent domain may not  
21 be exercised for this purpose.
- 22 (45) projects to restore and reclaim lands that were strip mined or underground mined for coal and not  
23 reclaimed in accordance with Title 82, chapter 4, part 2, and to abate or control adverse effects of strip or  
24 underground mining on those lands."

25

26 **Section 112.** Section 81-8-252, MCA, is amended to read:

27 **"81-8-252. Hearing on application for certificate -- decision.** (1) Upon the filing of the application  
28 under 81-8-251, the department shall fix a time and place for a hearing ~~thereon~~ on the application, which may  
29 not be less than 10 days after the filing. The department shall have a copy of the application, excluding the  
30 financial statement described in 81-8-251(2)(h), and notice of the hearing served by mail upon:

1 (a) the operators of any other livestock markets that in the opinion of the department might be affected  
2 by the granting of ~~any such~~ the certificate;

3 (b) the secretaries of the Montana stockgrowers association and the Montana woolgrowers association;

4 (c) the secretary of the district livestock association, if any;

5 (d) the secretary of the livestock association or associations, if any, within the vicinity of the proposed  
6 livestock market, if known to the department; and

7 (e) ~~any the Montana railroad development authority or a~~ railroad company operating into or through the  
8 town or city in which the proposed livestock market will be located.

9 (2) If, after the hearing on the application, the department finds from the evidence that public  
10 convenience and necessity require the authorization of the proposed livestock market, a certificate must be  
11 issued to the applicant. In determining whether public convenience and necessity require the livestock market,  
12 the department shall give reasonable consideration to the service rendered by other existing livestock markets  
13 in this state and the effect upon them if the proposed livestock market is authorized and shall give due  
14 consideration to the likelihood of the proposed service being permanent and continuous throughout 12 months  
15 of the year."  
16

17 **Section 113.** Section 85-1-208, MCA, is amended to read:

18 **"85-1-208. Construction across streams, highways, or other obstacles.** (1) The department may  
19 construct irrigation works across any stream of water, watercourse, ~~streets, avenues, highways, railways, canals,~~  
20 ~~ditches, or flumes in such manner as to afford security~~ street, avenue, highway, railway, canal, ditch, or flume to  
21 secure life and property. The department shall restore the ~~same~~ stream of water, watercourse, street, avenue,  
22 highway, railway, canal, ditch, or flume, when ~~so~~ crossed or intersected, to ~~its~~ their former state, as near as ~~may~~  
23 ~~be possible~~, so as not to destroy ~~its~~ their usefulness. ~~A~~ The Montana railroad development authority or a company  
24 whose railroads are intersected or crossed by the works shall ~~unite with~~ join the department in forming the  
25 intersection and crossing. If the railroad company or the Montana railroad development authority and the  
26 department or the owners and controllers of the property, thing, or franchise ~~so to be~~ being crossed cannot agree  
27 upon the amount ~~to be paid therefor~~ for the property, thing, or franchise or the points or the manner of the  
28 crossing or intersections, the amount ~~shall~~ must be ~~ascertained and determined in all respects as herein provided~~  
29 in this section in respect to taking of land for public use.  
30

(2) This section does not require the payment to the state or any subdivision ~~thereof~~ of the state of a sum

1 for the right to cross a public highway with the works. A right-of-way is hereby given, dedicated, and set apart to  
 2 locate, construct, and maintain the works over and through the lands ~~which~~ that are the property of this state."

3

4 **Section 114.** Section 85-7-1909, MCA, is amended to read:

5 **"85-7-1909. Rights-of-way for irrigation works.** (1) (a) ~~The board of commissioners shall have~~ has  
 6 the power to construct irrigation works across any stream of water, watercourse, street, avenue, highway, railway,  
 7 canal, ditch, or flume ~~which where~~ the route of ~~said the~~ canal or canals ~~may intersect~~ intersects or ~~cross~~ crosses  
 8 in ~~such a~~ manner ~~as to afford~~ that affords security to life and property.

9 (b) ~~Said~~ The board shall restore the ~~same~~ stream of water, watercourse, street, avenue, highway,  
 10 railway, canal, ditch, or flume, when ~~so~~ crossed or intersected, to its former state, as near as ~~may be~~ possible,  
 11 so as not to destroy its usefulness.

12 (c) ~~Every~~ The Montana railroad development authority or a company whose railroad ~~shall be~~ is  
 13 intersected or crossed by ~~said the~~ works shall ~~unite with said~~ join the board in forming ~~said the~~ intersection and  
 14 crossing, and if ~~such the~~ authority, railroad company, or the owners and controllers of ~~said the~~ property, thing,  
 15 or franchise ~~so to be~~ being crossed and ~~said the~~ board cannot agree upon the amount to be paid ~~therefor~~ for the  
 16 property, thing, or franchise or the points or the manner of ~~said the~~ crossing or intersections, the ~~same shall~~  
 17 amount must be ~~ascertained and determined in all respects as herein provided in this section~~ in respect to taking  
 18 of land for public use.

19 (2) Nothing contained ~~herein shall require~~ in this section requires the payment to the state or any  
 20 subdivision ~~thereof~~ of the state of any sum for the right to cross any public highway with any ~~such~~ works. The  
 21 right-of-way is hereby given, dedicated, and set apart to locate, construct, and maintain ~~said the~~ works over and  
 22 through any of the lands which are now or ~~hereafter~~ at a later time may be the property of this state."

23

24 **Section 115.** Section 85-8-341, MCA, is amended to read:

25 **"85-8-341. Preparation of report -- contents.** (1) As soon as ~~may be~~ possible after the confirmation  
 26 of the preliminary report or within ~~such the~~ time as directed by the court may direct, ~~said the~~ commissioners shall;  
 27 ~~proceed to~~

28 (a) have all necessary levels taken and surveys made ~~and shall;~~

29 (b) lay out ~~said the~~ proposed work;

30 (c) make a map ~~thereof~~ of the proposed work, and plans, profiles, and other specifications ~~thereof~~ of the

1 proposed work; and

2 (d) report in writing to the court:

3 ~~(a)~~(i) whether the starting points, routes, and termini of the proposed work and the proposed location  
4 ~~thereof of the proposed work~~ as contained in the petition are in all respects proper and feasible and, if not, ~~shall~~  
5 report ~~such as those that~~ are most proper and feasible;

6 ~~(b)~~(ii) if ~~it be found~~ is necessary to change the boundaries of ~~said the~~ proposed district, as fixed ~~by them~~  
7 previously, ~~they shall~~ report ~~said the~~ proposed change and, if possible, ~~shall~~ report the names, residence, and  
8 post-office addresses of the owner or owners of all lands affected by ~~said the~~ change in boundaries; ~~but no such~~  
9 However, a change in boundaries shall may not be made ~~as to deprive the court of jurisdiction; provided,~~  
10 ~~however, that if~~ If the owners of lands adjacent to the district petition to have their lands brought into the district,  
11 ~~such the landowners may be~~ are considered the same as original petitioners in making changes of boundaries;

12 ~~(c)~~(iii) what lands within the district, as reported by them, will be injured by the proposed work, if any, and  
13 ~~they shall therein~~ award to each tract, lot, easement, or interest, by whomsoever held, the amount of damages  
14 ~~which they shall~~ determine will be caused to the ~~same~~ tract, lot, easement, or interest by the proposed work;

15 ~~(d)~~(iv) what lands, (including improvements when improvements receive benefits), and what easements,  
16 irrigation ditches, cities, towns, counties, individuals, and other corporations and persons should be assessed  
17 for the payment of any part of the cost of constructing the proposed drains, levees, or other facilities, any repairs  
18 ~~thereto, and maintenance thereof to the proposed drains, levees, or other facilities,~~ and the incidental expenses  
19 attached to the establishment of ~~such the~~ drainage district;

20 ~~(e)~~(v) the total amount, as near as they can determine, that ~~said the~~ proposed work will cost, ~~which cost~~  
21 ~~shall include~~ including all incidental expenses, the reasonable cost of organizing ~~said the~~ district, the costs of  
22 proceeding, and all probable damage to lands, both within and ~~without~~ outside the district, together with a  
23 reasonable attorney ~~fee~~ fees for the petitioners, ~~which cost will hereinafter be~~ referred to as cost of construction  
24 in this section.

25 (2) If the cost of construction of any particular part of the proposed work ~~so proposed to be done should~~  
26 ~~be is~~ assessed upon any particular tract or tracts; or lot or lots of land, including improvements, ~~where the same~~  
27 ~~are benefited or upon any~~ and the construction benefits a corporation or corporations, the commissioners shall  
28 ~~so specify the benefit;~~ and in their report ~~they shall~~ fix and determine the sums ~~which should be~~ assessed against  
29 ~~said the~~ tracts, lots, and corporations and assess ~~such the~~ sum against ~~said the~~ tracts, lots, and corporations.

30 (3) If ~~any~~ an individual, association of individuals, or corporation would, in the judgment of ~~said the~~

1 commissioners, derive special benefits from the whole or any part of ~~such the~~ proposed work, the commissioners  
 2 shall ~~so~~ report and assess those benefits and assess against the recipient ~~thereof~~ of those benefits its  
 3 proportionate share of the costs of ~~said the~~ proposed work. The word "corporation", whenever contained in this  
 4 chapter, ~~shall be construed to include~~ includes:

- 5 (a) railroad companies or the Montana railroad development authority;
- 6 (b) other private and quasi-public corporations of all kinds;
- 7 (c) towns;
- 8 (d) cities;
- 9 (e) villages;
- 10 (f) other drainage districts; and
- 11 (g) counties.

12 (4) ~~They~~ The commissioners shall apportion and assess the part of ~~this the~~ cost of construction, not  
 13 assessed ~~as above~~ under subsection (2) or (3), against the several benefited tracts, lots (~~including~~  
 14 improvements when the ~~same~~ tracts or lots are benefited), and easements in ~~said the~~ drainage district, in  
 15 proportion to the benefits ~~which they have~~ assessed against the ~~same~~ benefited tracts, lots, and easements, by  
 16 setting down opposite each tract, lot, or easement the sum ~~which they assess~~ assessed against the ~~same~~ tract,  
 17 lot, and easement for construction. The assessments ~~which together that~~ make up the cost of construction, ~~as~~  
 18 ~~above defined~~, are ~~herein~~ referred to as assessments for construction.

19 (5) The commissioners shall further report to the court the probable cost of keeping ~~said the~~ proposed  
 20 work in repair after it is completed.

21 (6) ~~They shall include in their report said~~ The report must include a map, plans, and other specifications  
 22 ~~and file the same with their report."~~

23

24 **Section 116.** Section 85-8-366, MCA, is amended to read:

25 **"85-8-366. Drains on railroad lands.** (1) ~~Said~~ The commissioners shall have the right to lay out and  
 26 construct all necessary drains, ditches, and levees across any railway right-of-way or yards in their district. ~~Any~~  
 27 The Montana railroad development authority or a railway company ~~whose~~ with right-of-way or yards ~~cross~~  
 28 crossing the line of any proposed drain, ditch, or levee shall open its right-of-way or yards and permit ~~such the~~  
 29 drain, ditch, or levee to cross the ~~same~~ right-of-way or yards as soon as ~~said the~~ drain, ditch, or levee is  
 30 constructed to ~~such the~~ right-of-way.

1           (2) ~~Every~~ A drainage district ~~shall be~~ is liable to the railway company or the Montana railroad  
 2 development authority whose right-of-way or yard any of its drains, ditches, or levees cross for the reasonable  
 3 cost of the culverts and bridges made necessary by ~~said the~~ the drain, ditch, or levee crossing ~~said the~~ the right-of-way  
 4 or yards but not of more expensive character than ~~the average~~ other culverts and bridges on ~~said the~~ the division of  
 5 railway crossing streams or ditches of approximately the same width and depth and within 100 miles of ~~said the~~ the  
 6 district ditches.

7           (3) Upon receiving 15 days' notice in writing, ~~any the~~ the Montana railroad development authority or a railway  
 8 company in whose with a right-of-way or yard ~~any such~~ where a drain, ditch, or levee is laid out shall open its  
 9 right-of-way or yards and permit ~~said the~~ the commissioners and their contractors, agents, and employees to  
 10 construct ~~said the~~ the drain, ditch, or levee or to repair, maintain, or clean out ~~same the~~ the drain, ditch, or levee ~~across~~  
 11 ~~said that~~ crosses the right-of-way or yards. For every day after the end of ~~said the~~ the 15 days that ~~said the~~ the railroad  
 12 company or the Montana railroad development authority fails to open its ~~said~~ right-of-way or yard, as ~~hereinbefore~~  
 13 required by this section, it shall ~~forfeit~~ forfeits \$25 to ~~said the~~ the drainage district, to be collected in an action, as  
 14 other forfeitures are collected, or ~~set off against any~~ to be used to offset damages that have been awarded to  
 15 ~~such the~~ the company or the authority. If ~~said railway~~ the company or authority fails to open its right-of-way or yard  
 16 along the line of ~~said the~~ the drainage district, drain, ditch, or levee, the commissioners may, at any time after the  
 17 expiration of ~~said the~~ the 15 days, open ~~such the~~ the right-of-way and yard along the line of ~~said the~~ the drains, ditches, and  
 18 levees and construct the ~~same~~ drains, ditches, and levees."

19

20           NEW SECTION. Section 117. Repealer. Section 2-15-2511, MCA, is repealed.

21

22           NEW SECTION. Section 118. Transition. ~~If funding is made available to the rail service competition~~  
 23 ~~council for the 2011 biennium, it must be transferred to the Montana railroad development authority account~~  
 24 ~~provided for in [section 7]~~ AN APPROPRIATION IS PROVIDED TO THE RAIL SERVICE COMPETITION COUNCIL FOR THE 2011  
 25 BIENNIUM AND IF THE COUNCIL IS ELIMINATED PURSUANT TO [SECTION 117], THEN THE APPROPRIATION MAY BE USED BY  
 26 THE MONTANA RAILROAD DEVELOPMENT AUTHORITY PURSUANT TO [SECTIONS 1 THROUGH 20].

27

28           NEW SECTION. Section 119. Notification to tribal governments. The secretary of state shall send  
 29 a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell  
 30 Chippewa tribe.

