

1 HOUSE BILL NO. 362

2 INTRODUCED BY K. PETERSON

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR GREATER CONTROL OF STATE SPENDING BY
5 PROVIDING FOR BUDGET SESSIONS OF THE LEGISLATURE IN ODD-NUMBERED YEARS AND
6 NONBUDGET OR GENERAL SESSIONS, CALLED AS SPECIAL SESSIONS, IN EVEN-NUMBERED YEARS
7 BEGINNING IN FEBRUARY OF 2014; REQUIRING ALL MEMBERS OF THE LEGISLATURE TO PARTICIPATE
8 IN FORMULATION OF THE STATE BUDGET; AMENDING SECTIONS 1-1-208, 1-2-201, 1-11-204, 2-1-407,
9 2-4-306, 2-4-412, 2-8-105, 2-8-112, 2-15-111, 2-15-124, 2-15-125, 2-15-221, 2-15-1749, 2-15-1756, 2-15-1820,
10 2-15-2017, 2-16-504, 2-16-506, 2-17-804, 2-18-303, 2-18-811, 2-19-102, 3-1-702, 3-1-1013, 5-1-101, 5-1-109,
11 5-2-103, 5-2-201, 5-2-202, 5-2-203, 5-2-205, 5-2-212, 5-2-213, 5-2-301, 5-5-211, 5-5-215, 5-5-217, 5-5-227,
12 5-5-301, 5-6-103, 5-7-207, 5-7-208, 5-11-101, 5-11-102, 5-11-209, 5-11-210, 5-11-211, 5-11-212, 5-12-202,
13 5-12-204, 5-12-205, 5-13-202, 5-13-306, 5-13-402, 5-15-101, 5-15-104, 5-16-101, 5-16-103, 5-16-104, 7-4-2502,
14 13-16-504, 13-27-206, 15-1-205, 15-2-101, 15-38-202, 17-1-505, 17-2-107, 17-2-111, 17-6-105, 17-7-102,
15 17-7-112, 17-7-140, 17-7-150, 17-7-203, 17-7-402, 19-3-412, 19-3-2121, 19-20-732, 20-7-101, 20-9-542,
16 20-15-309, 20-20-105, 22-2-301, 22-2-302, 22-3-1003, 23-1-108, 30-9A-527, 32-9-130, 50-6-402, 52-3-111,
17 53-1-611, 53-2-215, 60-3-212, 61-2-109, 75-5-313, 75-11-318, 77-1-108, 77-1-109, 77-1-132, 77-2-366,
18 85-1-203, 85-1-704, 85-2-218, 85-2-281, 85-2-350, 87-1-272, 90-2-1111, 90-4-310, 90-4-402, 90-4-614,
19 90-6-710, AND 90-6-810, MCA."

20
21 WHEREAS, the Legislature finds that since 1997, as reflected in House Bill No. 2 since that date,
22 Montana's general fund budget has grown from \$2,296,543,773 in 1997 to \$4,079,700,483 in 2009, an increase
23 of \$1,783,156,710, or 77.65%, in that span of 13 years; and

24 WHEREAS, while some of this growth is attributable to changes in the budgeting process, such as the
25 Legislature's decision to no longer fund primary and secondary education expenses by statutory appropriations,
26 and changes in the method of revenue sharing with political subdivisions, some of the growth is attributable to
27 growth in government programs; and

28 WHEREAS, the Legislature further finds that in spite of this growth, less than one-third of the members
29 of the Legislature are directly involved in the appropriations process through service on the House Appropriations
30 Committee or the Senate Finance and Claims Committee and their joint subcommittees; and

1 WHEREAS, the Legislature further finds that there is no concept, such as zero-based budgeting, explicitly
2 contained in Montana law that directs members of the appropriations committees or subcommittees to inquire
3 into the need for state government programs at the time that the Governor's budget is reviewed with program
4 directors of the three branches of state government and to refuse to fund a program or agency that the committee
5 or subcommittee determines is unnecessary, and there is no explicit requirement that members of those
6 committees or subcommittees use their own judgment, rationale, process, or figures to determine the state budget
7 or portion of the state budget reviewed by their committee or subcommittee and the formulation of appropriation
8 bills; and

9 WHEREAS, in order to closely and carefully control the growth of the state budget, the Legislature finds
10 that it is necessary to devote legislative attention exclusively to formulation of the state budget in appropriation
11 bills in one session in odd-numbered years without the distraction of other legislation and to involve more
12 members of the Legislature in the process of formulation of the state budget in appropriation bills; and

13 WHEREAS, for this reason also, the Legislature has determined that it is necessary to hear nonbudget
14 legislation in even-numbered years beginning in 2014; and

15 WHEREAS, only in this way, the Legislature believes, will there be sufficient time for both detailed
16 examination of the cost of running Montana state government and due consideration of other legislation.

17

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

19

20 NEW SECTION. **Section 1. Short title.** [Sections 1 through 4] may be cited as the "Montana Budget
21 Control Act of 2011".

22

23 NEW SECTION. **Section 2. Definitions.** As used in [sections 1 through 5], the following definitions
24 apply:

25 (1) "Agency" means any board, commission, department, or office of the executive, legislative, or judicial
26 branches of state government, however they may be characterized, including those of constitutional officers and
27 educational institutions.

28 (2) "Budget session" has the meaning provided in 1-1-208(1)(a).

29 (3) "General session" has the meaning provided in 1-1-208(1)(b).

30

1 NEW SECTION. **Section 3. Budget session and general session.** (1) Except as provided in
2 subsection (2), a budget session is limited to the consideration of the state budget and formulation of
3 appropriation bills. Except as provided in subsection (2) and except as otherwise provided by law, a general
4 session may consider legislation on any subject except the state budget and the formulation of general
5 appropriation bills. Unless otherwise provided by law, a bill introduced in a budget session and not acted upon
6 by the legislature does not carry over into the general session within the same biennium.

7 (2) A budget session or a general session may consider any legislation otherwise prohibited by
8 subsection (1) if the house of the legislature in which the bill is intended to be introduced approves the
9 introduction of the bill in that house by a three-quarters majority of the members of that house.

10 (3) Sessions of the legislature must be convened at the times and in the manner provided in 5-2-103.

11 (4) A general session must be convened as a special session in every even-numbered year beginning
12 in 2014 at the time and place provided for in 5-2-103(3) and may be extended as provided in 5-2-103(4) for the
13 calling of a special session when the legislature is in session.

14 (5) A bill introduced in a general or budget session that is not passed by the legislature does not carry
15 over into any subsequent legislative session.

16
17 NEW SECTION. **Section 4. Membership and purpose of budget committees and subcommittees**

18 **in budget session of legislature -- legislative rules required.** (1) At least one standing committee of the house
19 of representatives and at least one standing committee of the senate must be convened in each budget session,
20 with as many subcommittees as each house considers practicable, to hear appropriation bills and consider the
21 approval of the state budget. The house of representatives and the senate shall provide by rule for the service
22 by all members of each house on at least one standing committee or subcommittee considering the state budget
23 or any part of the budget and the formulation of appropriation bills.

24 (2) Each committee or subcommittee shall inquire into the need for the programs being reviewed, inquire
25 into possible alternatives to the programs being reviewed, require that recommendations be made by program
26 personnel when decreases in spending in the reviewed programs could be obtained, and require full justification
27 for any appropriation to any agency.

28 (3) Members of committees or subcommittees considering the state budget must be appointed by the
29 speaker of the house for the appointment of members of the house and by the senate committee on committees
30 for the appointment of members of the senate.

1 (4) A standing committee or subcommittee considering the state budget and appropriation bills shall
2 determine which state programs, in the committee's or subcommittee's judgment, are necessary and may not
3 recommend an appropriation for a program that the committee or subcommittee determines is unnecessary.

4 (5) The house of representatives and the senate may adopt rules to implement this section.
5

6 **Section 5.** Section 1-1-208, MCA, is amended to read:

7 **"1-1-208. Terms relating to legislature.** (1) Unless the context requires otherwise, the following
8 definitions apply in the Montana Code Annotated:

9 (a) "Budget session" means a regular session of the Montana legislature convened in each
10 odd-numbered year pursuant to Article V, section 6, of The Constitution of the State of Montana and as provided
11 in [section 3].

12 (b) "General session" means a session of the Montana legislature convened in each even-numbered
13 year as a special session of the Montana legislature pursuant to Article V, section 6, of The Constitution of the
14 State of Montana and as provided in [section 3].

15 ~~(a)~~(c) "Majority leader" means the leader of the majority party, elected by the caucus as provided in
16 5-2-221.

17 ~~(b)~~(d) "Majority party" means the party with the most members in a house of the legislature, subject to
18 subsection (2).

19 ~~(c)~~(e) "Minority leader" means the leader of the minority party, elected by the caucus as provided in
20 5-2-221.

21 ~~(d)~~(f) "Minority party" means the party with the second most members in a house of the legislature,
22 subject to subsection (2).

23 (g) "Special session", except as used in subsection (1)(b), means a special session that is not a general
24 session called as a special session as provided in [section 4] but is called as provided for in Title 5, chapter 3.

25 (2) If there are an equal number of members of each party in a house of the legislature, then the majority
26 party is the party of the president of the senate or the speaker of the house and the minority party is the other
27 party with an equal number of members."
28

29 **Section 6.** Section 1-2-201, MCA, is amended to read:

30 **"1-2-201. Statutes -- effective date.** (1) (a) Except as provided in subsection (1)(b), (1)(c), or (1)(d),

1 every statute adopted after January 1, 1981, takes effect on the first day of October following its passage and
2 approval unless a different time is prescribed in the enacting legislation.

3 (b) Subject to subsection (1)(d), every statute providing for appropriation by the legislature for public
4 funds for a public purpose takes effect on the first day of July following its passage and approval unless a different
5 time is prescribed in the enacting legislation.

6 (c) Subject to subsection (1)(d), every statute providing for the taxation of or the imposition of a fee on
7 motor vehicles takes effect on the first day of January following its passage and approval unless a different time
8 is prescribed in the enacting legislation.

9 (d) Every statute enacted during a special session, except a general session called as a special session,
10 of the legislature takes effect upon passage and approval unless a different time is prescribed in the enacting
11 legislation.

12 (2) "Passage", as used in subsection (1), means the enactment into law of a bill, which has passed the
13 legislature, either with or without the approval of the governor, as provided in the constitution."
14

15 **Section 7.** Section 1-11-204, MCA, is amended to read:

16 **"1-11-204. Duties of code commissioner.** (1) Prior to November 1 immediately preceding each ~~regular~~
17 legislative general session, the code commissioner shall prepare and submit to the legislative council a report,
18 in tabular or other form, indicating the commissioner's recommendations for legislation that will:

- 19 (a) eliminate archaic or outdated laws;
20 (b) eliminate obsolete or redundant wording of laws;
21 (c) eliminate duplications in law and any laws repealed directly or by implication;
22 (d) clarify existing laws;
23 (e) correct errors and inconsistencies within the laws.

24 (2) The commissioner shall cause to be prepared for publication with the Montana Code Annotated the
25 following material:

- 26 (a) the statutory history of each code section;
27 (b) annotations of state and federal court decisions relating to the subject matter of the code;
28 (c) editorial notes, cross-references, and other matter the commissioner considers desirable or
29 advantageous;
30 (d) the Declaration of Independence;

- 1 (e) the Constitution of the United States of America and amendments to the constitution;
- 2 (f) acts of congress relating to the authentication of laws and records;
- 3 (g) the Organic Act of the Territory of Montana;
- 4 (h) The Enabling Act;
- 5 (i) The 1972 Constitution of the State of Montana and any amendments to the constitution;
- 6 (j) ordinances relating to federal relations and elections;
- 7 (k) rules of civil, criminal, and appellate procedure and other rules of procedure the Montana supreme
8 court may adopt; and
- 9 (l) a complete subject index, a separate index for the constitution, a popular name index, and
10 comparative disposition tables or cross-reference indexes relating sections of the Montana Code Annotated to
11 prior compilations and session laws.
- 12 (3) (a) After publication of the Montana Code Annotated, the code commissioner shall:
- 13 (i) annotate, arrange, and prepare for publication all laws of a general and permanent nature enacted
14 at each legislative session and assign catchlines and code section numbers to each new section;
- 15 (ii) continue to codify, index, arrange, rearrange, and generally update the Montana Code Annotated to
16 maintain an orderly and logical arrangement of the laws in order to avoid future need for bulk revision;
- 17 (iii) prepare and publish a report entitled "Official Report of the Montana Code Commissioner--(year)" that
18 indicates, in tabular or other form, all changes made during the continuous recodification, other than punctuation,
19 spelling, and capitalization, to clearly indicate the character of each change made since the last report.
- 20 (b) In carrying out the duty imposed by subsection (3)(a)(ii), the commissioner shall recodify the Montana
21 Code Annotated on a title-by-title basis. The recodification is intended to be secondary to the completion of other
22 interim duties.
- 23 (4) From time to time, the commissioner shall confer with members of the judiciary and the state bar
24 relative to recodification procedures."
- 25

26 **Section 8.** Section 2-1-407, MCA, is amended to read:

27 **"2-1-407. Report -- recommendations.** (1) The governor shall examine the information received
28 pursuant to 2-1-405 and, based upon the information, shall present a report to the legislature meeting in ~~its next~~
29 ~~regular~~ each general and budget session that includes the following:

- 30 (a) recommendations regarding contracts that the state may enter into with specified persons or entities

1 to conduct research, to analyze certain subjects, or to provide other services regarding federal mandates; and
2 (b) estimates of the cost of the federal mandate efforts submitted to the governor under the provisions
3 of 2-1-405.

4 (2) If there is a finding that a federal mandate does not meet Montana's cost-effective needs, does not
5 serve Montana public policy, or does not conform to Montana customs and culture, the governor may issue an
6 executive order declaring the intention of Montana to not implement the mandate and may direct the attorney
7 general to vigorously represent the state of Montana in any action that results from or that is necessary to effect
8 the executive order."

9

10 **Section 9.** Section 2-4-306, MCA, is amended to read:

11 **"2-4-306. (Temporary) Filing and format -- adoption and effective dates -- dissemination of**
12 **emergency rules.** (1) Each agency shall file with the secretary of state a copy of each rule adopted by it or a
13 reference to the rule as contained in the proposal notice. A rule is adopted on the date that the adoption notice
14 is filed with the secretary of state and is effective on the date referred to in subsection (4), except that if the
15 secretary of state requests corrections to the adoption notice, the rule is adopted on the date that the revised
16 notice is filed with the secretary of state.

17 (2) Pursuant to 2-15-401, the secretary of state may prescribe rules to effectively administer this chapter,
18 including rules regarding the printed or electronic format, style, and arrangement for notices and rules that are
19 filed pursuant to this chapter, and may refuse to accept the filing of any notice or rule that is not in compliance
20 with this chapter and the secretary of state's rules. The secretary of state shall keep and maintain a permanent
21 register of all notices and rules filed, including superseded and repealed rules, that must be open to public
22 inspection and shall provide copies of any notice or rule upon request of any person. Unless otherwise provided
23 by statute, the secretary of state may require the payment of the cost of providing copies.

24 (3) If the appropriate administrative rule review committee has conducted a poll of the legislature in
25 accordance with 2-4-403, the results of the poll must be published with the rule if the rule is adopted by the
26 agency.

27 (4) Subject to subsection (6), each rule is effective after publication in the register, as provided in
28 2-4-312, except that:

29 (a) if a later date is required by statute or specified in the rule, the later date is the effective date;

30 (b) subject to applicable constitutional or statutory provisions:

1 (i) a temporary rule is effective immediately upon filing with the secretary of state or at a stated date
2 following publication in the register; and

3 (ii) an emergency rule is effective at a stated date following publication in the register or immediately upon
4 filing with the secretary of state if the agency finds that this effective date is necessary because of imminent peril
5 to the public health, safety, or welfare. The agency's finding and a brief statement of reasons for the finding must
6 be filed with the rule. The agency shall, in addition to the required publication in the register, take appropriate and
7 extraordinary measures to make emergency rules known to each person who may be affected by them.

8 (c) if, following written administrative rule review committee notification to an agency under 2-4-305(9),
9 the committee meets and under 2-4-406(1) objects to all or some portion of a proposed rule before the proposed
10 rule is adopted, the proposed rule or portion of the proposed rule objected to is not effective until the day after
11 final adjournment of the ~~regular~~ general session of the legislature that begins after the notice proposing the rule
12 was published by the secretary of state, unless, following the committee's objection under 2-4-406(1):

13 (i) the committee withdraws its objection under 2-4-406 before the proposed rule is adopted; or

14 (ii) the rule or portion of a rule objected to is adopted with changes that in the opinion of a majority of the
15 committee members, as communicated in writing to the committee presiding officer and staff, make it comply with
16 the committee's objection and concerns.

17 (5) Subject to subsection (6), an agency may not enforce, implement, or otherwise treat as effective a
18 rule proposed or adopted by the agency until the effective date of the rule as provided in this section. Nothing in
19 this subsection prohibits an agency from enforcing an established policy or practice of the agency that existed
20 prior to the proposal or adoption of the rule as long as the policy or practice is within the scope of the agency's
21 lawful authority.

22 (6) For purposes of implementing and complying with the American Recovery and Reinvestment Act of
23 2009, Public Law 111-5, an agency may adopt and implement a rule retroactive to February 17, 2009, provided
24 that the retroactive applicability date is clearly stated in the agency's proposed and adopted rule. (Terminates
25 June 30, 2011--sec. 82, Ch. 489, L. 2009.)

26 **2-4-306. (Effective July 1, 2011) Filing and format -- adoption and effective dates -- dissemination**
27 **of emergency rules.** (1) Each agency shall file with the secretary of state a copy of each rule adopted by it or
28 a reference to the rule as contained in the proposal notice. A rule is adopted on the date that the adoption notice
29 is filed with the secretary of state and is effective on the date referred to in subsection (4), except that if the
30 secretary of state requests corrections to the adoption notice, the rule is adopted on the date that the revised

1 notice is filed with the secretary of state.

2 (2) Pursuant to 2-15-401, the secretary of state may prescribe rules to effectively administer this chapter,
3 including rules regarding the printed or electronic format, style, and arrangement for notices and rules that are
4 filed pursuant to this chapter, and may refuse to accept the filing of any notice or rule that is not in compliance
5 with this chapter and the secretary of state's rules. The secretary of state shall keep and maintain a permanent
6 register of all notices and rules filed, including superseded and repealed rules, that must be open to public
7 inspection and shall provide copies of any notice or rule upon request of any person. Unless otherwise provided
8 by statute, the secretary of state may require the payment of the cost of providing copies.

9 (3) If the appropriate administrative rule review committee has conducted a poll of the legislature in
10 accordance with 2-4-403, the results of the poll must be published with the rule if the rule is adopted by the
11 agency.

12 (4) Each rule is effective after publication in the register, as provided in 2-4-312, except that:

13 (a) if a later date is required by statute or specified in the rule, the later date is the effective date;

14 (b) subject to applicable constitutional or statutory provisions:

15 (i) a temporary rule is effective immediately upon filing with the secretary of state or at a stated date
16 following publication in the register; and

17 (ii) an emergency rule is effective at a stated date following publication in the register or immediately upon
18 filing with the secretary of state if the agency finds that this effective date is necessary because of imminent peril
19 to the public health, safety, or welfare. The agency's finding and a brief statement of reasons for the finding must
20 be filed with the rule. The agency shall, in addition to the required publication in the register, take appropriate and
21 extraordinary measures to make emergency rules known to each person who may be affected by them.

22 (c) if, following written administrative rule review committee notification to an agency under 2-4-305(9),
23 the committee meets and under 2-4-406(1) objects to all or some portion of a proposed rule before the proposed
24 rule is adopted, the proposed rule or portion of the proposed rule objected to is not effective until the day after
25 final adjournment of the ~~regular~~ general session of the legislature that begins after the notice proposing the rule
26 was published by the secretary of state, unless, following the committee's objection under 2-4-406(1):

27 (i) the committee withdraws its objection under 2-4-406 before the proposed rule is adopted; or

28 (ii) the rule or portion of a rule objected to is adopted with changes that in the opinion of a majority of the
29 committee members, as communicated in writing to the committee presiding officer and staff, make it comply with
30 the committee's objection and concerns.

1 (5) An agency may not enforce, implement, or otherwise treat as effective a rule proposed or adopted
2 by the agency until the effective date of the rule as provided in this section. Nothing in this subsection prohibits
3 an agency from enforcing an established policy or practice of the agency that existed prior to the proposal or
4 adoption of the rule as long as the policy or practice is within the scope of the agency's lawful authority."
5

6 **Section 10.** Section 2-4-412, MCA, is amended to read:

7 **"2-4-412. Legislative review of rules -- effect of failure to object.** (1) The legislature may, by bill,
8 repeal any rule in the ARM. If a rule is repealed, the legislature shall in the bill state its objections to the repealed
9 rule. If an agency adopts a new rule to replace the repealed rule, the agency shall adopt the new rule in
10 accordance with the objections stated by the legislature in the bill. If the legislature does not repeal a rule filed
11 with it before the adjournment of that ~~regular~~ general session, the rule remains valid.

12 (2) The legislature may also by joint resolution request or advise or by bill direct the adoption,
13 amendment, or repeal of any rule. If a change in a rule or the adoption of an additional rule is advised, requested,
14 or directed to be made, the legislature shall in the joint resolution or bill state the nature of the change or the
15 additional rule to be made and its reasons for the change or addition. The agency shall, in the manner provided
16 in the Montana Administrative Procedure Act, adopt a new rule in accordance with the legislative direction in a
17 bill.

18 (3) Rules and changes in rules made by agencies under subsection (2) must conform and be pursuant
19 to statutory authority.

20 (4) Failure of the legislature or the appropriate administrative rule review committee to object in any
21 manner to the adoption, amendment, or repeal of a rule is inadmissible in the courts of this state to prove the
22 validity of any rule."
23

24 **Section 11.** Section 2-8-105, MCA, is amended to read:

25 **"2-8-105. Determination of agencies and programs to be reviewed.** (1) Before September 1 of each
26 even-numbered year, the governor may furnish the legislative audit committee with a list of recommendations for
27 agencies and programs to be terminated and subject to a performance audit during the next biennium pursuant
28 to the provisions of this chapter. The list must be prioritized and must set forth the governor's reasons for
29 recommending each agency or program for review.

30 (2) The legislative audit committee shall review the list submitted by the governor, suggestions from

1 legislators and legislative committees, staff recommendations, and any other relevant information and compile
 2 recommendations of agencies and programs to be terminated and subject to a performance audit. The committee
 3 shall submit its recommendations to the next ~~legislature~~ general session of the legislature in the form of a bill
 4 terminating those designated agencies and programs at the times specified in the bill and requiring a performance
 5 audit of each agency and program under the provisions of Title 2, chapter 8, within the time specified and prior
 6 to termination."

7

8 **Section 12.** Section 2-8-112, MCA, is amended to read:

9 **"2-8-112. Legislative audit committee review and report -- review criteria.** (1) The legislative audit
 10 committee is responsible for conducting a review of each agency or program scheduled for termination. The
 11 review ~~shall~~ must be completed at least 6 months prior to the date set for termination. If ~~for any reason~~
 12 of an agency or program cannot be completed as required by this chapter, the legislative audit committee shall
 13 submit a proposed bill for the ensuing legislative general session to reestablish the agency or program.

14 (2) The review conducted ~~shall~~ must include a performance audit of the agency or program, with
 15 emphasis on its effect on the public health, safety, and welfare.

16 (3) The legislative audit committee shall assist in the implementation of the provisions of this part and
 17 shall establish administrative procedures ~~which~~ that facilitate the review and evaluation as required in this part.

18 (4) Upon completion of its review, the legislative audit committee shall, as provided in 5-11-210, make
 19 a report of its recommendations for continuation, modification, or termination and submit a proposed bill to the
 20 ensuing legislative general session. If termination is recommended, the bill should repeal or otherwise deal with
 21 all statutes and parts of statutes relating to the agency's or program's activities."

22

23 **Section 13.** Section 2-15-111, MCA, is amended to read:

24 **"2-15-111. Appointment and qualifications of department heads.** (1) At the beginning of each
 25 gubernatorial term, the governor shall appoint each department head who serves as a director as provided in this
 26 chapter.

27 (2) An appointment of a director by the governor is subject to the confirmation of the senate, except that
 28 the governor may appoint a director to assume office before the senate meets in its next ~~regular~~ general session
 29 to consider the appointment. A director so appointed is vested with all the functions of the office upon assuming
 30 the office and is a de jure officer, notwithstanding the fact that the senate has not yet confirmed the appointment.

1 If the senate does not confirm the appointment of a director, the governor shall make a new appointment.

2 (3) A director serves at the pleasure of the governor. The governor may remove a director at any time
3 and appoint a new director to the office.

4 (4) The governor shall select a director on the basis of the person's professional and administrative
5 knowledge and experience and additional qualifications that are provided by law.

6 (5) If a vacancy occurs in the office of a director, the governor shall appoint a new director to serve at
7 the pleasure of the governor.

8 (6) Heads of departments who are not directors must be elected or appointed and serve and have their
9 vacancies filled as provided by law."

10

11 **Section 14.** Section 2-15-124, MCA, is amended to read:

12 **"2-15-124. Quasi-judicial boards.** If an agency is designated by law as a quasi-judicial board for the
13 purposes of this section, the following requirements apply:

14 (1) The number of and qualifications of its members are as prescribed by law. In addition to those
15 qualifications, unless otherwise provided by law, at least one member must be an attorney licensed to practice
16 law in this state.

17 (2) The governor shall appoint the members. A majority of the members must be appointed to serve for
18 terms concurrent with the gubernatorial term and until their successors are appointed. The remaining members
19 must be appointed to serve for terms ending on the first day of the third January of the succeeding gubernatorial
20 term and until their successors are appointed. It is the intent of this subsection that the governor appoint a
21 majority of the members of each quasi-judicial board at the beginning of the governor's term and the remaining
22 members in the middle of the governor's term. As used in this subsection, "majority" means the next whole
23 number greater than half.

24 (3) The appointment of each member is subject to the confirmation of the senate then meeting in ~~regular~~
25 general session or next meeting in ~~regular~~ general session following the appointment. A member so appointed
26 has all the powers of the office upon assuming that office and is a de jure officer, notwithstanding the fact that
27 the senate has not yet confirmed the appointment. If the senate does not confirm the appointment of a member,
28 the governor shall appoint a new member to serve for the remainder of the term.

29 (4) A vacancy must be filled in the same manner as regular appointments, and the member appointed
30 to fill a vacancy shall serve for the unexpired term to which the member is appointed.

1 (5) The governor shall designate the presiding officer. The presiding officer may make and second
2 motions and vote.

3 (6) Members may be removed by the governor only for cause.

4 (7) Unless otherwise provided by law, each member is entitled to be paid \$50 for each day in which the
5 member is actually and necessarily engaged in the performance of board duties and is also entitled to be
6 reimbursed for travel expenses, as provided for in 2-18-501 through 2-18-503, incurred while in the performance
7 of board duties. Members who are full-time salaried officers or employees of this state or of a political subdivision
8 of this state are not entitled to be compensated for their service as members except when they perform their
9 board duties outside their regular working hours or during time charged against their leave, but those members
10 are entitled to be reimbursed for travel expenses as provided for in 2-18-501 through 2-18-503. Ex officio board
11 members may not receive compensation but must receive travel expenses.

12 (8) A majority of the membership constitutes a quorum to do business. A favorable vote of at least a
13 majority of all members of a board is required to adopt any resolution, motion, or other decision, unless otherwise
14 provided by law."

15

16 **Section 15.** Section 2-15-125, MCA, is amended to read:

17 **"2-15-125. Future agencies and functions.** If an agency or a function is not allocated or transferred
18 to a department or a constitutional office by this chapter or any other act of the legislature, the governor shall, by
19 executive order, allocate that agency for administrative purposes only or function to the appropriate principal
20 department or constitutional office. The governor shall transmit copies of all executive orders issued under this
21 section to the legislature at its next ~~regular~~ general session."

22

23 **Section 16.** Section 2-15-221, MCA, is amended to read:

24 **"2-15-221. Governor-elect -- staff and services provided.** (1) As used in this section, unless the
25 context clearly indicates otherwise, "governor-elect" means the person elected at a general election to the office
26 of governor who is not the incumbent governor.

27 (2) The department of administration shall provide the governor-elect and the governor-elect's necessary
28 staff with suitable office space in the capitol building, together with furnishings, supplies, equipment, and
29 telephone service for the period between the general election and the inauguration.

30 (3) The governor-elect may obtain the assistance of persons of the governor-elect's own choosing,

1 between the general election and inauguration, and they must receive reasonable compensation for their
2 services. These persons are state employees, but they are not subject to any civil service or personnel laws or
3 rules of the state.

4 (4) In addition, the governor-elect may request that the department of administration assign one or more
5 employees of the department of administration to assist the governor-elect and the governor-elect's staff in the
6 study and interpretation of information. Employees of the department of administration must be assigned for the
7 time necessary between the general election and the inauguration.

8 (5) The funds necessary to carry out the provisions of this section must be included in the appropriation
9 request of the department of administration to the legislature meeting in ~~regular~~ general session immediately prior
10 to a general election when a governor will be chosen."
11

12 **Section 17.** Section 2-15-1749, MCA, is amended to read:

13 **"2-15-1749. Board of occupational therapy practice.** (1) There is a board of occupational therapy
14 practice.

15 (2) The board consists of five members appointed by the governor. The members are:

16 (a) three occupational therapists licensed under Title 37, chapter 24, who are actively engaged in the
17 practice or teaching of occupational therapy; and

18 (b) two members of the general public with an interest in the rights of the consumers of health services.

19 (3) The Montana occupational therapy association may submit names of nominees under subsection
20 (2)(a) of this section to the governor as provided in 37-1-132.

21 (4) Each appointment is subject to confirmation by the senate then meeting in ~~regular~~ general session
22 or next meeting in ~~regular~~ general session following appointment.

23 (5) Members shall serve staggered 4-year terms. A term begins on the first day of the calendar year and
24 ends on the last day of the calendar year or when a successor is appointed. A member who has served two
25 successive complete terms is not eligible for reappointment until after 1 year.

26 (6) The governor may, after hearing, remove a member for neglect of duty or other just cause.

27 (7) The board is allocated to the department of labor and industry for administrative purposes only as
28 prescribed in 2-15-121."
29

30 **Section 18.** Section 2-15-1756, MCA, is amended to read:

- 1 **"2-15-1756. Board of public accountants.** (1) There is a board of public accountants.
- 2 (2) The board consists of seven members appointed by the governor. The members are:
- 3 (a) except as provided in subsection (3), five certified public accountants certified under Title 37, chapter
- 4 50, who are certified and actively engaged in the practice of public accounting and who have held a valid
- 5 certificate for at least 5 years before being appointed; and
- 6 (b) two members of the general public who are not engaged in the practice of public accounting.
- 7 (3) The board may include four certified public accountants pursuant to subsection (2)(a) and one
- 8 licensed public accountant licensed under Title 37, chapter 50, who is actively engaged in the practice of public
- 9 accounting and who has held a valid license for at least 5 years prior to appointment.
- 10 (4) Professional associations of public accountants may submit to the governor a list of names of two
- 11 candidates for each position from which the appointment pursuant to subsection (2)(a) may be made. However,
- 12 the governor is not restricted to the names on the list. The list may include recommendations for a certified public
- 13 accountant or a licensed public accountant.
- 14 (5) Each appointment is subject to confirmation by the senate and must be submitted for consideration
- 15 at the next ~~regular~~ general session following appointment.
- 16 (6) The members shall serve staggered 4-year terms. The governor may remove a member for neglect
- 17 of duty or other just cause.
- 18 (7) The board is allocated to the department for administrative purposes only as prescribed in 2-15-121."

19

20 **Section 19.** Section 2-15-1820, MCA, is amended to read:

- 21 **"2-15-1820. Economic development advisory council.** (1) There is an economic development
- 22 advisory council.
- 23 (2) The council is composed of up to 19 members appointed as follows:
- 24 (a) 15 members appointed by the governor to include:
- 25 (i) the director of the department of commerce;
- 26 (ii) the chief business development officer provided for in 2-15-219, who serves as presiding officer of
- 27 the council;
- 28 (iii) one member from a Montana tribal government who represents a tribal economic development
- 29 organization; and
- 30 (iv) up to 12 public members representing each geographic region covered by each of the regional

1 development corporations certified by the department pursuant to 90-1-116; and

2 (b) (i) two representatives, including one from each party, appointed by the speaker of the house; and

3 (ii) two senators, including one from each party, appointed by the committee on committees.

4 (3) The governor is encouraged to appoint to the initial council two individuals who were members of the
5 microbusiness advisory council immediately prior to its being abolished.

6 (4) (a) Except as provided in subsection (4)(b), members of the council shall serve staggered 3-year
7 terms subject to replacement at the discretion of the governor. The governor shall designate five of the initial
8 members to serve 1-year terms and five of the initial members to serve 2-year terms.

9 (b) Legislative members must be appointed on or before the 10th day of each regular general session
10 of the legislature and shall serve until the convening of the next regular general session of the legislature. If a
11 vacancy on the council occurs during ~~a legislative~~ the interim between general sessions, that vacancy must be
12 filled in the same manner as the original appointment, but the appointment to fill the vacancy lasts only until the
13 next election or until the end of the appointee's term of office, whichever is shorter, at which time the appointing
14 authority shall make a new appointment.

15 (5) Members of the council, other than legislative members, are not entitled to compensation for their
16 services except for reimbursement of expenses as provided in 2-18-501 through 2-18-503. Legislative members
17 of the council are entitled to compensation pursuant to 5-2-302, which must be paid by the department of
18 commerce.

19 (6) The council shall:

20 (a) advise the department concerning the distribution of funds to certified regional development
21 corporations for business development purposes in accordance with 90-1-116 and this section;

22 (b) advise the department regarding the creation, operation, and maintenance of the microbusiness
23 finance program and the policies and operations affecting the certified microbusiness development corporations;

24 (c) advise the governor and the department on significant matters concerning economic development
25 in Montana;

26 (d) prescribe allowable administrative expenses for which economic development funds may be used
27 by certified regional development corporations; and

28 (e) encourage certified regional development corporations to promote economic development on Indian
29 reservations in their regions.

30 (7) The council is allocated to the department of commerce for administrative purposes only as provided

1 in 2-15-121."

2

3 **Section 20.** Section 2-15-2017, MCA, is amended to read:

4 **"2-15-2017. Domestic violence fatality review commission -- confidentiality of meetings and**
5 **records -- criminal liability for unauthorized disclosure -- report to legislature.** (1) There is a domestic
6 violence fatality review commission in the department of justice.

7 (2) The commission shall:

8 (a) examine the trends and patterns of domestic violence-related fatalities in Montana;

9 (b) educate the public, service providers, and policymakers about domestic violence fatalities and
10 strategies for intervention and prevention; and

11 (c) recommend policies, practices, and services that may encourage collaboration and reduce fatalities
12 due to domestic violence.

13 (3) The members of the commission, not to exceed 18, are appointed by the attorney general from
14 among the following disciplines:

15 (a) representatives from state departments that are involved in issues of domestic abuse;

16 (b) representatives of private organizations that are involved in issues of domestic abuse;

17 (c) medical and mental health care providers who are involved in issues of domestic abuse;

18 (d) representatives from law enforcement, the judiciary, and the state bar of Montana;

19 (e) representatives of Montana Indian tribes;

20 (f) other concerned citizens; and

21 (g) a member of the legislature who serves on either the house judiciary committee or the senate
22 judiciary committee.

23 (4) The members shall serve without compensation by the commission but are entitled to be reimbursed
24 for travel expenses as provided for in 2-18-501 through 2-18-503, and members who are full-time salaried officers
25 or employees of this state or of any political subdivision of this state are entitled to their regular compensation.
26 The provisions of 2-15-122 do not apply to the commission.

27 (5) The commission shall review fatalities that are not under investigation and fatalities in cases that have
28 been adjudicated and have received a final judgment.

29 (6) Upon written request from the commission, a person who possesses information or records that are
30 necessary and relevant to a domestic violence fatality review shall, as soon as practicable, provide the

1 commission with the information and records. A person who provides information or records upon request of the
2 commission is not criminally or civilly liable for providing information or records in compliance with this section.

3 (7) The meetings and proceedings of the commission are confidential and are exempt from the
4 provisions of Title 2, chapter 3.

5 (8) The records of the commission are confidential and are exempt from the provisions of Title 2, chapter
6 6. The records are not subject to subpoena, discovery, or introduction into evidence in a civil or criminal action
7 unless the records are reviewed by a district court judge and ordered to be provided to the person seeking
8 access. The commission shall disclose conclusions and recommendations upon request but may not disclose
9 information, records, or data that are otherwise confidential. The commission may not use the information,
10 records, or data for purposes other than those designated by subsections (2)(a) and (2)(c).

11 (9) The commission may require any person appearing before it to sign a confidentiality agreement
12 created by the commission in order to maintain the confidentiality of the proceedings. In addition, the commission
13 may enter into agreements with nonprofit organizations and private agencies to obtain otherwise confidential
14 information.

15 (10) A member of the commission who knowingly uses information obtained pursuant to subsection (6)
16 for a purpose not authorized in subsection (2) or who discloses information in violation of subsection (8) is subject
17 to a civil penalty of not more than \$500.

18 (11) The commission shall report its findings and recommendations in writing to the legislature, the
19 attorney general, the governor, and the chief justice of the Montana supreme court no later than the third Tuesday
20 in January of each year in which the legislature meets in ~~regular~~ general session. The report must be made
21 available to the public through the office of the attorney general. The commission may issue data or other
22 information periodically, in addition to the biennial report."

23

24 **Section 21.** Section 2-16-504, MCA, is amended to read:

25 **"2-16-504. Elective officers' inability to perform -- filling vacancy -- notice.** (1) When an incumbent
26 in the office of lieutenant governor, secretary of state, attorney general, auditor, or superintendent of public
27 instruction is found to be permanently unable to perform the functions of the position, a vacancy exists.

28 (2) When a written declaration, made as provided in subsection (4), is transmitted to the legislature that
29 any officer enumerated in subsection (1) is unable to discharge the powers and duties of office, the legislature
30 may convene in the manner provided for the convening of special sessions to determine whether the disability

1 exists or it may defer a determination to the next ~~regular~~ general session of the legislature.

2 (3) If the legislature within 21 days after convening, whether in ~~regular~~ general or special session,
3 determines by two-thirds vote of its members that the officer is unable to discharge the powers and duties of
4 office, the office is declared to be vacant and must be filled as provided by the constitution of Montana or laws
5 enacted pursuant to the constitution.

6 (4) The written declaration required under this section must be made and transmitted by the lieutenant
7 governor and attorney general unless one of them is the officer whose disability is in question. If the lieutenant
8 governor is the subject of the declaration, the declaration must be made by the governor and attorney general,
9 and if the attorney general is the subject of the declaration, the declaration must be made by the governor and
10 secretary of state."
11

12 **Section 22.** Section 2-16-506, MCA, is amended to read:

13 **"2-16-506. Filling vacancies -- recess appointments.** (1) When any office becomes vacant and no
14 mode is provided by law for filling the vacancy, the governor shall fill the vacancy by appointing a qualified person
15 to fill the unexpired term of the person whose office became vacant.

16 (2) If the legislature or one house of the legislature must confirm an appointment of a person appointed
17 by the governor to fill a vacancy, the governor may appoint the person to assume office before the legislature
18 meets in its next ~~regular~~ general session to consider the appointment. A person so appointed is vested with all
19 the functions of the office upon assuming the office and is a de jure officer, notwithstanding the fact that the
20 legislature has not yet confirmed the appointment. If the legislature does not confirm the appointment, the
21 governor shall make a new appointment to fill the unexpired term."
22

23 **Section 23.** Section 2-17-804, MCA, is amended to read:

24 **"2-17-804. Council duties and responsibilities.** (1) The council shall:

25 (a) adopt an art and memorial plan for the placement of art and memorials in the capitol complex and
26 on the capitol complex grounds;

27 (b) review proposals for long-term displays of up to 50 years, subject to renewal, in the capitol complex
28 and on the capitol complex grounds and for the naming of state buildings, spaces, and rooms in the capitol
29 complex;

30 (c) advise the legislature on the placement of busts, plaques, statues, memorials, monuments, or art

1 displays of a long-term nature in public areas of the capitol complex and on the capitol complex grounds,
2 including the executive residence and the original governor's mansion; and

3 (d) advise the department of administration on interior decoration of the capitol, grounds maintenance,
4 and grounds displays.

5 (2) In advising the legislature on long-term displays, the council shall consider whether the bust, plaque,
6 statue, memorial, monument, or art display:

7 (a) reasonably fits the long-range master plan for the capitol and adjacent grounds developed under
8 2-17-805;

9 (b) adversely alters the appearance of the capitol complex;

10 (c) unreasonably affects foot traffic on the capitol complex;

11 (d) adversely impacts existing maintenance programs or the utility infrastructure;

12 (e) recognizes a person or event of statewide significance and relevance;

13 (f) has artistic merit in design and construction;

14 (g) will be safely and aesthetically suited to the installation site; and

15 (h) has adequate funding for design, installation, and maintenance.

16 (3) By November 15 of each year preceding a legislative general session, the council shall report to the
17 legislature on requests that the council has reviewed for naming buildings, spaces, and rooms and for placing
18 items in the capitol complex or on the capitol complex grounds. The report must include a recommendation to
19 the legislature on whether reviewed requests meet the criteria established by this part. If a request meets the
20 criteria, the council shall recommend a timeframe during which the project should be authorized."
21

22 **Section 24.** Section 2-18-303, MCA, is amended to read:

23 **"2-18-303. Procedures for administering broadband pay plan.** (1) On the first day of the first
24 complete pay period in fiscal year 2010, each employee is entitled to the amount of the employee's base salary
25 as it was on June 30, 2009.

26 (2) An employee's base salary may be no less than the minimum salary of the pay band to which the
27 employee's position is allocated.

28 (3) All full-time employees whose base pay is \$45,000 or less annually will receive a one-time lump-sum
29 payment of \$450 for the first full pay period after July 1, 2009. All part-time employees who are regularly
30 scheduled to work 20 hours or more per week and whose base pay is \$21.635 per hour or less will receive a

1 one-time lump-sum payment of \$225 for the first full pay period after July 1, 2009.

2 (4) (a) (i) A member of a bargaining unit may not receive the pay adjustment provided for in subsection
3 (3) until the employer's collective bargaining representative receives written notice that the employee's collective
4 bargaining unit has ratified a collective bargaining agreement.

5 (ii) If ratification of a collective bargaining agreement, as required by subsection (4)(a)(i), is not completed
6 by the date on which a legislatively authorized pay increase is implemented, members of the bargaining unit must
7 continue to receive the compensation that they were receiving until an agreement is ratified.

8 (b) Methods of administration consistent with the purpose of this part and necessary to properly
9 implement the pay adjustments provided for in this section may be provided for in collective bargaining
10 agreements.

11 (5) (a) Montana highway patrol officer base salaries must be established through the broadband pay
12 plan. Before January 1 of each odd-numbered year, the department shall, after seeking the advice of the Montana
13 highway patrol, conduct a salary survey to be used in establishing the base salary for existing and entry-level
14 highway patrol officer positions. The county sheriff's offices in the following consolidated governments and
15 counties are the labor market for purposes of the survey: Butte-Silver Bow, Cascade, Yellowstone, Missoula,
16 Lewis and Clark, Gallatin, Flathead, and Dawson. The base salary for existing and entry-level highway patrol
17 officer positions must then be determined by the department of justice, using the results of the salary survey and
18 the department of justice pay plan guidelines. Base or biennial salary increases under this subsection are
19 exclusive of and not in addition to any increases otherwise awarded to other state employees after July 1, 2006.

20 (b) To the extent that the plan applies to employees within a collective bargaining unit, the
21 implementation of the plan is a negotiable subject under 39-31-305.

22 (c) The department of justice shall submit the salary survey to the office of budget and program planning
23 as a part of the information required by 17-7-111.

24 (d) The salary survey and plan must be completed at least 6 months before the start of each ~~regular~~
25 legislative budget session."

26

27 **Section 25.** Section 2-18-811, MCA, is amended to read:

28 **"2-18-811. General duties of department.** The department shall:

29 (1) adopt rules for the conduct of its business under this part and to carry out the purposes of this part;

30 (2) negotiate and administer contracts for state employee group benefit plans for a period not to exceed

1 10 years;

2 (3) design state employee group benefit plans, establish specifications for bids, and make
3 recommendations for acceptance or rejection of bids;

4 (4) prepare an annual report that describes the state employee group benefit plans being administered,
5 details the historical and projected program costs and the status of reserve funds, and makes recommendations,
6 if any, for change in existing state employee group benefit plans;

7 (5) prior to each legislative budget session, perform or obtain an analysis of rate adequacy of all state
8 employee group benefit plans administered under this part; and

9 (6) submit the report required in this section to the office of budget and program planning as a part of
10 the information required by 17-7-111."

11

12 **Section 26.** Section 2-19-102, MCA, is amended to read:

13 **"2-19-102. Closing out defunct state agencies -- procedures.** Unless otherwise provided by law, the
14 following procedures apply whenever a state agency is terminated by operation of law, is abolished by executive
15 or legislative action, ceases to function, or otherwise becomes defunct:

16 (1) The department becomes the receiver of all real and personal property of the agency, including all
17 books, records, and accounts, and shall determine all remaining assets and liabilities of the defunct agency. The
18 department shall inventory all personal property of the agency and may reassign the property to other state
19 agencies or otherwise dispose of it as provided in Title 18, chapter 6, part 1.

20 (2) The department must pay any creditors of the defunct state agency from the funds remaining in the
21 agency's current budget. However, if insufficient funds remain to settle all outstanding accounts, then the
22 department shall prorate all claims in the ratio of their amount to the total cash available. The department shall
23 seek a supplemental appropriation from the next regular budget session of the legislature to pay the remaining
24 balance of the creditors' claims. Any funds remaining after payment to all creditors of the defunct agency must
25 be deposited by the department into the general fund."

26

27 **Section 27.** Section 3-1-702, MCA, is amended to read:

28 **"3-1-702. Duties.** The court administrator is the administrative officer of the court. Under the direction
29 of the supreme court, the court administrator shall:

30 (1) prepare and present judicial budget requests to the legislature, including the costs of the state-funded

1 district court program;

2 (2) collect, compile, and report statistical and other data relating to the business transacted by the courts
3 and provide the information to the legislature on request;

4 (3) report annually to the law and justice interim committee and at the beginning of each ~~regular~~
5 legislative budget session report to the house appropriations subcommittee that considers general government
6 on the status of development and procurement of information technology within the judicial branch, including any
7 changes in the judicial branch information technology strategic plan and any problems encountered in deploying
8 appropriate information technology within the judicial branch. The court administrator shall, to the extent possible,
9 provide that current and future applications are coordinated and compatible with the standards and goals of the
10 executive branch as expressed in the state strategic information technology plan provided for in 2-17-521.

11 (4) recommend to the supreme court improvements in the judiciary;

12 (5) administer legal assistance for indigent victims of domestic violence, as provided in 3-2-714;

13 (6) administer state funding for district courts, as provided in chapter 5, part 9;

14 (7) administer the judicial branch personnel plan; and

15 (8) perform other duties that the supreme court may assign."
16

17 **Section 28.** Section 3-1-1013, MCA, is amended to read:

18 **"3-1-1013. Senate confirmation -- exception -- nomination in the interim -- appointment contingent**
19 **on vacancy.** (1) (a) Except as provided in subsection (2):

20 (i) each appointment must be confirmed by the senate; and

21 (ii) an appointment made while the senate is not in session is effective until the end of the next special
22 or ~~regular legislative~~ general session.

23 (b) If the appointment is subject to senate confirmation under subsection (1)(a) and is not confirmed, the
24 office is vacant and another selection of nominees and appointment must be made.

25 (2) The following appointments are not subject to senate confirmation, and there must be an election for
26 the office at the general election immediately preceding the scheduled expiration of the term or following the
27 appointment, as applicable:

28 (a) an appointment made while the senate is not in session if the term to which the appointee is
29 appointed expires prior to the next ~~legislative~~ general session, regardless of the time of the appointment in
30 relation to the candidate filing deadlines for the office; and

1 (b) an appointment made while the senate is not in session if a general election will be held prior to the
2 next legislative general session and the appointment is made prior to the candidate filing deadline for primary
3 elections held pursuant to 13-1-107, in which case the position is subject to election at the next primary and
4 general elections.

5 (3) A nomination is not effective unless a vacancy in office occurs."
6

7 **Section 29.** Section 5-1-101, MCA, is amended to read:

8 **"5-1-101. Commission to redistrict and reapportion -- number of legislators.** (1) In each general
9 session immediately preceding each federal population census, a commission of five citizens, none of whom may
10 be public officials, ~~shall~~ must be selected to prepare the plans for redistricting and reapportioning the state into
11 legislative and congressional districts.

12 (2) The plans for redistricting and reapportionment of legislative districts must be based on the number
13 of members in the house of representatives and the senate to be determined in the legislative general session
14 immediately before the census."
15

16 **Section 30.** Section 5-1-109, MCA, is amended to read:

17 **"5-1-109. Submission of plan for legislative redistricting to legislature.** The commission shall submit
18 its legislative redistricting plan to the legislature by the 10th legislative day of the first ~~regular~~ general session after
19 its appointment or after the census figures are available."
20

21 **Section 31.** Section 5-2-103, MCA, is amended to read:

22 **"5-2-103. Time and place of meeting.** (1) Consistent with the provisions of [sections 1 through 4] and
23 as used in Article V, sections 6 and 14, of the Montana constitution, the legislature construes the term "regular
24 session" to refer to a budget session of the legislature.

25 (2) Each ~~regular~~ budget session of the legislature shall be convened at the seat of government at 12
26 noon on the first ~~Monday~~ Tuesday of January of each odd-numbered year or, if January 1 is a Monday, on the
27 first Wednesday.

28 (3) Each general session of the legislature shall be convened as a special session at the seat of
29 government at 12 noon on the first Tuesday in February of each even-numbered year beginning in 2014.

30 (4) The legislature shall meet at other times when convened by the governor or by the written request

1 of a majority of the legislators or, when the legislature is in session, by a recorded vote of a majority of the
2 legislators."

3

4 **Section 32.** Section 5-2-201, MCA, is amended to read:

5 **"5-2-201. Pre-session caucus.** Not later than December 1 of each year following an election when
6 members of the legislature are elected, the parties of each house of the legislature shall hold a pre-session caucus
7 for holdover senators, senators-elect, and representatives-elect. The purpose of the caucus of each party of each
8 house is to nominate officers for the immediately following budget session and general session and establish the
9 basis for additional pre-session activity, including hiring staff and, for both the immediately following budget
10 session and general session, appointing committees. The legislative council shall designate the time for holding
11 the pre-session caucuses that occur before the budget session."

12

13 **Section 33.** Section 5-2-202, MCA, is amended to read:

14 **"5-2-202. Pre-session activity.** (1) Members of the legislature nominated to leadership positions during
15 the pre-session caucus provided for in 5-2-201 and members nominated or appointed to the committee on
16 committees and rules committees may meet and perform necessary organizational tasks prior to the ~~regular~~
17 budget session, including but not limited to appointing committees for the immediately following budget and
18 general sessions, hiring staff, and assigning space and seating for the immediately following budget and general
19 sessions.

20 (2) Members of the house appropriations committee and of the senate finance and claims committee
21 named prior to the ~~regular~~ budget session may begin reviewing requests for appropriations immediately and may
22 visit state agencies and institutions to discuss requests."

23

24 **Section 34.** Section 5-2-203, MCA, is amended to read:

25 **"5-2-203. Compensation and expenses -- definition.** (1) Members of the legislature attending the
26 pre-session caucus, provided for in 5-2-201, and legislative orientation and training are entitled to receive
27 compensation and expenses as provided in 5-2-302. The legislative services division shall place the members
28 on the payroll roster, provided for in 2-18-404, in order to pay the compensation and expenses.

29 (2) While engaged in pre-session business, members nominated to serve as officers of the legislature
30 and members of the committees named in 5-2-202 are entitled to receive compensation and expenses as

1 provided in 5-2-302.

2 (3) As used in this section:

3 (a) "holdover senator" means a senator who was not required to seek election at the general election
4 held immediately prior to the pre-session caucus; and

5 (b) "member" means a holdover senator, senator-elect, or representative-elect who is eligible to serve
6 in the ensuing immediately following legislative session budget and general sessions."

7

8 **Section 35.** Section 5-2-205, MCA, is amended to read:

9 **"5-2-205. Authority for standing committees to meet during interim.** (1) Except as provided in
10 5-2-202 and subsection (2) of this section, a standing committee of the legislature, as provided for in legislative
11 rules, may not meet during the interim between regular legislative general or budget sessions.

12 (2) Upon approval of the president of the senate or the speaker of the house of representatives, a
13 standing committee may meet before a special session, as provided in 5-3-101, or during a special session."

14

15 **Section 36.** Section 5-2-212, MCA, is amended to read:

16 **"5-2-212. Organization of senate.** (1) (a) At 12 noon on the day appointed for the meeting of any
17 regular budget session of the legislature, the senior member present must take the chair, call the senators and
18 senators-elect to order, call over the senators from the certified roster prepared by the secretary of state, and
19 then, from the certified roster prepared by the secretary of state, call over the senatorial districts and counties,
20 in their order, from which members have been elected at the preceding election. After the same are called the
21 members-elect must take the constitutional oath of office and assume their seats.

22 (b) The senate may thereupon, at that time and place, if a quorum is present, proceed to elect its officers.

23 The president shall then declare that the senate is ready to conduct its business.

24 (2) (a) At 12 noon on the day appointed for the meeting of any general session of the legislature, the
25 president of the senate shall take the chair, call the senate to order, and call the roll.

26 (b) If a quorum is present, the president shall declare that the senate is ready to conduct its business."

27

28 **Section 37.** Section 5-2-213, MCA, is amended to read:

29 **"5-2-213. Organization of house of representatives.** (1) (a) At the time specified in 5-2-212(1) for a
30 meeting of any budget session, the secretary of state or, in case of the secretary of state's absence or inability,

1 the senior member-elect present shall take the chair, call the members-elect of the house of representatives to
2 order, and then, from the certified roster prepared by the secretary of state, call over the roll of counties and
3 districts. After the names are called, the members-elect shall take the constitutional oath of office and assume
4 their seats.

5 (b) The house of representatives may at that time, if a quorum is present, proceed to elect its officers.
6 The speaker shall then declare that the house of representatives is ready to conduct its business.

7 (2) (a) At the time specified in 5-2-212(2)(a) for a meeting of any general session of the legislature, the
8 speaker shall take the chair, call the house of representatives to order, and call the roll.

9 (b) If a quorum is present, the speaker shall declare that the house of representatives is ready to conduct
10 business."

11

12 **Section 38.** Section 5-2-301, MCA, is amended to read:

13 **"5-2-301. Compensation and expenses for members while in session.** (1) Legislators are entitled
14 to a salary commensurate to that of the daily rate for an employee earning \$10.33 an hour when ~~the regular a~~
15 budget, general, or special session of the legislature in which they serve is convened under 5-2-103 for those
16 days during which the legislature is in session. The hourly rate must be adjusted by any statutorily required pay
17 increase. The president of the senate and the speaker of the house must receive an additional \$5 a day in salary
18 for those days during which the legislature is in session.

19 (2) Legislators may serve for no salary.

20 (3) Subject to subsection (4), legislators are entitled to a daily allowance, 7 days a week, during a
21 legislative budget or general session, as reimbursement for expenses incurred in attending a budget or general
22 session. Expense payments must stop when the legislature recesses for more than 3 days and resume when the
23 legislature reconvenes.

24 (4) After November 15, and prior to December 15 of each even-numbered year, the department of
25 administration shall conduct a survey of the allowance for daily expenses of legislators for the states of North
26 Dakota, South Dakota, Wyoming, and Idaho. The department shall include the average daily expense allowance
27 for Montana legislators in determining the average daily rate for legislators. The department shall include only
28 states with specific daily allowances in the calculation of the average. If the average daily rate is greater than the
29 daily rate for legislators in Montana, legislators are entitled to a new daily rate for those days during which the
30 legislature is in session. The new daily rate is the daily rate for the prior legislative session, increased by the

1 percentage rate increase as determined by the survey, a cost-of-living increase to reflect inflation that is
2 calculated pursuant to 15-6-134, or 5%, whichever is less. The expense allowance is effective when the next
3 ~~regular~~ budget session of the legislature in which the legislators serve is convened under 5-2-103.

4 (5) Legislators are entitled to a mileage allowance as provided in 2-18-503 for each mile of travel to the
5 place of the holding of the session and to return to their place of residence at the conclusion of the session.

6 (6) In addition to the mileage allowance provided for in subsection (5), legislators, upon submittal of an
7 appropriate claim for mileage reimbursement to the legislative services division, are entitled to:

8 (a) three additional round trips to their place of residence during each ~~regular~~ budget and general
9 session; and

10 (b) additional round trips as authorized by the legislature during a special session.

11 (7) Legislators are not entitled to any additional mileage allowance under subsection (5) for a special
12 session if it is convened within 7 days of a ~~regular~~ budget or general session."

13

14 **NEW SECTION. Section 39. Part not applicable to general session called as special session.**

15 Except as otherwise expressly provided, 5-3-101 through 5-3-108 do not apply to a general session called as a
16 special session.

17

18 **Section 40.** Section 5-5-211, MCA, is amended to read:

19 **"5-5-211. Appointment and composition of interim committees.** (1) Senate interim committee
20 members must be appointed by the committee on committees.

21 (2) House interim committee members must be appointed by the speaker of the house.

22 (3) Appointments to interim committees must be made by the time of adjournment of the legislative
23 budget session.

24 (4) A legislator may not serve on more than two interim committees unless no other legislator is available
25 or is willing to serve.

26 (5) (a) Subject to 5-5-234 and subsection (5)(b) of this section, the composition of each interim
27 committee must be as follows:

28 (i) four members of the house, two from the majority party and two from the minority party; and

29 (ii) four members of the senate, two from the majority party and two from the minority party.

30 (b) If the committee workload requires, the legislative council may request the appointing authority to

1 appoint one or two additional interim committee members from the majority party and the minority party.

2 (6) The membership of the interim committees must be provided for by legislative rules. The rules must
3 identify the committees from which members are selected, and the appointing authority shall attempt to select
4 not less than 50% of the members from the standing committees that consider issues within the jurisdiction of
5 the interim committee. In making the appointments, the appointing authority shall take into account term limits
6 of members so that committee members will be available to follow through on committee activities and
7 recommendations in the next legislative session.

8 (7) An interim committee or the environmental quality council may create subcommittees. Nonlegislative
9 members may serve on a subcommittee. Unless the person is a full-time salaried officer or employee of the state
10 or a political subdivision of the state, a nonlegislative member appointed to a subcommittee is entitled to salary
11 and expenses to the same extent as a legislative member. If the appointee is a full-time salaried officer or
12 employee of the state or of a political subdivision of the state, the appointee is entitled to reimbursement for travel
13 expenses as provided for in 2-18-501 through 2-18-503."

14

15 **Section 41.** Section 5-5-215, MCA, is amended to read:

16 **"5-5-215. Duties of interim committees.** (1) Each interim committee shall:

17 (a) review administrative rules within its jurisdiction;

18 (b) subject to 5-5-217(3), conduct interim studies as assigned;

19 (c) monitor the operation of assigned executive branch agencies with specific attention to the following:

20 (i) identification of issues likely to require future legislative attention;

21 (ii) opportunities to improve existing law through the analysis of problems experienced with the application
22 of the law by an agency; and

23 (iii) experiences of the state's citizens with the operation of an agency that may be amenable to
24 improvement through legislative action;

25 (d) review proposed legislation of assigned agencies or entities as provided in the joint legislative rules;

26 and

27 (e) accumulate, compile, analyze, and furnish information bearing upon its assignment and relevant to
28 existing or prospective legislation as it determines, on its own initiative, to be pertinent to the adequate completion
29 of its work.

30 (2) Each interim committee shall prepare bills and resolutions that, in its opinion, the welfare of the state

1 may require for presentation to the next ~~regular~~ general session of the legislature.

2 (3) The legislative services division shall keep accurate records of the activities and proceedings of each
3 interim committee."

4

5 **Section 42.** Section 5-5-217, MCA, is amended to read:

6 **"5-5-217. Selection and assignment of interim studies.** (1) Immediately following adjournment sine
7 die of each general session, the legislative services division shall prepare a list of study requests adopted. A copy
8 of the list must be distributed to each legislator with a request that the legislator rank the study requests in the
9 order of importance that the legislator ascribes to them. The lists, with the priorities assigned, must be returned
10 to the legislative services division.

11 (2) The legislative council shall review the priority lists returned by legislators, review estimated costs
12 and staff assistance associated with the requested studies, and designate those studies to be assigned. In
13 designating studies, the legislative council may combine requests as one study when the subject matter of those
14 requests is closely related. The legislative council shall designate the interim committees and statutory
15 committees to be assigned the studies and shall assign related studies to the same committee.

16 (3) The legislative services division shall inform the interim committees and statutory committees of those
17 studies that have been selected and to which interim committee or statutory committee each study has been
18 assigned. An interim committee or a statutory committee may recommend to the legislative council that an interim
19 study assigned to that committee should be reassigned to another interim committee or statutory committee or
20 should not be conducted. The legislative council may adopt, reject, or modify the interim committee
21 recommendation."

22

23 **Section 43.** Section 5-5-227, MCA, is amended to read:

24 **"5-5-227. Revenue and transportation interim committee -- powers and duties -- revenue**
25 **estimating and use of estimates.** (1) The revenue and transportation interim committee has administrative rule
26 review, draft legislation review, program evaluation, and monitoring functions for the department of revenue and
27 the department of transportation and the entities attached to the departments for administrative purposes.

28 (2) (a) The committee must have prepared by December 1 for introduction during each ~~regular~~ budget
29 session of the legislature in which a revenue bill is under consideration an estimate of the amount of revenue
30 projected to be available for legislative appropriation.

1 (b) The committee may prepare for introduction during a special session of the legislature in which a
2 revenue bill or an appropriation bill is under consideration an estimate of the amount of projected revenue. The
3 revenue estimate is considered a subject specified in the call of a special session under 5-3-101.

4 (3) The committee's estimate, as introduced in the legislature, constitutes the legislature's current
5 revenue estimate until amended or until final adoption of the estimate by both houses. It is intended that the
6 legislature's estimates and the assumptions underlying the estimates will be used by all agencies with
7 responsibilities for estimating revenue or costs, including the preparation of fiscal notes.

8 (4) The legislative services division shall provide staff assistance to the committee. The committee may
9 request the assistance of the staffs of the office of the legislative fiscal analyst, the legislative auditor, the
10 department of revenue, and any other agency that has information regarding any of the tax or revenue bases of
11 the state."
12

13 **Section 44.** Section 5-5-301, MCA, is amended to read:

14 **"5-5-301. Governor to transmit list of appointments to legislature.** Within 10 days after the
15 convening of the legislature in general session, the governor shall transmit to the legislature a list of all
16 appointments made by the governor under the provisions of 2-16-506 ~~during the recess~~ since adjournment of the
17 last general session of the legislature."
18

19 **Section 45.** Section 5-6-103, MCA, is amended to read:

20 **"5-6-103. Term of service.** Each legislative intern shall serve for a period to be specified by the
21 legislative council prior to each ~~regular~~ legislative budget and general session."
22

23 **Section 46.** Section 5-7-207, MCA, is amended to read:

24 **"5-7-207. Report to legislature.** Beginning with the first Tuesday following the beginning of any ~~regular~~
25 budget, general, or special session of the legislature and on the first Tuesday of every month thereafter during
26 which the legislature is in session, the commissioner shall make available from the commissioner's records a
27 report to each member of each house of the legislature containing the names of lobbyists registered under this
28 chapter, not previously reported, the names of the principals whom they represent as lobbyists, and the subjects
29 of legislation in which each principal is interested."
30

1 **Section 47.** Section 5-7-208, MCA, is amended to read:

2 **"5-7-208. Principals to file report.** (1) A principal subject to this chapter shall file with the commissioner
3 a report of payments made for the purpose of lobbying. A principal is subject to the reporting requirements of this
4 section only if the principal makes total payments for the purpose of lobbying that exceed the amount specified
5 under 5-7-112 during a calendar year.

6 (2) If payments are made solely to influence legislative action, a report must be made:

7 (a) by February 15th of any year the legislature is in a budget or general session and must include all
8 payments made in that calendar year prior to February 1;

9 (b) by the 15th day of the calendar month following a calendar month in which the principal spent \$5,000
10 or more and must include all payments made during the prior calendar month; and

11 (c) no later than 30 days following adjournment of a legislative session and must include all payments
12 made during the session, except as previously reported.

13 (3) If payments are made to influence any other official action by a public official or made to influence
14 other action and legislative action, a report must be made:

15 (a) by February 15th of the calendar year following the payments and must include all payments made
16 during the prior calendar year; and

17 (b) by the 15th day of the calendar month following a calendar month in which the principal spent \$5,000
18 or more and must include all payments made during the prior calendar month.

19 (4) If payments are not made during the reporting periods provided in subsections (2)(a), (2)(c), and
20 (3)(a), the principal shall file a report stating that fact.

21 (5) Each report filed under this section must:

22 (a) list all payments for lobbying in each of the following categories:

23 (i) printing;

24 (ii) advertising, including production costs;

25 (iii) postage;

26 (iv) travel expenses;

27 (v) salaries and fees, including allowances, rewards, and contingency fees;

28 (vi) entertainment, including all foods and refreshments;

29 (vii) telephone and telegraph; and

30 (viii) other office expenses;

- 1 (b) itemize, identifying the payee and the beneficiary:
- 2 (i) each separate payment conferring \$25 or more benefit to any public official when the payment was
- 3 made for the purpose of lobbying; and
- 4 (ii) each separate payment conferring \$100 or more benefit to more than one public official, regardless
- 5 of individual benefit when the payment was made for the purpose of lobbying, except that in regard to a dinner
- 6 or other function to which all senators or all representatives have been invited, the beneficiary may be listed as
- 7 all members of that group without listing separately each person who attended;
- 8 (c) list each contribution and membership fee that amounts to \$250 or more when aggregated over the
- 9 period of 1 calendar year paid to the principal for the purpose of lobbying, with the full address of each payer and
- 10 the issue area, if any, for which the payment was earmarked;
- 11 (d) list each official action on which the principal or the principal's agents exerted a major effort to
- 12 support, oppose, or modify, together with a statement of the principal's position for or against the action; and
- 13 (e) be kept by the commissioner for a period of 10 years."

14

15 **Section 48.** Section 5-11-101, MCA, is amended to read:

16 **"5-11-101. Appointment and composition of council.** (1) There is a legislative council. Subject to

17 subsection (2), the legislative council consists of:

18 (a) the speaker of the house, the minority leader of the house, and, subject to 5-5-234, four members

19 chosen by the speaker of the house, two from the majority party and two from the minority party; and

20 (b) the president of the senate, the minority leader of the senate, and, subject to 5-5-234, four members

21 chosen by the committee on committees, two from the majority party and two from the minority party.

22 (2) If a legislator is or would be a member of the legislative council by virtue of a legislative leadership

23 position and the legislator will not serve in the following legislative budget session because of term limits, the

24 legislator may designate another member of the same house and the same political party to serve on the

25 legislative council in the legislator's place."

26

27 **Section 49.** Section 5-11-102, MCA, is amended to read:

28 **"5-11-102. Term.** Membership on the council is for 2 years while the member remains qualified and until

29 a successor is appointed and qualified. Members required to be appointed by leadership under 5-11-101 must

30 be appointed immediately following organization of the senate and the house of representatives as provided in

1 5-2-212(1) and 5-2-213(1)."

2

3 **Section 50.** Section 5-11-209, MCA, is amended to read:

4 **"5-11-209. Codes -- availability to legislators -- reserved for use by legislative committees.** (1)

5 When it becomes available after each ~~regular~~ legislative general session, each legislator is entitled to purchase
6 for \$10 each one set of the printed and bound Montana Code Annotated statute text and histories and one
7 Montana Code Annotated that is produced for sale to the public on computer-readable media, such as CD-ROM.

8 (2) The legislative services division shall reserve 50 sets of the printed versions of Montana Code
9 Annotated statute text and histories for the use of the standing and select committees of the legislature.

10 (3) Costs associated with providing code sets as required by this section must be paid out of the state
11 special revenue fund account established under 1-11-301."

12

13 **Section 51.** Section 5-11-210, MCA, is amended to read:

14 **"5-11-210. Clearinghouse for reports to legislature.** (1) For the purposes of this section, "report"
15 means a report required by law to be given to or filed with the legislature.

16 (2) On or before September 1 of each year preceding the convening of a ~~regular~~ general session of the
17 legislature, an entity required to report to the legislature shall provide, in writing, to the appropriate interim or
18 statutory committee:

19 (a) the final title of the report;

20 (b) an abstract or description of the contents of the report, not to exceed 100 words;

21 (c) a recommendation on how many copies of the report should be provided to the legislature;

22 (d) the reasons why the number of copies recommended is, in the opinion of the reporting entity, the
23 appropriate number of copies; and

24 (e) an estimated cost for each copy of the report.

25 (3) After considering all of the information available about the report, including the number of legislators
26 requesting copies of the report pursuant to subsection (7), the appropriate interim or statutory committee shall,
27 in writing, direct the reporting entity to provide a specific number of copies. The number of copies required is at
28 the sole discretion of the appropriate interim or statutory committee. The appropriate interim or statutory
29 committee may require the reporting entity to mail the copies of the report.

30 (4) The appropriate interim or statutory committee may require that the report be submitted in an

1 electronic format usable on the legislature's current computer hardware, in a microform, such as microfilm or
2 microfiche, or in a CD-ROM format, meaning compact disc read-only memory.

3 (5) Costs of preparing and distributing a report to the legislature, including writing, printing, postage,
4 distribution, and all other costs, accrue to the reporting agency. Costs incurred in meeting the requirements of
5 this section may not accrue to the legislative services division.

6 (6) The executive director of the legislative services division shall cause to be prepared a list of all reports
7 required to be presented to the legislature from the list of titles received under subsection (2).

8 (7) The executive director shall, as soon as possible following a general election, mail to each holdover
9 senator, senator-elect, and representative-elect a list of the titles of the reports, along with the abstracts prepared
10 pursuant to subsection (2)(b). The list must include a form on which each member or member-elect receiving the
11 list may indicate the report or reports that the member or member-elect would like to receive.

12 (8) The executive director of the legislative services division shall make copies of reports requested
13 pursuant to subsection (7) available to those members or members-elect by either requiring that copies be mailed
14 pursuant to subsection (3) or by delivering copies of the reports during the first week of the legislative general
15 session.

16 (9) The executive director of the legislative services division may keep as many copies of a report as are
17 necessary and discard the rest.

18 (10) The procedure outlined in this section may also be used for a report required to be made to the
19 legislature under the Multistate Tax Compact contained in 15-1-601, the Vehicle Equipment Safety Compact
20 contained in 61-2-201, the Multistate Highway Transportation Agreement contained in 61-10-1101, or the Western
21 Interstate Nuclear Compact contained in 90-5-201.

22 (11) Each report to the legislature required under 17-6-230, 19-2-405, 19-2-407, and 19-20-201 must be
23 provided to the legislative services division as soon as the report is published. The legislative services division
24 shall ensure that legislators are notified pursuant to this section of the report's availability. During the interim, the
25 legislative services division shall ensure that members of the state administration and veterans' affairs interim
26 committee and the legislative finance committee receive copies of the reports."
27

28 **Section 52.** Section 5-11-211, MCA, is amended to read:

29 **"5-11-211. Definitions.** For the purposes of this part, the following definitions apply:

30 (1) "One complete set" means one copy of each item of the proceedings of a budget, general, or special

1 session, ~~regular or special~~, of the legislature.

2 (2) "Person" means any person, firm, corporation, or association.

3 (3) "Proceedings of the legislature" means status sheets, daily journals, reproduced bills, reproduced
4 resolutions, printed bills, printed resolutions, and amendments thereto, together with such other related
5 documents as the legislative council may choose to include.

6 (4) "Session Laws" for a particular year means the laws and resolutions passed or adopted by that year's
7 session of the legislature."

8

9 **Section 53.** Section 5-11-212, MCA, is amended to read:

10 **"5-11-212. Fees for proceedings.** (1) A complete set of the proceedings of a ~~regular or special~~ budget,
11 general, or special session of the legislature may be purchased from the legislative services division for the
12 amount prescribed by the legislative council. Upon receipt of payment, the executive director of the legislative
13 services division shall supply the purchaser with a complete set of the proceedings.

14 (2) A purchaser who requests that a set of the proceedings be mailed shall pay an additional fee as
15 prescribed by the council for each complete set that is mailed.

16 (3) Single copies of bills, resolutions, or amendments to bills or resolutions may be purchased from the
17 legislative services division for a price varying with the length of the document as prescribed by the legislative
18 council.

19 (4) Single copies of status sheets or status of proceedings may be purchased from the legislative
20 services division for a price per copy as prescribed by the legislative council. A person may subscribe to receive
21 daily copies of the status sheets or status of proceedings by mail for a fee set by the legislative council to cover
22 the costs of the service.

23 (5) The executive director of the legislative services division shall account for all funds collected under
24 this section and shall transmit the funds to the treasurer of the state of Montana, who shall credit them to the
25 general fund."

26

27 **Section 54.** Section 5-12-202, MCA, is amended to read:

28 **"5-12-202. Appointment of members.** (1) The legislative finance committee consists of:

29 (a) four members of the senate finance and claims committee appointed by the presiding officer;

30 (b) subject to 5-5-234, two members of the senate appointed at large by the committee on committees;

1 (c) four members of the house of representatives appropriations committee appointed by the presiding
2 officer; and

3 (d) subject to 5-5-234, two members of the house appointed at large by the speaker.

4 (2) These members must be appointed before the end of each legislative budget session. Three
5 members of each house, two committee members and one at-large member, must be from the majority party and
6 the other three members appointed from that house must be from the minority party."

7

8 **Section 55.** Section 5-12-204, MCA, is amended to read:

9 **"5-12-204. Vacancies.** If a vacancy occurs on the committee when the legislature is not in session, the
10 remaining members shall select a member of the appropriate political party and appropriate committee, as
11 provided in 5-12-202, to complete the unexpired term. If there is a vacancy on the committee at the beginning
12 of a legislative budget session because a member's term of office as a legislator has ended, a member of the
13 same political party must be appointed in the same manner as the original appointment, no later than the 10th
14 legislative day, to serve until a successor is appointed under 5-12-202."

15

16 **Section 56.** Section 5-12-205, MCA, is amended to read:

17 **"5-12-205. Powers and duties of committee.** The committee:

18 (1) may organize, adopt rules to govern its proceedings, and meet as often as necessary, upon the call
19 of the presiding officer, to advise and consult with the legislative fiscal analyst;

20 (2) may employ and, in accordance with the rules for classification and pay adopted by the legislative
21 council, set the salary of the legislative fiscal analyst. The legislative fiscal analyst shall serve at the pleasure of
22 and be responsible for providing services to the committee.

23 (3) may exercise the investigatory powers of a standing committee under chapter 5, part 1, of this title;

24 (4) shall monitor the information technology policies of the department of administration with specific
25 attention to:

26 (a) identification of information technology issues likely to require future legislative attention; and

27 (b) the evaluation of proposed information technology policy changes and the fiscal implications of the
28 proposed changes and shall provide written responses to the department of administration communicating the
29 committee's positions and concerns on proposed policy changes;

30 (5) may accumulate, compile, analyze, and provide information relevant to existing or proposed

1 legislation on how information technology can be used to impact the welfare of the state;

2 (6) may prepare legislation to implement any proposed changes involving information technology; and

3 (7) shall, before each ~~regular~~ budget and special legislative session involving budgetary matters, prepare
4 recommendations to the house appropriations committee and the senate finance and claims committee on the
5 application of certain budget issues. At a minimum, the recommendations must include procedures for the
6 consistent application during each session of inflation factors, the allocation of fixed costs, and the personal
7 services budget. The committee may also make recommendations on other issues of major concern in the
8 budgeting process, such as estimating the cost of implementing particular programs based upon present law."
9

10 **Section 57.** Section 5-13-202, MCA, is amended to read:

11 **"5-13-202. Appointment and term of members -- officers -- vacancies.** (1) The legislative audit
12 committee consists of six members of the senate and six members of the house of representatives appointed
13 before the end of each ~~regular~~ budget session in the same manner as standing committees of the respective
14 houses are appointed. Subject to 5-5-234, three of the appointees of each house must be members of the
15 majority party and three of the appointees of each house must be members of the minority party.

16 (2) A member of the committee shall serve until the member's term of office as a legislator ends or until
17 a successor is appointed, whichever occurs first.

18 (3) The committee shall elect one of its members as presiding officer and other officers as it considers
19 necessary.

20 (4) A vacancy on the committee occurring when the legislature is not in session must be filled by the
21 selection of a member of the legislature by the remaining members of the committee. If there is a vacancy on the
22 committee at the beginning of a legislative session because a member's term of office as a legislator has ended,
23 a member of the same political party must be appointed in the same manner as the original appointment, no later
24 than the 10th legislative day, to serve until a successor is appointed under subsection (1)."
25

26 **Section 58.** Section 5-13-306, MCA, is amended to read:

27 **"5-13-306. Legislative auditor to assist legislature during sessions.** During budget, general, and
28 special sessions of the legislature, the legislative auditor and the audit staff, when requested, shall assist the
29 legislature, its committees, and its members by gathering and analyzing information relating to the fiscal affairs
30 of state government."

1

2 **Section 59.** Section 5-13-402, MCA, is amended to read:

3 **"5-13-402. Audit costs.** (1) Prior to July 1 of each even-numbered year, the legislative auditor shall
4 advise each agency and the budget director of the estimated audit costs for the following biennium. Each agency
5 shall include the estimated audit costs in its proposed budget submitted to the budget director pursuant to
6 17-7-112. The budget director shall notify the legislative auditor if the executive budget recommendation to the
7 legislature for audit costs differs from that proposed by the legislative auditor.

8 (2) Not later than 60 days after adjournment of each ~~legislature~~ budget session, the budget director shall
9 provide to the legislative auditor a schedule reflecting, by fund, amounts appropriated to each agency for audit
10 costs.

11 (3) The legislative auditor shall bill agencies for audit services that the legislative auditor considers
12 necessary. The legislative auditor may not bill an agency for audit services in excess of amounts appropriated
13 for audit services. Additional audit-related services may be provided by the legislative auditor at a cost agreed
14 to by an agency and billed to the agency."

15

16 **Section 60.** Section 5-15-101, MCA, is amended to read:

17 **"5-15-101. Legislative consumer committee -- appointment and composition.** (1) There is a
18 legislative consumer committee consisting of two members of the senate and two members of the house of
19 representatives.

20 (2) Members shall be appointed in the same manner as standing committees of the respective houses
21 before the ~~60th~~ 10th legislative day of the legislative budget session following the expiration of the terms of the
22 members of the committee. No more than one of the appointees of each house may be members of the same
23 political party."

24

25 **Section 61.** Section 5-15-104, MCA, is amended to read:

26 **"5-15-104. Vacancies.** A vacancy on the committee occurring when the legislature is not in session shall
27 be filled by the selection of a legislator by the remaining members of the committee. If there is a vacancy on the
28 committee at the beginning of a legislative budget session because a member's term of office as a legislator has
29 ended, a member of the same political party must be appointed in the same manner as the original appointment,
30 no later than the 10th legislative day, to serve until a successor is appointed under 5-15-101."

1

2 **Section 62.** Section 5-16-101, MCA, is amended to read:

3 **"5-16-101. Appointment and composition.** The environmental quality council consists of 17 members
4 as follows:

5 (1) the governor or the governor's designated representative is an ex officio member of the council and
6 shall participate in council meetings as a nonvoting member;

7 (2) six members of the senate and six members of the house of representatives appointed before the
8 50th legislative day of each budget session in the same manner as standing committees of the respective houses
9 are appointed. Subject to 5-5-234, three of the appointees of each house must be members of the majority party
10 and three appointees of each house must be members of the minority party.

11 (3) four members of the general public. Two public members must be appointed by the speaker of the
12 house with the consent of the house minority leader, and two must be appointed by the president of the senate
13 with the consent of the senate minority leader."

14

15 **Section 63.** Section 5-16-103, MCA, is amended to read:

16 **"5-16-103. Term of office.** The terms of office of all council members shall be 2 years and shall
17 terminate upon appointment of a new council before the 50th legislative day of a budget session. Council
18 members may be reappointed. However, in no case shall a member serve more than 6 years."

19

20 **Section 64.** Section 5-16-104, MCA, is amended to read:

21 **"5-16-104. Vacancies.** (1) A vacancy on the council of a member appointed under 5-16-101(2) occurring
22 when the legislature is not in session shall be filled by the selection of a member of the legislature by the same
23 method as the original appointment. If there is a vacancy on the committee at the beginning of a legislative budget
24 session because a member's term of office as a legislator has ended, a member of the same political party must
25 be appointed in the same manner as the original appointment, no later than the 10th legislative day, to serve until
26 a successor is appointed under 5-16-101.

27 (2) (a) When a vacancy on the council of a member appointed under 5-16-101(3) has occurred or is
28 expected to occur, the appointing authority shall have posted in a conspicuous place in the state capitol a notice
29 announcing the actual or anticipated vacancy and describing the procedure for applying for appointment.

30 (b) A copy of the notice required under subsection (2)(a) must be sent to the lieutenant governor, who

1 may publish the notice in an appropriate publication."
 2

3 **Section 65.** Section 7-4-2502, MCA, is amended to read:

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

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

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

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

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

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

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

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

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

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

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

1 their salaries at the prior fiscal year level."

2

3 **Section 66.** Section 13-16-504, MCA, is amended to read:

4 **"13-16-504. Tie vote in election for state executive officers.** If there is a tie vote for governor and
5 lieutenant governor, secretary of state, attorney general, state auditor, clerk of the supreme court, superintendent
6 of public instruction, or any other state executive officer, the secretary of state shall transmit a certified copy of
7 the statement to the legislature showing the votes cast for the two or more candidates having an equal and the
8 highest number of votes. The legislature, at its next ~~regular~~ budget session, shall elect one of these candidates
9 to fill the office by joint ballot of the two houses."

10

11 **Section 67.** Section 13-27-206, MCA, is amended to read:

12 **"13-27-206. Petition for initiative for constitutional convention.** (1) The following is substantially the
13 form for a petition to direct the secretary of state to submit to the qualified voters the question of whether there
14 will be a constitutional convention:

15 PETITION TO PLACE
16 INITIATIVE NO....., CALLING FOR
17 A CONSTITUTIONAL CONVENTION, ON
18 THE ELECTION BALLOT

19 (a) If 10% of the voters in each of 40 legislative districts sign this petition and the total number of voters
20 signing this petition is, the question of whether to have a constitutional convention will appear on the next
21 general election ballot. If a majority of voters vote for the constitutional convention, the legislature shall call for
22 a constitutional convention at its next budget session.

23 (b) We, the undersigned Montana voters, propose that the secretary of state place the question of
24 whether to hold a constitutional convention on the, 20....., general election ballot:

25 (Title of the initiative written pursuant to 13-27-312)

26 (Statement of implication written pursuant to 13-27-312)

27 (c) A signature on this petition is only to put the call for a constitutional convention on the ballot and does
28 not necessarily mean the signer is in favor of calling a constitutional convention.

29 (d) **WARNING**

30 A person who purposefully signs a name other than the person's own to this petition, who signs more

1 than once for the same issue at one election, or who signs when not a legally registered Montana voter is subject
2 to a \$500 fine or 6 months in jail, or both.

3 (e) Each person is required to sign the person's name and list the person's address or telephone number
4 in substantially the same manner as on the person's voter registration card or the signature will not be counted.

5 (2) Numbered lines must follow the heading. Each numbered line must also contain spaces for the
6 signature, residence address, legislative representative district number, and printed last name and first and
7 middle initials of the signer. In place of a residence address, the signer may provide the signer's post-office
8 address or the signer's home telephone number. An address provided on a petition by the signer that differs from
9 the signer's address as shown on the signer's voter registration card may not be used as the only means to
10 disqualify the signature of that petition signer."
11

12 **Section 68.** Section 15-1-205, MCA, is amended to read:

13 **"15-1-205. Biennial report -- contents.** (1) The department shall transmit to the governor 20 days
14 before the meeting of a budget session of the legislature and make available to the legislature a report of the
15 department showing all the taxable property of the state, counties, and cities and its value. The department shall
16 follow the provisions of 5-11-210 in preparing the report.

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

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

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

22 (i) personal income and corporation license tax exemptions;

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

24 (iii) deferral of income;

25 (iv) credits allowed against Montana personal income tax or Montana corporation license tax, reported
26 separately;

27 (v) deductions from income; and

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

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

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

2 (4) The data described in subsection (3), if reported, must be related to the income and age of the
3 taxpayer whenever the information is available.

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

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

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

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

13 (8) The department may include a report, prepared by the department of transportation, showing the
14 selling price of gasoline at the wholesale level in prime market centers of Montana and in surrounding states
15 during the biennium, with indexes tabulated at sufficient intervals to show the comparative state price structures."
16

17 **Section 69.** Section 15-2-101, MCA, is amended to read:

18 **"15-2-101. State tax appeal board -- appointment of members -- term of office.** There is a state tax
19 appeal board composed of three members appointed by the governor for staggered terms with the advice and
20 consent of the senate. However, a member appointed may serve until the next ~~regular~~ budget session of the
21 legislature without the advice and consent of the senate. Each member shall hold office for a term of 6 years and
22 until a successor shall be appointed and qualified. A vacancy must be filled by the governor subject to
23 confirmation by the senate during the next legislative budget session. Succeeding appointments, except when
24 made to fill a vacancy, must be made on or before January 31 during the budget session of the legislature
25 preceding the commencement of the term for which the appointment is made."
26

27 **Section 70.** Section 15-38-202, MCA, is amended to read:

28 **"15-38-202. Investment of resource indemnity trust fund -- expenditure -- minimum balance.** (1)
29 All money paid into the resource indemnity trust fund must be invested at the discretion of the board of
30 investments. Only the net earnings, excluding unrealized gains and losses, may be appropriated and expended

1 until the fund balance, excluding unrealized gains and losses, reaches \$100 million. After the fund balance
2 reaches \$100 million, all net earnings, excluding unrealized gains and losses, and all receipts may be
3 appropriated by the legislature and expended, provided that the fund balance, excluding unrealized gains and
4 losses, may never be less than \$100 million.

5 (2) (a) At the beginning of each fiscal year, there is allocated from the interest income of the resource
6 indemnity trust fund:

7 (i) \$3.5 million to be deposited in the natural resources projects state special revenue account,
8 established in 15-38-302, for the purpose of making grants;

9 (ii) \$300,000 to be deposited in the ground water assessment account established in 85-2-905;

10 (iii) \$500,000 to the department of fish, wildlife, and parks for the purposes of 87-1-283. The future
11 fisheries review panel shall approve and fund qualified mineral reclamation projects before other types of qualified
12 projects.

13 (b) At the beginning of each biennium, there is allocated from the interest income of the resource
14 indemnity trust fund:

15 (i) an amount not to exceed \$50,000 to be deposited in the oil and gas production damage mitigation
16 account pursuant to the conditions of 82-11-161;

17 (ii) \$500,000 to be deposited in the water storage state special revenue account created by 85-1-631;
18 and

19 (iii) \$175,000 to be deposited in the environmental contingency account established in 75-1-1101.

20 (c) The remainder of the interest income is allocated as follows:

21 (i) Sixty-five percent of the interest income of the resource indemnity trust fund must be allocated to the
22 natural resources operations state special revenue account established in 15-38-301.

23 (ii) Twenty-six percent of the interest income of the resource indemnity trust fund must be allocated to
24 the hazardous waste/CERCLA special revenue account provided for in 75-10-621.

25 (iii) Nine percent of the interest income of the resource indemnity trust fund must be allocated to the
26 environmental quality protection fund provided for in 75-10-704.

27 (3) Any formal budget document prepared by the legislature or the executive branch that proposes to
28 appropriate funds other than as provided for by the allocations in subsection (2) must specify the amount of
29 money from each allocation that is proposed to be diverted and the proposed use of the diverted funds. A formal
30 budget document includes a printed and publicly distributed budget proposal or recommendation, an introduced

1 bill, or a bill developed during the legislative appropriation process or otherwise during a legislative budget or
2 special session."

3

4 **Section 71.** Section 17-1-505, MCA, is amended to read:

5 **"17-1-505. Review of dedicated revenue provisions.** (1) The legislature recognizes that dedicated
6 revenue provisions are subject to review by:

7 (a) the office of budget and program planning in the development and implementation of the executive
8 budget and analysis of legislation;

9 (b) the legislative fiscal division in analyzing the executive budget;

10 (c) the legislative services division in drafting legislation;

11 (d) the legislative auditor in auditing agencies;

12 (e) the department of administration in performing the functions provided for in 17-2-106 and 17-2-111;

13 and

14 (f) the department of revenue in reviewing revenue sources and determining distributions to local
15 governments.

16 (2) To avoid unnecessary and unjustified use of dedicated revenue provisions, the entities listed in
17 subsection (1) shall, in the course of current duties, consider the principles in 17-1-507 and the criteria listed in
18 this subsection for each new or existing dedicated revenue provision. If an entity referred to in subsection (1)
19 determines that the use of a dedicated revenue provision is not justified, the use or proposed use must be
20 reported to the legislative fiscal analyst. The legislative fiscal analyst shall maintain a list of unjustified dedicated
21 revenue provisions and shall report on the unjustified dedicated revenue provisions to the legislative finance
22 committee no later than October 31 of the year preceding a ~~regular~~ legislative budget session. A dedicated
23 revenue provision should not give a program or activity an unfair advantage for funding. The expenditures from
24 a dedicated revenue provision must be based on requirements for meeting a legislatively established outcome.
25 Statutorily mandated programs or activities funded through dedicated revenue provisions from general revenue
26 sources must be reviewed to the same extent as programs or activities funded from the general fund. The use
27 of a dedicated revenue provision may be justified if it satisfies one or more of the following:

28 (a) The program or activity funded provides direct benefits for those who pay the dedicated tax, fee, or
29 assessment, and the tax, fee, or assessment is commensurate with the costs of the program or activity.

30 (b) The use of the dedicated revenue provision provides special information or other advantages that

1 could not be obtained if the revenue were allocated to the general fund.

2 (c) The dedicated revenue provision provides program funding at a level equivalent to the expenditures
3 established by the legislature.

4 (d) The dedicated revenue provision involves collection and allocation formulas that are appropriate to
5 the present circumstances and current priorities in state government.

6 (e) The dedicated revenue provision does not impair the legislature's ability to scrutinize budgets, control
7 expenditures, and establish priorities for state spending.

8 (f) The dedicated revenue provision results in an appropriate projected ending fund balance.

9 (g) The dedicated revenue provision fulfills a continuing, legislatively recognized need.

10 (h) The dedicated revenue provision does not result in accounting or auditing inefficiency.

11 (3) A local government dedicated revenue provision may be justified if it satisfies any of the following:

12 (a) The program or activity funded provides direct benefits or services for those who pay the dedicated
13 tax, fee, or assessment, and the tax, fee, or assessment is commensurate with the costs of the program or
14 activity.

15 (b) The provision provides necessary information or other advantages that could not be obtained if the
16 revenue were allocated to the state general fund.

17 (c) The provision involves collection and allocation formulas that are appropriate to the present
18 circumstances and current priorities of state and local government.

19 (d) The provision does not impair the ability of the legislature to scrutinize budgets, control expenditures,
20 and establish state spending priorities.

21 (e) The provision fulfills a legislatively recognized continuing need.

22 (f) The provision does not result in accounting or auditing inefficiency or unnecessary complexity and
23 instability of local government funding structures."

24

25 **Section 72.** Section 17-2-107, MCA, is amended to read:

26 **"17-2-107. Accurate accounting records and interentity loans.** (1) The department shall record
27 receipts and disbursements for treasury funds and for accounting entities within treasury funds and shall maintain
28 records in a manner that reflects the total cash and invested balance of each fund and each accounting entity.
29 The department shall adopt the necessary procedures to ensure that interdepartmental or intradepartmental
30 transfers of money or loans do not result in inflation of figures reflecting total governmental costs and revenue.

1 (2) (a) Except as provided in 77-1-108 and subject to 17-2-105, when the expenditure of an appropriation
2 from a fund designated in 17-2-102(1) through (3) is necessary and the cash balance in the accounting entity from
3 which the appropriation was made is insufficient, the department may authorize a temporary loan, bearing no
4 interest, of unrestricted money from other accounting entities if there is reasonable evidence that the income will
5 be sufficient to repay the loan within 1 calendar year and if the loan is recorded in the state accounting records.
6 An accounting entity receiving a loan or an accounting entity from which a loan is made may not be so impaired
7 that all proper demands on the accounting entity cannot be met even if the loan is extended.

8 (b) (i) When an expenditure from a fund or subfund designated in 17-2-102(4) is necessary and the cash
9 balance in the fund or subfund from which the expenditure is to be made is insufficient, the commissioner of
10 higher education may authorize a temporary loan, bearing interest as provided in subsection (4) of this section,
11 of money from the agency's other funds or subfunds if there is reasonable evidence that the income will be
12 sufficient to repay the loan within 1 calendar year and if the loan is recorded in the state accounting records. A
13 fund or subfund receiving a loan or from which a loan is made may not be so impaired that all proper demands
14 on the fund or subfund cannot be met even if the loan is extended.

15 (ii) One accounting entity within each fund or subfund designated in 17-2-102(4) must be established for
16 the sole purpose of recording loans between the funds or subfunds. This accounting entity is the only accounting
17 entity within each fund or subfund that may receive a loan or from which a loan may be made.

18 (c) A loan made under subsection (2)(a) or (2)(b) must be repaid within 1 calendar year of the date on
19 which the loan is approved unless it is extended under subsection (3) or by specific legislative authorization.

20 (3) Under unusual circumstances, the director of the department or the board of regents may grant one
21 extension for up to 1 year for a loan made under subsection (2)(a) or (2)(b). The director or board shall prepare
22 a written justification and proposed repayment plan for each loan extension authorized and shall furnish a copy
23 of the written justification and proposed repayment plan to the house appropriations and senate finance and
24 claims committees at the next legislative budget session.

25 (4) Any loan from the current unrestricted subfund to funds designated in 17-2-102(4)(a)(iv) and (4)(b)
26 through (4)(f) must bear interest at a rate equivalent to the previous fiscal year's average rate of return on the
27 board of investments' short-term investment pool.

28 (5) If for 2 consecutive fiscal yearends a loan or an extension of a loan has been authorized to the same
29 accounting entity as provided in subsection (2) or (3), the department or the commissioner of higher education
30 shall submit to the legislative finance committee by September 1 of the following fiscal year a written report

1 containing an explanation as to why the second loan or extension was made, an analysis of the solvency of the
2 accounting entity or accounting entities within the university fund or subfund, and a plan for repaying the loans.

3 (6) If for 2 consecutive fiscal yearends an accounting entity in a fund or subfund designated in
4 17-2-102(4) has a negative cash balance, the commissioner of higher education shall submit to the legislative
5 finance committee by September 1 of the following fiscal year a written report containing an explanation as to why
6 the accounting entity has a negative cash balance, an analysis of the solvency of the accounting entity, and a plan
7 to address any problems concerning the accounting entity's negative cash balance or solvency.

8 (7) (a) An accounting entity in a fund designated in 17-2-102(1) through (3) may not have a negative
9 cash balance at fiscal yearend. The department may, however, allow a fund type within each agency to carry a
10 negative balance at any point during the fiscal year if the negative cash balance does not exist for more than 7
11 working days.

12 (b) (i) Except as provided in subsection (7)(b)(ii) of this section, a unit of the university system shall
13 maintain a positive cash balance in the funds and subfunds designated in 17-2-102(4).

14 (ii) If a fund or subfund inadvertently has a negative cash balance, the department may allow the fund
15 or subfund to carry the negative cash balance for no more than 7 working days. If the negative cash balance
16 exists for more than 7 working days, a transaction may not be processed through the statewide accounting
17 system for that fund or subfund.

18 (8) Notwithstanding the provisions of subsections (2) through (4), the department may authorize loans
19 to accounting entities in the federal and state special revenue funds with long-term repayment whenever
20 necessary because of the timing of the receipt of agreed-upon reimbursements from federal, private, or other
21 governmental entity sources for disbursements made. If possible, the loans must be made from funds other than
22 the general fund. The department may approve the loans if the requesting agency can demonstrate that the total
23 loan balance does not exceed total receivables from federal, private, or other governmental entity sources and
24 receivables have been billed on a timely basis. The loan must be repaid under terms and conditions that may be
25 determined by the department or by specific legislative authorization.

26 (9) A loan may not be authorized under this section to any fund or accounting entity that is owed federal
27 or other third-party funds unless the requesting agency certifies to the agency approving the loan that it has and
28 will continue to bill the federal government or other third party for the requesting agency's share of costs incurred
29 in the fund or accounting entity on the earliest date allowable under federal or other third-party regulations
30 applicable to the program. The requesting agency shall recertify its timely billing status to the agency that

1 approved the loan at least monthly during the term of the loan. If at any time the requesting agency fails to
2 recertify the timely billing, the agency that approved the loan shall cancel the loan and return the money to its
3 original source."

4

5 **Section 73.** Section 17-2-111, MCA, is amended to read:

6 **"17-2-111. State special revenue accounts -- report.** Each biennium, the department shall provide
7 information on all state special revenue accounts as requested by the legislative finance committee. The
8 department shall provide the information to the legislative finance committee not later than February 1 of the year
9 preceding a ~~regular~~ budget session of the legislature."

10

11 **Section 74.** Section 17-6-105, MCA, is amended to read:

12 **"17-6-105. State treasurer as treasurer of state agencies -- deposits of money.** (1) The state
13 treasurer is designated the treasurer of every state agency and institution.

14 (2) All state agencies shall deposit all money, credits, evidences of indebtedness, and securities either:

15 (a) in banks, building and loan associations, savings and loan associations, or credit unions located in
16 the city or town in which the agencies are situated, if there is a qualified bank, building and loan association,
17 savings and loan association, or credit union in the city or town as designated by the state treasurer with the
18 approval of the board of investments; or

19 (b) with the state treasurer.

20 (3) Each bank, building and loan association, savings and loan association, or credit union shall pledge
21 securities sufficient to cover 50% of the deposits at all times.

22 (4) The deposits must be made in the name of the state treasurer, must be subject to withdrawal at the
23 treasurer's option, and must draw interest as other state money, in accordance with the provisions of this part.

24 (5) This chapter does not impair or otherwise affect any covenant entered into pursuant to law by any
25 agency respecting the segregation, deposit, and investment of any revenue or funds pledged for the payment
26 and security of bonds or other obligations authorized to be issued by the agency, and all the funds must be
27 deposited and invested in accordance with the covenants notwithstanding any provision of this chapter.

28 (6) Except as otherwise provided by law and subject to subsection (8), all money, credits, evidences of
29 indebtedness, and securities received by a state agency must be deposited with the state treasurer or in a
30 depository approved by the state treasurer each day when the accumulated amount of coin and currency

1 requiring deposit exceeds \$200 or total collections exceed \$750. All money, credits, evidences of indebtedness,
2 and securities collected must be deposited at least weekly.

3 (7) Whenever the department determines that it is in the best financial interest of the state, the
4 department may require any money received or collected by any agency to be immediately deposited to the credit
5 of the state treasurer.

6 (8) (a) An agency may propose a modified deposit schedule, including proposed internal controls, to the
7 department that is different from the deposit schedule requirements of subsection (6). Upon receiving a proposal,
8 the department shall transmit a copy of the proposal to the board of investments. The department shall review
9 the proposal to ensure that deposits are made at least weekly unless the requesting agency shows hardship due
10 to peak processing times.

11 (b) (i) The department shall review the proposal to ensure adequate internal controls over amounts to
12 be deposited.

13 (ii) The board of investments shall review the proposal to ensure that state assets and earnings on the
14 assets are maximized.

15 (c) (i) If the department and the board of investments each approves of the proposal, the department
16 shall notify the agency that the proposal is approved and the department and the agency may proceed to
17 implement the proposal.

18 (ii) If the department or the board of investments disapproves the proposal, the department shall notify
19 the agency that the proposal is disapproved.

20 (9) On or before September 15 immediately preceding a ~~regular~~ legislative budget session, the
21 department shall submit to the legislative fiscal analyst and the legislative auditor a report detailing all active
22 accounts for which a modified deposit schedule has been approved under subsection (8).

23 (10) For the purposes of this section, "agency" has the meaning provided in 17-1-104 and includes a
24 contractor of an agency if the contractor collects at least \$50,000 annually on behalf of the state from all sources."
25

26 **Section 75.** Section 17-7-102, MCA, is amended to read:

27 **"17-7-102. (Temporary) Definitions.** As used in this chapter, the following definitions apply:

28 (1) "Additional services" means different services or more of the same services.

29 (2) "Agency" means all offices, departments, boards, commissions, institutions, universities, colleges,
30 and any other person or any other administrative unit of state government that spends or encumbers public

1 money by virtue of an appropriation from the legislature under 17-8-101.

2 (3) "Approving authority" means:

3 (a) the governor or the governor's designated representative for executive branch agencies;

4 (b) the chief justice of the supreme court or the chief justice's designated representative for judicial
5 branch agencies;

6 (c) the speaker for the house of representatives;

7 (d) the president for the senate;

8 (e) appropriate legislative committees or a designated representative for legislative branch agencies;

9 or

10 (f) the board of regents of higher education or its designated representative for the university system.

11 (4) (a) "Base budget" means the resources for the operation of state government that are of an ongoing
12 and nonextraordinary nature in the current biennium. The base budget for the state general fund and state special
13 revenue funds may not exceed that level of funding authorized by the previous legislature. For the biennium
14 beginning July 1, 2011, the term includes items specified in section 85, Chapter 489, Laws of 2009.

15 (b) The term does not include funding for water adjudication if the accountability benchmarks contained
16 in 85-2-271 are not met.

17 (5) "Budget amendment" means a temporary appropriation as provided in Title 17, chapter 7, part 4.

18 (6) "Emergency" means a catastrophe, disaster, calamity, or other serious unforeseen and unanticipated
19 circumstance that has occurred subsequent to the time that an agency's appropriation was made, that was clearly
20 not within the contemplation of the legislature and the governor, and that affects one or more functions of a state
21 agency and the agency's expenditure requirements for the performance of the function or functions.

22 (7) "Funds subject to appropriation" means those funds required to be paid out of the treasury as set
23 forth in 17-8-101.

24 (8) "Necessary" means essential to the public welfare and of a nature that cannot wait until the next
25 legislative session for legislative consideration.

26 (9) "New proposals" means requests to provide new nonmandated services, to change program
27 services, to eliminate existing services, or to change sources of funding. For purposes of establishing the present
28 law base, the distinction between new proposals and the adjustments to the base budget to develop the present
29 law base is to be determined by the existence of constitutional or statutory requirements for the proposed
30 expenditure. Any proposed increase or decrease that is not based on those requirements is considered a new

1 proposal.

2 (10) (a) "Present law base" means, subject to subsection (10)(b), that level of funding needed under
3 present law to maintain operations and services at the level authorized by the previous legislature, including but
4 not limited to:

5 (i) changes resulting from legally mandated workload, caseload, or enrollment increases or decreases;

6 (ii) changes in funding requirements resulting from constitutional or statutory schedules or formulas;

7 (iii) inflationary or deflationary adjustments;

8 (iv) elimination of nonrecurring appropriations; and

9 (v) items specified in section 85, Chapter 489, Laws of 2009.

10 (b) For the budget for the 2011 legislative session, present law base must be adjusted by reducing
11 general fund budgets by the equivalent of that portion of the 2% across-the-board reduction assessed by the 61st
12 legislature on selected agencies that was allocated by those agencies to personal services in the 2011 biennium.
13 The director of the governor's office of budget and program planning and the legislative fiscal analyst shall agree
14 on a mechanism for determining how agencies have allocated this reduction.

15 (11) "Program" means a principal organizational or budgetary unit within an agency.

16 (12) "Requesting agency" means the agency of state government that has requested a specific budget
17 amendment.

18 (13) "University system unit" means the board of regents of higher education; office of the commissioner
19 of higher education; university of Montana, with campuses at Missoula, Butte, Dillon, and Helena; Montana state
20 university, with campuses at Bozeman, Billings, Havre, and Great Falls; the agricultural experiment station, with
21 central offices at Bozeman; the forest and conservation experiment station, with central offices at Missoula; the
22 cooperative extension service, with central offices at Bozeman; the bureau of mines and geology, with central
23 offices at Butte; the fire services training school at Great Falls; and the community colleges at Miles City,
24 Glendive, and Kalispell. (Terminates June 30, 2011--sec. 35(1), Ch. 486, L. 2009; sec. 82, Ch. 489, L. 2009.)

25 **17-7-102. (Effective July 1, 2011) Definitions.** As used in this chapter, the following definitions apply:

26 (1) "Additional services" means different services or more of the same services.

27 (2) "Agency" means all offices, departments, boards, commissions, institutions, universities, colleges,
28 and any other person or any other administrative unit of state government that spends or encumbers public
29 money by virtue of an appropriation from the legislature under 17-8-101.

30 (3) "Approving authority" means:

- 1 (a) the governor or the governor's designated representative for executive branch agencies;
- 2 (b) the chief justice of the supreme court or the chief justice's designated representative for judicial
3 branch agencies;
- 4 (c) the speaker for the house of representatives;
- 5 (d) the president for the senate;
- 6 (e) appropriate legislative committees or a designated representative for legislative branch agencies;
- 7 or
- 8 (f) the board of regents of higher education or its designated representative for the university system.
- 9 (4) (a) "Base budget" means the resources for the operation of state government that are of an ongoing
10 and nonextraordinary nature in the current biennium. The base budget for the state general fund and state special
11 revenue funds may not exceed that level of funding authorized by the previous legislature.
- 12 (b) The term does not include funding for water adjudication if the accountability benchmarks contained
13 in 85-2-271 are not met.
- 14 (5) "Budget amendment" means a temporary appropriation as provided in Title 17, chapter 7, part 4.
- 15 (6) "Emergency" means a catastrophe, disaster, calamity, or other serious unforeseen and unanticipated
16 circumstance that has occurred subsequent to the time that an agency's appropriation was made, that was clearly
17 not within the contemplation of the legislature and the governor, and that affects one or more functions of a state
18 agency and the agency's expenditure requirements for the performance of the function or functions.
- 19 (7) "Funds subject to appropriation" means those funds required to be paid out of the treasury as set
20 forth in 17-8-101.
- 21 (8) "Necessary" means essential to the public welfare and of a nature that cannot wait until the next
22 legislative budget session for legislative consideration.
- 23 (9) "New proposals" means requests to provide new nonmandated services, to change program
24 services, to eliminate existing services, or to change sources of funding. For purposes of establishing the present
25 law base, the distinction between new proposals and the adjustments to the base budget to develop the present
26 law base is to be determined by the existence of constitutional or statutory requirements for the proposed
27 expenditure. Any proposed increase or decrease that is not based on those requirements is considered a new
28 proposal.
- 29 (10) "Present law base" means that level of funding needed under present law to maintain operations and
30 services at the level authorized by the previous legislature during the immediately preceding budget session,

1 including but not limited to:

- 2 (a) changes resulting from legally mandated workload, caseload, or enrollment increases or decreases;
3 (b) changes in funding requirements resulting from constitutional or statutory schedules or formulas;
4 (c) inflationary or deflationary adjustments; and
5 (d) elimination of nonrecurring appropriations.

6 (11) "Program" means a principal organizational or budgetary unit within an agency.

7 (12) "Requesting agency" means the agency of state government that has requested a specific budget
8 amendment.

9 (13) "University system unit" means the board of regents of higher education; office of the commissioner
10 of higher education; university of Montana, with campuses at Missoula, Butte, Dillon, and Helena; Montana state
11 university, with campuses at Bozeman, Billings, Havre, and Great Falls; the agricultural experiment station, with
12 central offices at Bozeman; the forest and conservation experiment station, with central offices at Missoula; the
13 cooperative extension service, with central offices at Bozeman; the bureau of mines and geology, with central
14 offices at Butte; the fire services training school at Great Falls; and the community colleges at Miles City,
15 Glendive, and Kalispell. (Terminates June 30, 2020--sec. 11, Ch. 319, L. 2007.)

16 **17-7-102. (Effective July 1, 2020) Definitions.** As used in this chapter, the following definitions apply:

17 (1) "Additional services" means different services or more of the same services.

18 (2) "Agency" means all offices, departments, boards, commissions, institutions, universities, colleges,
19 and any other person or any other administrative unit of state government that spends or encumbers public
20 money by virtue of an appropriation from the legislature under 17-8-101.

21 (3) "Approving authority" means:

22 (a) the governor or the governor's designated representative for executive branch agencies;

23 (b) the chief justice of the supreme court or the chief justice's designated representative for judicial
24 branch agencies;

25 (c) the speaker for the house of representatives;

26 (d) the president for the senate;

27 (e) appropriate legislative committees or a designated representative for legislative branch agencies;

28 or

29 (f) the board of regents of higher education or its designated representative for the university system.

30 (4) "Base budget" means the resources for the operation of state government that are of an ongoing and

1 nonextraordinary nature in the current biennium. The base budget for the state general fund and state special
2 revenue funds may not exceed that level of funding authorized by the ~~previous~~ legislature during the immediately
3 preceding budget session.

4 (5) "Budget amendment" means a temporary appropriation as provided in Title 17, chapter 7, part 4.

5 (6) "Emergency" means a catastrophe, disaster, calamity, or other serious unforeseen and unanticipated
6 circumstance that has occurred subsequent to the time that an agency's appropriation was made, that was clearly
7 not within the contemplation of the legislature and the governor, and that affects one or more functions of a state
8 agency and the agency's expenditure requirements for the performance of the function or functions.

9 (7) "Funds subject to appropriation" means those funds required to be paid out of the treasury as set
10 forth in 17-8-101.

11 (8) "Necessary" means essential to the public welfare and of a nature that cannot wait until the next
12 legislative budget session for legislative consideration.

13 (9) "New proposals" means requests to provide new nonmandated services, to change program
14 services, to eliminate existing services, or to change sources of funding. For purposes of establishing the present
15 law base, the distinction between new proposals and the adjustments to the base budget to develop the present
16 law base is to be determined by the existence of constitutional or statutory requirements for the proposed
17 expenditure. Any proposed increase or decrease that is not based on those requirements is considered a new
18 proposal.

19 (10) "Present law base" means that level of funding needed under present law to maintain operations and
20 services at the level authorized by the ~~previous~~ legislature during the immediately preceding budget session,
21 including but not limited to:

22 (a) changes resulting from legally mandated workload, caseload, or enrollment increases or decreases;

23 (b) changes in funding requirements resulting from constitutional or statutory schedules or formulas;

24 (c) inflationary or deflationary adjustments; and

25 (d) elimination of nonrecurring appropriations.

26 (11) "Program" means a principal organizational or budgetary unit within an agency.

27 (12) "Requesting agency" means the agency of state government that has requested a specific budget
28 amendment.

29 (13) "University system unit" means the board of regents of higher education; office of the commissioner
30 of higher education; university of Montana, with campuses at Missoula, Butte, Dillon, and Helena; Montana state

1 university, with campuses at Bozeman, Billings, Havre, and Great Falls; the agricultural experiment station, with
2 central offices at Bozeman; the forest and conservation experiment station, with central offices at Missoula; the
3 cooperative extension service, with central offices at Bozeman; the bureau of mines and geology, with central
4 offices at Butte; the fire services training school at Great Falls; and the community colleges at Miles City,
5 Glendive, and Kalispell."

6

7 **Section 76.** Section 17-7-112, MCA, is amended to read:

8 **"17-7-112. Submission deadlines -- budgeting schedule.** The following is the schedule for the
9 preparation of a state budget for submission to the legislature convening in the following year in a budget session:

10 (1) By August 1, forms necessary for preparation of budget estimates must be distributed pursuant to
11 17-7-111(2).

12 (2) (a) Except as provided in subsection (2)(b), by September 1, each agency shall submit the
13 information required under 17-7-111 to the budget director.

14 (b) By September 1, the consolidated legislative branch shall submit a preliminary draft of the information
15 required under 17-7-111 to the budget director. By October 10, the consolidated legislative branch shall submit
16 the information required under 17-7-111 in final form to the budget director.

17 (3) By September 1, the budget director shall submit each state agency's budget request, except the
18 budget request for the consolidated legislative branch, required under 17-7-111(3) to the legislative fiscal analyst.
19 The transfer of budget information must be done on a schedule mutually agreed to by the budget director and
20 the legislative fiscal analyst in a manner that facilitates an even transfer of budget information that allows each
21 office to maintain a reasonable staff workflow.

22 (4) By October 10, the budget director shall furnish the legislative fiscal analyst with a preliminary budget
23 reflecting the base budget in a format agreed upon by both the office of budget and program planning and the
24 legislative fiscal analyst.

25 (5) By October 30, a budget request must be prepared by the budget director and submitted to the
26 legislative fiscal analyst on behalf of any agency that did not present the information required by this section. The
27 budget request must be based upon the budget director's studies of the operations, plans, and needs of the
28 institution, university unit, or agency.

29 (6) By November 1, the budget director shall furnish the legislative fiscal analyst with a present law base
30 for each agency and a copy of the documents that reflect the anticipated receipts and other means of financing

1 the base budget and present law base for each fiscal year of the ensuing biennium. The material must be in a
2 format agreed upon by both the office of budget and program planning and the legislative fiscal analyst.

3 (7) By November 12, the budget director shall furnish the legislative fiscal analyst with the documents,
4 in a format agreed upon by both the office of budget and program planning and the legislative fiscal analyst, that
5 reflect expenditures to the second level, as provided in 17-1-102(3), by funding source and detailed by accounting
6 entity.

7 (8) By November 15, the proposed pay plan schedule and the statewide project budget summary
8 required by 17-7-111(4), a preliminary budget that meets the statutory requirements for submission of the budget
9 to the legislature, and a summary of the preliminary budget designed for distribution to members and
10 members-elect of the legislature must be submitted to the legislative fiscal analyst.

11 (9) By December 15, the budget director shall submit a preliminary budget to the governor and to the
12 governor-elect, if there is one, as provided in 17-7-121, and shall furnish the legislative fiscal analyst with all
13 amendments to the preliminary budget.

14 (10) By January 7, recommended changes proposed by a governor-elect must be transmitted to the
15 legislative fiscal analyst and the legislature as provided in 17-7-121."

16

17 **Section 77.** Section 17-7-140, MCA, is amended to read:

18 **"17-7-140. Reduction in spending.** (1) (a) As the chief budget officer of the state, the governor shall
19 ensure that the expenditure of appropriations does not exceed available revenue. Except as provided in
20 subsection (2), in the event of a projected general fund budget deficit, the governor, taking into account the
21 criteria provided in subsection (1)(b), shall direct agencies to reduce spending in an amount that ensures that the
22 projected ending general fund balance for the biennium will be at least 1% of all general fund appropriations
23 during the biennium. An agency may not be required to reduce general fund spending for any program, as defined
24 in each general appropriations act, by more than 10% during a biennium. Departments or agencies headed by
25 elected officials or the board of regents may not be required to reduce general fund spending by a percentage
26 greater than the percentage of general fund spending reductions required for the total of all other executive
27 branch agencies. The legislature may exempt from a reduction an appropriation item within a program or may
28 direct that the appropriation item may not be reduced by more than 10%.

29 (b) The governor shall direct agencies to manage their budgets in order to reduce general fund
30 expenditures. Prior to directing agencies to reduce spending as provided in subsection (1)(a), the governor shall

1 direct each agency to analyze the nature of each program that receives a general fund appropriation to determine
2 whether the program is mandatory or permissive and to analyze the impact of the proposed reduction in spending
3 on the purpose of the program. An agency shall submit its analysis to the office of budget and program planning
4 and shall at the same time provide a copy of the analysis to the legislative fiscal analyst. The office of budget and
5 program planning shall review each agency's analysis, and the budget director shall submit to the governor a
6 copy of the office of budget and program planning's recommendations for reductions in spending. The budget
7 director shall provide a copy of the recommendations to the legislative fiscal analyst at the time that the
8 recommendations are submitted to the governor and shall provide the legislative fiscal analyst with any proposed
9 changes to the recommendations. The legislative finance committee shall meet within 20 days of the date that
10 the proposed changes to the recommendations for reductions in spending are provided to the legislative fiscal
11 analyst. The legislative fiscal analyst shall provide a copy of the legislative fiscal analyst's review of the proposed
12 reductions in spending to the budget director at least 5 days before the meeting of the legislative finance
13 committee. The committee may make recommendations concerning the proposed reductions in spending. The
14 governor shall consider each agency's analysis and the recommendations of the office of budget and program
15 planning and the legislative finance committee in determining the agency's reduction in spending. Reductions in
16 spending must be designed to have the least adverse impact on the provision of services determined to be most
17 integral to the discharge of the agency's statutory responsibilities.

18 (2) Reductions in spending for the following may not be directed by the governor:

- 19 (a) payment of interest and principal on state debt;
20 (b) the legislative branch;
21 (c) the judicial branch;
22 (d) the school BASE funding program, including special education;
23 (e) salaries of elected officials during their terms of office; and
24 (f) the Montana school for the deaf and blind.

25 (3) (a) As used in this section, "projected general fund budget deficit" means an amount, certified by the
26 budget director to the governor, by which the projected ending general fund balance for the biennium is less than:

- 27 (i) 2% of the general fund appropriations for the second fiscal year of the biennium prior to October of
28 the year preceding a legislative budget session;
29 (ii) 3/4 of 1% in October of the year preceding a legislative budget session;
30 (iii) 1/2 of 1% in January of the year in which a legislative budget session is convened; and

1 (iv) 1/4 of 1% in March of the year in which a legislative budget session is convened.

2 (b) In determining the amount of the projected general fund budget deficit, the budget director shall take
3 into account revenue, established levels of appropriation, anticipated supplemental appropriations for school
4 equalization aid, and anticipated reversions.

5 (4) If the budget director determines that an amount of actual or projected receipts will result in an
6 amount less than the amount projected to be received in the revenue estimate established pursuant to 5-5-227,
7 the budget director shall notify the revenue and transportation interim committee of the estimated amount. Within
8 20 days of notification, the revenue and transportation interim committee shall provide the budget director with
9 any recommendations concerning the amount. The budget director shall consider any recommendations of the
10 revenue and transportation interim committee prior to certifying a projected general fund budget deficit to the
11 governor."

12

13 **Section 78.** Section 17-7-150, MCA, is amended to read:

14 **"17-7-150. Definitions.** As used in 17-7-151, the following definitions apply:

15 (1) "Current biennium" means the biennium during which the legislature is meeting in ~~regular~~ budget
16 session.

17 (2) "Next biennium" means the biennium for which ~~the regular~~ a budget session of the legislature makes
18 appropriations.

19 (3) (a) "State resources" means:

20 (i) the general fund;

21 (ii) state special revenue funds other than private funds;

22 (iii) federal special revenue funds;

23 (iv) proprietary funds that require an appropriation;

24 (v) long-range building program appropriations; and

25 (vi) agency funds distributed to local governments.

26 (b) The term does not include:

27 (i) debt service funds;

28 (ii) capital project funds other than those appropriated;

29 (iii) internal service or proprietary funds that do not require an appropriation;

30 (iv) fund transfers;

- 1 (v) enterprise funds;
- 2 (vi) unrestricted or other university funds;
- 3 (vii) agency funds not distributed to local governments;
- 4 (viii) private purpose trust funds;
- 5 (ix) permanent funds;
- 6 (x) pension trust funds;
- 7 (xi) noncash accounting entries; and
- 8 (xii) private funds deposited in state special revenue accounts."

9

10 **Section 79.** Section 17-7-203, MCA, is amended to read:

11 **"17-7-203. Submission to legislature.** During the first week of each regular legislative budget session,
12 the governor shall submit to the legislature:

13 (1) the requests of all state agencies and institutions compiled in the form of a comprehensive,
14 long-range proposed building program, including:

- 15 (a) the purpose for which each building would be used;
- 16 (b) the estimated cost of each building, including necessary land acquisition;
- 17 (c) the reasons given by the institution or agency for needing each building;
- 18 (d) a priority order recommended by the agency or institution for each building;
- 19 (e) the recommendation of the institution or agency as to when each building is needed;
- 20 (f) any comments of the governor;

21 (2) a building program proposed by the governor for the forthcoming biennium in the form of a capital
22 construction budget, including:

- 23 (a) the purpose for which each building would be used;
- 24 (b) the estimated cost of each building and necessary land acquisition;
- 25 (c) the reasons for the governor's recommendation to construct each building during the forthcoming
26 biennium;
- 27 (d) the proposed method of financing for each building;
- 28 (e) any long-range building plans;
- 29 (f) any changes in the law necessary to insure an effective, well-coordinated building program for the
30 state."

- 1
- 2 **Section 80.** Section 17-7-402, MCA, is amended to read:
- 3 **"17-7-402. (Temporary) Budget amendment requirements.** (1) Except as provided in subsection (7),
- 4 a budget amendment may not be approved:
- 5 (a) by the approving authority, except a budget amendment to spend:
- 6 (i) additional federal revenue, including grant funds or other funds received pursuant to the American
- 7 Recovery and Reinvestment Act of 2009, Public Law 111-5;
- 8 (ii) additional tuition collected by the Montana university system;
- 9 (iii) additional revenue deposited in the internal service funds within the department or the office of the
- 10 commissioner of higher education as a result of increased service demands by state agencies;
- 11 (iv) Montana historical society enterprise revenue resulting from sales to the public;
- 12 (v) additional revenue that is deposited in funds other than the general fund and that is from the sale of
- 13 fuel for those agencies participating in the Montana public vehicle fueling program established by Executive Order
- 14 22-91;
- 15 (vi) revenue resulting from the sale of goods produced or manufactured by the industries program of an
- 16 institution within the department of corrections;
- 17 (vii) revenue collected for the administration of the state grain laboratory under the provisions of Title 80,
- 18 chapter 4, part 7;
- 19 (viii) revenue collected for the Water Pollution Control State Revolving Fund Act under the provisions of
- 20 Title 75, chapter 5, part 11;
- 21 (ix) revenue collected for the Drinking Water State Revolving Fund Act under the provisions of Title 75,
- 22 chapter 6, part 2;
- 23 (x) state special revenue adjustments required to allocate costs for leave or terminal leave within an
- 24 agency in accordance with federal circular A-87; or
- 25 (xi) revenue generated from fees collected by the department of justice for dissemination of criminal
- 26 history record information pursuant to Title 44, chapter 5, part 3;
- 27 (b) by the approving authority if the budget amendment contains any significant ascertainable
- 28 commitment for any present or future increased general fund support;
- 29 (c) by the approving authority for the expenditure of money in the state special revenue fund unless:
- 30 (i) an emergency justifies the expenditure;

- 1 (ii) the expenditure is authorized under subsection (1)(a); or
2 (iii) the expenditure is exempt under subsection (5);
3 (d) by the approving authority unless it will provide additional services;
4 (e) by the approving authority for any matter, other than the receipt of federal funds pursuant to the
5 American Recovery and Reinvestment Act of 2009, Public Law 111-5, that are not allocated or appropriated in
6 Chapter 489, Laws of 2009, of which the requesting agency had knowledge at a time when the proposal could
7 have been presented to an appropriation subcommittee, the house appropriations committee, or the senate
8 finance and claims committee of the most recent legislative session open to that matter, except when the
9 legislative finance committee is given specific notice by the approving authority that significant identifiable events,
10 specific to Montana and pursuant to provisions or requirements of Montana state law, have occurred since the
11 matter was raised with or presented for consideration by the legislature; or
12 (f) to extend beyond June 30 of the last year of any biennium, except that budget amendments for federal
13 funds may extend to the end of the federal fiscal year.
- 14 (2) A general fund loan made pursuant to 17-2-107 does not constitute a significant ascertainable
15 commitment of present general fund support.
- 16 (3) Subject to subsection (1)(f), all budget amendments must itemize planned expenditures by fiscal year.
- 17 (4) Each budget amendment must be submitted by the approving authority to the budget director and
18 the legislative fiscal analyst.
- 19 (5) Money from nonstate or nonfederal sources that would be deposited in the state special revenue fund
20 and that is restricted by law or by the terms of a written agreement, such as a contract, trust agreement, or
21 donation, is exempt from the requirements of this part.
- 22 (6) An appropriation for a nonrecurring item that would usually be the subject of a budget amendment
23 must be submitted to the legislature for approval during a legislative budget session between January 1 and the
24 senate hearing on the budget amendment bill. The bill may include authority to spend money in the current fiscal
25 year and in both fiscal years of the next biennium.
- 26 (7) A budget amendment to spend state funds, other than from the general fund, required for matching
27 funds in order to receive a grant is exempt from the provisions of subsection (1). (Terminates June 30, 2011--sec.
28 82, Ch. 489, L. 2009.)
- 29 **17-7-402. (Effective July 1, 2011) Budget amendment requirements.** (1) Except as provided in
30 subsection (7), a budget amendment may not be approved:

- 1 (a) by the approving authority, except a budget amendment to spend:
- 2 (i) additional federal revenue;
- 3 (ii) additional tuition collected by the Montana university system;
- 4 (iii) additional revenue deposited in the internal service funds within the department or the office of the
- 5 commissioner of higher education as a result of increased service demands by state agencies;
- 6 (iv) Montana historical society enterprise revenue resulting from sales to the public;
- 7 (v) additional revenue that is deposited in funds other than the general fund and that is from the sale of
- 8 fuel for those agencies participating in the Montana public vehicle fueling program established by Executive Order
- 9 22-91;
- 10 (vi) revenue resulting from the sale of goods produced or manufactured by the industries program of an
- 11 institution within the department of corrections;
- 12 (vii) revenue collected for the administration of the state grain laboratory under the provisions of Title 80,
- 13 chapter 4, part 7;
- 14 (viii) revenue collected for the Water Pollution Control State Revolving Fund Act under the provisions of
- 15 Title 75, chapter 5, part 11;
- 16 (ix) revenue collected for the Drinking Water State Revolving Fund Act under the provisions of Title 75,
- 17 chapter 6, part 2;
- 18 (x) state special revenue adjustments required to allocate costs for leave or terminal leave within an
- 19 agency in accordance with federal circular A-87; or
- 20 (xi) revenue generated from fees collected by the department of justice for dissemination of criminal
- 21 history record information pursuant to Title 44, chapter 5, part 3;
- 22 (b) by the approving authority if the budget amendment contains any significant ascertainable
- 23 commitment for any present or future increased general fund support;
- 24 (c) by the approving authority for the expenditure of money in the state special revenue fund unless:
- 25 (i) an emergency justifies the expenditure;
- 26 (ii) the expenditure is authorized under subsection (1)(a); or
- 27 (iii) the expenditure is exempt under subsection (5);
- 28 (d) by the approving authority unless it will provide additional services;
- 29 (e) by the approving authority for any matter of which the requesting agency had knowledge at a time
- 30 when the proposal could have been presented to an appropriation subcommittee, the house appropriations

1 committee, or the senate finance and claims committee of the most recent legislative session open to that matter,
2 except when the legislative finance committee is given specific notice by the approving authority that significant
3 identifiable events, specific to Montana and pursuant to provisions or requirements of Montana state law, have
4 occurred since the matter was raised with or presented for consideration by the legislature; or

5 (f) to extend beyond June 30 of the last year of any biennium, except that budget amendments for federal
6 funds may extend to the end of the federal fiscal year.

7 (2) A general fund loan made pursuant to 17-2-107 does not constitute a significant ascertainable
8 commitment of present general fund support.

9 (3) Subject to subsection (1)(f), all budget amendments must itemize planned expenditures by fiscal year.

10 (4) Each budget amendment must be submitted by the approving authority to the budget director and
11 the legislative fiscal analyst.

12 (5) Money from nonstate or nonfederal sources that would be deposited in the state special revenue fund
13 and that is restricted by law or by the terms of a written agreement, such as a contract, trust agreement, or
14 donation, is exempt from the requirements of this part.

15 (6) An appropriation for a nonrecurring item that would usually be the subject of a budget amendment
16 must be submitted to the legislature for approval during a legislative budget session between January 1 and the
17 senate hearing on the budget amendment bill. The bill may include authority to spend money in the current fiscal
18 year and in both fiscal years of the next biennium.

19 (7) A budget amendment to spend state funds, other than from the general fund, required for matching
20 funds in order to receive a grant is exempt from the provisions of subsection (1)."

21

22 **Section 81.** Section 19-3-412, MCA, is amended to read:

23 **"19-3-412. Optional membership.** (1) Except as provided in 5-2-304 and subsection (2) of this section,
24 the following employees and elected officials in covered positions shall elect either to become active members
25 of the retirement system or to decline this optional membership by filing an irrevocable, written application with
26 the board in the manner prescribed in subsection (3):

27 (a) elected officials of the state or local governments, including individuals appointed to fill the unexpired
28 term of elected officials, who:

29 (i) are paid on a salary or wage basis rather than on a per diem or other reimbursement basis; or

30 (ii) were members receiving retirement benefits under the defined benefit plan or a distribution under the

- 1 defined contribution plan at the time of their election;
- 2 (b) employees serving in employment that does not cumulatively exceed a total of 960 hours of covered
3 employment with all employers under this chapter in any fiscal year;
- 4 (c) employees directly appointed by the governor;
- 5 (d) employees working 10 months or less for the legislative branch to perform work related to the budget,
6 general, or both legislative ~~session~~ sessions;
- 7 (e) the chief administrative officer of any city or county;
- 8 (f) employees of county hospitals or rest homes.
- 9 (2) A member who is elected to a local government position in which the member works less than 960
10 hours in a calendar year may, within 90 days of being elected, decline optional membership with respect to the
11 member's elected position.
- 12 (3) (a) The board shall prescribe the form of the written application required pursuant to subsection (1)
13 and provide written application forms to each employer.
- 14 (b) Each employee or elected official in a position covered under subsection (1) shall obtain the written
15 application form from the employer and complete and return it to the board.
- 16 (c) The written application must be filed with the board:
- 17 (i) for an employee described in subsection (1)(d), within 90 days of the commencement of the
18 employee's employment; and
- 19 (ii) for an employee or elected official described in subsection (1)(a), (1)(b), (1)(c), (1)(e), or (1)(f), within
20 90 days of the commencement of the employee's or elected official's employment.
- 21 (d) The employer shall retain a copy of the employee's or elected official's written application.
- 22 (4) If the employee or elected official fails to file the written application required under subsection (1) with
23 the board within the time allowed in subsection (3), the employee or elected official waives membership.
- 24 (5) An employee or elected official who declines optional membership may not receive membership
25 service or service credit for the employment for which membership was declined.
- 26 (6) An employee or elected official who declined optional membership but later becomes a member may
27 purchase service credit for the period of time beginning with the date of employment in which membership was
28 declined to the commencement of membership. Purchase of service credit pursuant to this subsection must
29 comply with 19-3-505.
- 30 (7) Except as provided in subsection (2), membership in the retirement system is not optional for an

1 employee or elected official who is already a member. Upon employment in a position for which membership is
2 optional:

3 (a) a member who was an active member before the employment remains an active member;

4 (b) a member who was an inactive member before the employment becomes an active member; and

5 (c) a member who was a retired member before the employment is subject to part 11 of this chapter.

6 (8) (a) An employee who declines membership for a position for which membership is optional may not
7 later become a member while still employed with the same employer but in a different optional membership
8 position.

9 (b) An elected official who declines membership for a position for which membership is optional may not
10 later become a member if reelected to the same optional membership position.

11 (c) If, after a break in service of 30 days or more, an employee who was employed in an optional
12 membership position is reemployed in the same position or is employed in a different position for which
13 membership is optional, the employee shall again choose or decline membership.

14 (d) If the break in service is less than 30 days, an employee who declined membership is bound by the
15 employee's original decision to decline membership.

16 (9) An employee accepting a position that requires membership must become a member even if the
17 employee previously declined membership and did not have a 30-day break in service."

18

19 **Section 82.** Section 19-3-2121, MCA, is amended to read:

20 **"19-3-2121. Determination and adjustment of plan choice rate and contribution allocations. (1)**

21 The board shall periodically review the sufficiency of the plan choice rate and shall adjust the allocation of
22 contributions under 19-3-2117 as specified in this section. The board shall collect and maintain the data
23 necessary to comply with this section.

24 (2) The plan choice rate set in 19-3-2117(2)(a)(ii) must be adjusted as provided in this section, taking
25 into account:

26 (a) as determined under subsection (3), the change in the normal cost contribution rate in the defined
27 benefit plan that is the result of member selection of the defined contribution plan; and

28 (b) as determined under subsection (4), the sufficiency of the plan choice rate to actuarially fund the
29 defined contribution plan member's appropriate share of the defined benefit plan's unfunded liabilities.

30 (3) The change in the normal cost contribution rate must be an amount equal to the difference between

1 the normal cost contribution rate in the defined benefit plan that would have resulted if all system members
2 remained in the defined benefit plan and the normal cost contribution rate in the defined benefit plan for the actual
3 members of the defined benefit plan, multiplied by the compensation paid to all of the members in the defined
4 benefit plan, divided by the compensation paid to all of the members in the defined contribution plan. The
5 measurements under this subsection must be based on the defined benefit plan in effect on the effective date
6 of the defined contribution plan until the board determines that the defined benefit plan has been amended in a
7 manner that significantly affects plan choices available to system members. After a board determination that the
8 defined benefit plan has been significantly changed, the measurements in this subsection with respect to
9 members entering the system after the significant change must be made on the basis of the defined benefit plan,
10 as amended.

11 (4) The sufficiency of the plan choice rate to actuarially fund the appropriate share of the defined benefit
12 plan's unfunded liabilities must be determined as follows:

13 (a) The board shall determine the number of years required to actuarially fund the defined benefit plan's
14 unfunded liabilities as of the June 30, 1998, actuarial valuation, which must be the initial schedule for the defined
15 contribution plan to actuarially fund the plan's share of the unfunded liabilities. The board shall reduce the
16 schedule by 1 year each biennium.

17 (b) During each subsequent actuarial valuation of the defined benefit plan conducted pursuant to
18 19-2-405, the board shall determine whether the plan choice rate minus the amount provided in subsection (2)(a)
19 of this section is sufficient to pay the unfunded liability obligations within the schedule determined under
20 subsection (4)(a) of this section. If the amount is insufficient to fund the liability over a period of 10 years longer
21 than the scheduled period or is more than sufficient to fund the liability over a period of 10 years earlier than the
22 scheduled period, the board shall determine to the nearest 0.1% the amount of the increase or decrease in the
23 plan choice rate that is required to actuarially fund the liabilities according to the established schedule.

24 (5) If the board determines that the plan choice rate should be increased or decreased, the plan choice
25 rate under 19-3-2117(2)(a)(ii) must be increased or decreased accordingly. If the plan choice rate is increased,
26 the allocation of employer contributions to member accounts under 19-3-2117(2)(a)(i) must be decreased by that
27 amount. If the plan choice rate is decreased, the allocation of employer contributions to member accounts under
28 19-3-2117(2)(a)(i) must be increased by that amount.

29 (6) If the board determines that the contribution rate to the disability plan under 19-3-2117(2)(a)(iv)
30 should be increased, the employer contribution to each member's account under 19-3-2117(2)(a)(i) must be

1 decreased by that amount. If the board determines that the contribution rate to the disability plan under
 2 19-3-2117(2)(a)(iv) should be decreased, the employer contribution to each member's account under
 3 19-3-2117(2)(a)(i) must be increased by that amount.

4 (7) By November 1 of the year of a determination pursuant to this section that the allocation of employer
 5 contributions under 19-3-2117(2) must be changed, the board shall notify system members, participating
 6 employers, employee and employer organizations, the governor, and the legislature of its determination and of
 7 the changes required.

8 (8) Effective January 1 of the year after the ~~regular~~ legislative budget session that immediately follows
 9 a determination under this section, the plan choice rate and the allocation of contributions under 19-3-2117(2)
 10 must be adjusted according to the board's determination."
 11

12 **Section 83.** Section 19-20-732, MCA, is amended to read:

13 **"19-20-732. (Temporary) Reemployment of certain retired teachers, specialists and administrators**
 14 **-- procedure -- definitions.** (1) Subject to the provisions of this section:

15 (a) a teacher, specialist, or administrator who has been receiving a retirement allowance for no less than
 16 2 months, except a disability retirement allowance pursuant to part 9 of this chapter, may be employed on a
 17 full-time basis by an employer for a maximum of 3 years during the lifetime of the retired member without the loss
 18 or interruption of any payments or retirement benefits if:

19 (i) the retired member completed 30 or more years of creditable service prior to retirement;

20 (ii) the retired member holds a valid certificate pursuant to the provisions of 20-4-106; and

21 (iii) each year, prior to employing a retired member, the employer certifies to the office of public instruction
 22 and to the retirement board that after having advertised the position for that year the employer has been unable
 23 to fill the position because the employer either has received no qualified applications or has not received an
 24 acceptance of an offer of employment made to a nonretired teacher, specialist, or administrator;

25 (b) the employer certification required by this section must include the retired member's name and social
 26 security number and a copy of the proposed contract of employment for the retired member;

27 (c) upon receipt of the employer's certification and of the proposed contract of employment, the
 28 retirement board shall verify whether the retired member meets the requirements of subsection (1)(a)(i) and shall
 29 notify the employer and the retired member of its findings;

30 (d) a retired member reemployed under this section is ineligible for active membership under 19-20-302

1 and is ineligible to receive service credit under any retirement system identified in Title 19; and

2 (e) the retirement board shall report to the appropriate committee each legislative general session
3 regarding the implementation of and results arising from this section.

4 (2) An employer employing a retired member pursuant to this section shall contribute monthly to the
5 retirement system an amount equal to the sum of the contribution rates required by 19-20-602, 19-20-604,
6 19-20-605, and 19-20-607.

7 (3) A retired member reemployed pursuant to this section is exempt from the earnings and employment
8 limits provided in 19-20-731.

9 (4) If reemployed in a position covered by a collective bargaining agreement pursuant to Title 39, chapter
10 31, the retired member is subject to all the terms and conditions of the agreement and is entitled to all the benefits
11 and protections of the agreement.

12 (5) The board may adopt rules to implement this section.

13 (6) As used in this section, the following definitions apply:

14 (a) "Employer" means a school district as defined in 20-6-101 and 20-6-701.

15 (b) "Year" means all or any part of a school year. (Terminates June 30, 2015--sec. 5, Ch. 129, L. 2009.)"

16

17 **Section 84.** Section 20-7-101, MCA, is amended to read:

18 **"20-7-101. Standards of accreditation.** (1) Standards of accreditation for all schools must be adopted
19 by the board of public education upon the recommendations of the superintendent of public instruction.

20 (2) Prior to adoption or amendment of any accreditation standard, the board shall submit each proposal
21 to the education and local government interim committee for review. The interim committee shall request a fiscal
22 analysis to be prepared by the legislative fiscal division. The legislative fiscal division shall provide its analysis
23 to the interim committee and to the office of budget and program planning to be used in the preparation of the
24 executive budget.

25 (3) If the fiscal analysis of the proposal is found by the legislative fiscal division to have a substantial
26 fiscal impact, the board may not implement the standard until July 1 following the next ~~regular~~ legislative budget
27 session and shall request that the same legislature fund implementation of the proposed standard. A substantial
28 fiscal impact is an amount that cannot be readily absorbed in the budget of an existing school district program.

29 (4) Standards for the retention of school records must be as provided in 20-1-212."

30

1 **Section 85.** Section 20-9-542, MCA, is amended to read:

2 **"20-9-542. School flexibility account -- distribution of funds.** (1) There is a school flexibility account
3 in the state special revenue fund. The superintendent of public instruction shall allocate the money in the account,
4 including any interest earned on money allocated to the account, to each school district. Each school district's
5 total allocation is the sum of the district K-12 public school funding amount, the district large K-12 public school
6 funding amount, and the district student funding amount.

7 (2) In addition to funds allocated or appropriated to the school flexibility account, all money saved by the
8 state if the actual statewide ANB in a given fiscal year is less than the statewide ANB projected by the legislature
9 during the preceding legislative budget session must be deposited in the school flexibility account.

10 (3) A portion of the money in the school flexibility account may be expended by a district to alleviate
11 certified staff shortages in the district or for retirement incentives only if a portion of the account is specified for
12 that purpose in a general appropriation act."

13

14 **Section 86.** Section 20-15-309, MCA, is amended to read:

15 **"20-15-309. Proposed budget.** The board of trustees of a community college district shall submit a
16 proposed budget to the board of regents by August 15 immediately preceding each ~~regular~~ legislative budget
17 session. The proposed budget shall be for the next biennium and in a form approved by the state budget director
18 and the commissioner of higher education and shall be calculated in the same manner as the operating budget
19 described in 20-15-312. The board of regents shall review the proposed budget and all its components and make
20 any changes it determines necessary. By the following September 1, the board of regents shall submit its
21 proposal for funding the community colleges to the budget director and the legislative fiscal analyst."

22

23 **Section 87.** Section 20-20-105, MCA, is amended to read:

24 **"20-20-105. Regular school election day and special school elections -- limitation -- exception.**

25 (1) Except as provided in subsection (4), the first Tuesday after the first Monday of May of each year is the regular
26 school election day. Except as provided in subsections (3) and (4), a proposition requesting additional funding
27 under 20-9-353 may be submitted to the electors only once each calendar year on the regular school election
28 day.

29 (2) Subject to the provisions of subsection (1), special school elections may be conducted at times
30 determined by the trustees.

1 (3) In the event of an unforeseen emergency occurring on the date scheduled for the funding election
2 pursuant to subsection (1), the district will be allowed to reschedule the election for a different day of the calendar
3 year. As used in this section, "unforeseen emergency" has the meaning provided in 20-3-322(5).

4 (4) In years when the legislature meets in ~~regular~~ budget session or in a special session that affects
5 school funding, the trustees may order the election on a date other than the regular school election day in order
6 for the electors to consider a proposition requesting additional funding under 20-9-353."

7

8 **Section 88.** Section 22-2-301, MCA, is amended to read:

9 **"22-2-301. Cultural and aesthetic projects grants.** (1) Any person, association, or representative of
10 a governing unit seeking a grant for a cultural or aesthetic project from the income of the trust fund created in
11 15-35-108 must submit a grant proposal to the cultural and aesthetic projects advisory committee, in care of the
12 Montana arts council, by August 1 of the year preceding the convening of a ~~regular~~ legislative budget session.

13 (2) Grant proposals must be for the purpose of protecting works of art in the state capitol or other cultural
14 and aesthetic projects."

15

16 **Section 89.** Section 22-2-302, MCA, is amended to read:

17 **"22-2-302. Advisory committee -- powers and duties.** (1) The cultural and aesthetic projects advisory
18 committee provided for in 2-15-1521 shall review all proposals for cultural and aesthetic project grants before they
19 are submitted to the legislature.

20 (2) Consistent with the rules adopted in accordance with 22-2-303, the committee shall make
21 recommendations to the legislature on each proposal submitted to the committee.

22 (3) The committee's recommendations to the legislature are advisory only.

23 (4) The committee shall present its recommendations to the appropriations committee of the legislature
24 by the 15th day of any ~~regular~~ legislative budget session."

25

26 **Section 90.** Section 22-3-1003, MCA, is amended to read:

27 **"22-3-1003. Powers of commission -- contracts -- rules.** (1) (a) The Montana heritage preservation
28 and development commission may contract with private organizations to assist in carrying out the purpose of
29 22-3-1001. The term of a contract may not exceed 20 years.

30 (b) The provisions of Title 18 may not be construed as prohibiting contracts under this section from being

1 let by direct negotiation. The contracts may be entered into directly with a vendor and are not subject to state
2 procurement laws.

3 (c) Architectural and engineering review and approval do not apply to the historic renovation projects
4 or projects at historic sites unless stated in specific state appropriations for construction permitted under the
5 commission's jurisdiction.

6 (d) The contracts must provide for the payment of prevailing wages.

7 (e) A contract for supplies or services, or both, may be negotiated in accordance with commission rules.

8 (f) Management activities must be undertaken to encourage the profitable operation of properties.

9 (g) Contracts may include the lease of property managed by the commission. Provisions for the renewal
10 of a contract must be contained in the contract.

11 (2) (a) Except as provided in subsection (2)(b), the commission may not contract for the construction of
12 a building, as defined in 18-2-101, in excess of \$300,000 without the consent of the legislature. Building
13 construction must be in conformity with applicable guidelines developed by the national park service of the U.S.
14 department of the interior, the Montana historical society, and the Montana department of fish, wildlife, and parks.
15 Funding for these projects must pass through directly to the commission.

16 (b) The commission may contract for the preservation, stabilization, or maintenance of existing structures
17 or buildings for an amount that exceeds \$300,000 without legislative consent if the commission determines that
18 waiting for legislative consent would cause unnecessary damage to the structures or buildings or would result
19 in a significant increase in cost to conduct those activities in the future.

20 (3) (a) Subject to subsection (3)(b), the commission, as part of a contract, shall require that a portion of
21 any profit be reinvested in the property and that a portion be used to pay the administrative costs of the property
22 and the commission.

23 (b) (i) Until the balance in the cultural and aesthetic trust reaches \$7,750,000, the commission shall
24 deposit the portion of profits not used for administrative costs and restoration of the properties in the cultural and
25 aesthetic trust.

26 (ii) Once the balance in the cultural and aesthetic trust reaches \$7,750,000, the commission shall deposit
27 the portion of profits not used for administrative costs and restoration of the properties in the general fund.

28 (c) It is the intent of the 58th legislature that no general fund money be provided for the operations and
29 maintenance of Virginia City and Nevada City beyond what has been appropriated by the 55th legislature.

30 (4) The commission may solicit funds from other sources, including the federal government, for the

1 purchase, management, and operation of properties.

2 (5) (a) The commission may use volunteers to further the purposes of this part.

3 (b) The commission and volunteers stand in the relationship of employer and employee for purposes
4 of and as those terms are defined in Title 39, chapter 71. The commission shall provide each volunteer with
5 workers' compensation coverage, as provided in Title 39, chapter 71, during the course of the volunteer's
6 assistance.

7 (6) Volunteers are not salaried employees and are not entitled to wages and benefits. The commission
8 may, in its discretion, reimburse volunteers for their otherwise uncompensated out-of-pocket expenses, including
9 but not limited to their expenditures for transportation, food, and lodging.

10 (7) The commission shall establish a subcommittee composed of an equal number of members of the
11 Montana historical society board of trustees and commission members to review and recommend the sale of
12 personal property from the former Bovey assets acquired by the 55th legislature. A recommendation to sell may
13 be presented to the commission only if the recommendation is supported by a majority of the members of the
14 subcommittee.

15 (8) The commission shall adopt rules establishing a policy for making acquisitions and sales of real and
16 personal property. With respect to each acquisition or sale, the policy must give consideration to:

17 (a) whether the property represents the state's culture and history;

18 (b) whether the property can become self-supporting;

19 (c) whether the property can contribute to the economic and social enrichment of the state;

20 (d) whether the property lends itself to programs to interpret Montana history;

21 (e) whether the acquisition or sale will create significant social and economic impacts to affected local
22 governments and the state;

23 (f) whether the sale is supported by the director of the Montana historical society;

24 (g) whether the commission should include any preservation covenants in a proposed sale agreement
25 for real property;

26 (h) whether the commission should incorporate any design review ordinances established by Virginia
27 City into a proposed sale agreement for real property; and

28 (i) other matters that the commission considers necessary or appropriate.

29 (9) Except as provided in subsection (11), the proceeds of any sale under subsection (8) must be placed
30 in the account established in 22-3-1004.

1 (10) Public notice and the opportunity for a hearing must be given in the geographical area of a proposed
 2 acquisition or sale of real property before a final decision to acquire or sell the property is made. The commission
 3 shall approve proposals for acquisition or sale of real property and recommend the approved proposal to the
 4 board of land commissioners.

5 (11) The commission, working with the board of investments, may establish trust funds to benefit historic
 6 properties. Interest from any trust fund established under this subsection must be used to preserve and manage
 7 assets owned by the commission. Funds from the sale of personal property from the Bovey assets must be
 8 placed in a trust fund, and interest from the trust fund must be used to manage and protect the remaining
 9 personal property.

10 (12) Prior to the convening of each ~~regular~~ budget session, the commission shall report to the governor
 11 and the legislature, as provided in 5-11-210, concerning financial activities during the prior biennium, including
 12 the acquisition or sale of any assets."

13

14 **Section 91.** Section 23-1-108, MCA, is amended to read:

15 **"23-1-108. Acquisition of certain state parks, monuments, or historical sites.** (1) Any person,
 16 association, or representative of a governing unit may submit a proposal for the acquisition of a site or area
 17 described in 23-1-102 from the income of the trust fund created in 15-35-108 to the department of fish, wildlife,
 18 and parks by July 1 of the year preceding the convening of a legislative budget session.

19 (2) The fish, wildlife, and parks commission shall present to the legislature by the 15th day of any
 20 legislative budget session a list of areas, sites, or objects that were proposed for purchase for use as state parks,
 21 state recreational areas, state monuments, or state historical sites with the money contained in the parks account.

22 (3) The legislature must appropriate funds from this account before any park, area, monument, or site
 23 may be purchased."

24

25 **Section 92.** Section 30-9A-527, MCA, is amended to read:

26 **"30-9A-527. Duty to report.** The secretary of state shall report to each general session of the legislature
 27 on the operation of the filing office. The report must contain a statement of the extent to which:

28 (1) the filing-office rules are not in harmony with the rules of filing offices in other jurisdictions that enact
 29 substantially this part and the reasons for these variations; and

30 (2) the filing-office rules are not in harmony with the most recent version of the model rules promulgated

1 by the international association of corporate administrators or any successor organization and the reasons for
2 these variations."

3

4 **Section 93.** Section 32-9-130, MCA, is amended to read:

5 **"32-9-130. Department authority -- rulemaking.** (1) The department shall adopt rules necessary to
6 carry out the intent and purposes of this part. The rules adopted are binding on all licensees and enforceable
7 through the power of suspension or revocation of licenses.

8 (2) The rules must address:

9 (a) revocation or suspension of licenses for cause;

10 (b) investigation of applicants, licensees, and unlicensed persons alleged to have violated a provision
11 of this part and handling of complaints made by any person in connection with any business transacted by a
12 licensee;

13 (c) (i) ensuring that all persons are informed of their right to contest a decision by the department under
14 the Montana Administrative Procedure Act; and

15 (ii) holding contested case hearings pursuant to the Montana Administrative Procedure Act and issuing
16 cease and desist orders, orders of restitution, and orders for the recovery of administrative costs;

17 (d) prescribing forms for applications; and

18 (e) establishing fees for license renewals.

19 (3) The department may seek a writ or order restraining or enjoining, temporarily or permanently, any
20 act or practice violating any provision of this part.

21 (4) (a) For the purposes of investigating violations or complaints arising under this part or for the
22 purposes of examination, the department may review, investigate, or examine any licensee or person subject to
23 this part as often as necessary in order to carry out the purposes of this part.

24 (b) The commissioner may direct, subpoena, or order the attendance of and may examine under oath
25 any person whose testimony may be required about the subject matter of any examination or investigation and
26 may direct, subpoena, or order the person to produce books, accounts, records, files, and any other documents
27 the commissioner considers relevant to the inquiry.

28 (5) Each licensee or person subject to this part shall make available to the department upon request the
29 documents and records relating to the operations of the licensee or person. The department may access the
30 documents and records and may interview the officers, principals, mortgage loan originators, employees,

1 independent contractors, agents, or customers of the licensee or person concerning the business of the licensee
2 or person or any other person having knowledge that the department considers relevant.

3 (6) (a) The department may conduct investigations and examinations for the purposes of initial licensing,
4 license renewal, license suspension, license conditioning, license revocation, or license termination or to
5 determine compliance with this part.

6 (b) The department has the authority to access, receive, and use any books, accounts, records, files,
7 documents, information, or evidence, including but not limited to:

8 (i) criminal, civil, and administrative history information, including confidential criminal justice information
9 as defined in 44-5-103;

10 (ii) personal history and experience information, including independent credit reports obtained from a
11 consumer reporting agency described in section 603(p) of the Fair Credit Reporting Act, 15 U.S.C. 1681, et seq.;
12 and

13 (iii) any other documents, information, or evidence the department considers relevant to an inquiry or
14 investigation regardless of the location, possession, control, or custody of the documents, information, or
15 evidence.

16 (7) (a) The total cost for any examination or investigation must be in accordance with fees determined
17 by the department by rule pursuant to this section and may include expenses for necessary travel outside the
18 state for the purposes of conducting the examination or investigation. The fees set by the department must be
19 commensurate with the cost of the examination or investigation. All fees collected under this section must be
20 deposited in the department's account in the state special revenue fund to be used by the department to cover
21 the department's cost of conducting examinations and investigations.

22 (b) The cost of an examination or investigation must be paid by the licensee or person within 30 days
23 after the date of the invoice. Failure to pay the cost of an examination or investigation when due must result in
24 the suspension or revocation of a licensee's license.

25 (8) (a) The department may:

26 (i) exchange information with federal and state regulatory agencies, the attorney general, the consumer
27 protection office of the department, and the legislative auditor;

28 (ii) exchange information other than confidential information with the mortgage asset research institute,
29 inc., and other similar organizations; and

30 (iii) refer any matter to the appropriate law enforcement agency for prosecution of a violation of this part.

- 1 (b) To carry out the purposes of this section, the department may:
- 2 (i) enter into agreements or relationships with other government officials or regulatory associations to
- 3 improve efficiencies and reduce the regulatory burden by sharing resources, adopting standardized or uniform
- 4 methods or procedures, and sharing documents, records, information, or evidence obtained under this section;
- 5 (ii) retain attorneys, accountants, or other professionals and specialists as examiners, auditors, or
- 6 investigators to conduct or assist in the conduct of examinations or investigations;
- 7 (iii) use, hire, contract, or employ public or privately available analytical systems, methods, or software
- 8 to examine or investigate the licensee or person subject to this part;
- 9 (iv) accept and rely on examination or investigation reports by other government officials, within or outside
- 10 of this state;
- 11 (v) accept audit reports made by an independent certified public accountant for the licensee or person
- 12 subject to this part if the examination or investigation covers at least in part the same general subject matter as
- 13 the audit report and may incorporate the audit report in the report of the examination, report of the investigation,
- 14 or other writing of the department under this part; and
- 15 (vi) assess against the licensee or person subject to this part the costs incurred by the department in
- 16 conducting the examination or investigation.
- 17 (c) Except as provided in 32-9-160 and subsection (8)(a)(i) of this section, the department shall treat all
- 18 confidential criminal justice information as confidential unless otherwise required by law.
- 19 (9) The department shall prepare, at least once each calendar year, a roster listing the name and
- 20 locations for each mortgage broker and mortgage lender and a roster of all mortgage loan originators and
- 21 designated managers and the name of their employing mortgage brokers or employing mortgage lenders. The
- 22 roster must be available to interested persons and to the general public.
- 23 (10) Pursuant to section 1508(d) of the of the Secure and Fair Enforcement for Mortgage Licensing Act,
- 24 Title V of the Housing and Economic Recovery Act of 2008, Public Law 110-289, the department is authorized
- 25 to:
- 26 (a) supervise and enforce the provisions of this part, including the suspension, termination, revocation,
- 27 or nonrenewal of a license for violation of state or federal law;
- 28 (b) participate in the nationwide mortgage licensing system and registry;
- 29 (c) ensure that all mortgage broker, mortgage lender, and mortgage loan originator applicants under this
- 30 part apply for state licensure and pay any required nonrefundable fees to and maintain a valid unique identifier

1 issued by the nationwide mortgage licensing system and registry; and

2 (d) regularly report violations of state or federal law and enforcement actions to the nationwide mortgage
3 licensing system and registry.

4 (11) (a) The department may, if the U.S. department of housing and urban development determines that
5 a provision of this part does not meet the requirements of the Secure and Fair Enforcement for Mortgage
6 Licensing Act, Title V of the Housing and Economic Recovery Act of 2008, Public Law 110-289, or that additional
7 persons are subject to this part, refrain from enforcing the provision that is determined to be noncompliant and
8 shall by rule invalidate any noncompliant exemption to this part or require that additional persons be temporarily
9 subject to this part to be compliant with federal law, including the provisions for licensure and registration with
10 and maintenance of a valid unique identifier with the nationwide mortgage licensing system and registry.

11 (b) The department shall propose to the ~~regular~~ general session of the legislature that follows the
12 determination by the U.S. department of housing and urban development legislation to address the incompatibility
13 with federal law. The provisions that the United States department of housing and urban development determines
14 to not be in compliance with the requirements of the Secure and Fair Enforcement for Mortgage Licensing Act,
15 Public Law 110-289, must be amended in the correcting legislation. (See compiler's comment regarding
16 contingent suspension.)"

17

18 **Section 94.** Section 50-6-402, MCA, is amended to read:

19 **"50-6-402. Department duties -- rules.** (1) The department shall plan, coordinate, implement, and
20 administer a statewide trauma care system that involves all health care facilities and emergency medical services
21 within the state. The department shall also develop and adopt a statewide trauma care system plan and a state
22 trauma register.

23 (2) The department shall adopt rules to:

24 (a) establish and coordinate the statewide trauma care system, including rules that establish:

25 (i) various levels of trauma facilities and the standards each facility is required to meet concerning
26 personnel, equipment, resources, data collection, and organizational capabilities;

27 (ii) procedures for, standards for, and the duration of designation and revocation of designation of a
28 trauma facility, including application procedures, site survey procedures, complaint investigation, and emergency
29 suspension of designation;

30 (iii) operational procedures and criteria for the regional trauma advisory committees;

- 1 (iv) prehospital emergency medical services triage and treatment protocols for trauma patients;
2 (v) triage and treatment protocols for the transfer of injured persons between health care facilities;
3 (vi) requirements for collection and release of trauma register data;
4 (vii) quality improvement standards for emergency medical services and trauma care facilities; and
5 (viii) the duties, responsibilities, and functions of the trauma care committee created by 2-15-2216 and
6 the regional trauma care advisory committees created pursuant to 50-6-411;
- 7 (b) designate trauma regions throughout Montana, taking into consideration geographic distance from
8 available trauma care, transportation modalities available, population location and density, health care facility
9 resources, historical patterns of patient referral, and other considerations relevant to optimum provision of
10 emergency medical care;
- 11 (c) establish the procedure to be followed by a health care facility to appeal to the department a decision
12 by the department pursuant to 50-6-410 affecting the facility's designation as a trauma facility;
- 13 (d) specify the information that must be submitted to the department, including information from health
14 care facilities, for statistical evaluation of the state and regional trauma care systems, planning prevention
15 programs, assessing trauma-related educational priorities, and determining how trauma facilities and emergency
16 medical services may comply with protocols and standards adopted by the department; and
- 17 (e) establish the electronic format and other standards that a health care facility trauma data system is
18 required to meet in order to qualify as a hospital trauma register.
- 19 (3) The department shall submit a report to each general session of the legislature concerning the
20 effectiveness of the trauma care system established under this part.
- 21 (4) This part does not restrict any other provisions of law allowing or requiring a health care facility or
22 health care provider to provide health care services."
23

24 **Section 95.** Section 52-3-111, MCA, is amended to read:

25 **"52-3-111. Senior citizens' legislature.** (1) The department of public health and human services may
26 contract with a senior citizens' organization for the purpose of establishing a mock legislature to be held in the
27 year preceding the legislative budget session.

28 (2) The contract entered into with the senior citizens' organization must provide that the organization
29 match on a one-to-two, organization to department, ratio any amount contracted for.

30 (3) The department of public health and human services shall cooperate with the department of

1 administration in assisting the senior citizens' organization designated to establish the mock legislature."
2

3 **Section 96.** Section 53-1-611, MCA, is amended to read:

4 **"53-1-611. Evaluation of proposed medicaid block grant and acceptance of grant.** (1) As part of
5 its refinancing duties, the department of public health and human services shall evaluate the proposed medicaid
6 block grant and report its findings with respect to the criteria in subsection (2) to the legislative finance committee
7 at each regular meeting of the committee.

8 (2) The department shall use the following criteria in its evaluation of the proposed medicaid block grant
9 compared to other medicaid funding alternatives from which the state may choose:

10 (a) total cost to the state over the life of the block grant and during each year of the block grant compared
11 to the state cost of maintaining medicaid eligibility and service levels funded by the legislature during the current
12 biennium;

13 (b) types of flexibility;

14 (c) advantages and disadvantages; and

15 (d) policy choices that may occur.

16 (3) (a) The legislative finance committee shall review and analyze the department's findings and make
17 a recommendation to the governor and to the department with regard to acceptance or rejection of the block grant
18 if the state is required to make a decision as to whether to accept or reject the block grant prior to the next ~~regular~~
19 convening of the budget session of the legislature.

20 (b) The governor shall consider the recommendation of the legislative finance committee and provide
21 a written rationale to the committee if the recommendation of the committee is not followed."
22

23 **Section 97.** Section 53-2-215, MCA, is amended to read:

24 **"53-2-215. Social Security Act section 1115 waiver.** (1) The department may pursue approval from
25 the U.S. department of health and human services for implementation in Montana of a health insurance flexibility
26 and accountability demonstration initiative and other demonstration projects through section 1115 waivers.

27 (2) The department may implement a demonstration project upon approval of a section 1115 waiver by
28 the U.S. department of health and human services. The department may:

29 (a) coordinate a demonstration project with a program approved through a section 1915 waiver; or

30 (b) terminate and subsume in a new section 1115 waiver an existing managed care or access program

1 approved through a section 1915(b) waiver, an optional state plan medicaid service authorized under 53-6-101,
2 an optional state plan eligibility group authorized under 53-6-131, or an existing program approved by a section
3 1115 waiver, inclusive of the demonstration program authorized by 53-4-202 and Title 53, chapter 4, part 6, that
4 is administered by the department.

5 (3) The department may amend the existing section 1115 demonstration project authorized in 53-4-601
6 and 53-6-101 to expand the demonstration project to implement the purposes of this section.

7 (4) The department may initiate and administer section 1115 waivers to more efficiently apply available
8 state general fund money, other available state and local public and private funding, and federal money to the
9 development and maintenance of medicaid-funded programs of health services and of other public assistance
10 services and to structure those programs or services for more efficient and effective delivery to specific
11 populations.

12 (5) (a) In establishing programs or services in a demonstration project approved through a section 1115
13 waiver, the department shall administer the expenditures under each demonstration project within the state
14 spending authority that is available for that demonstration project. The department may limit enrollments in each
15 program within a demonstration project, reduce the per capita expenditures available to enrollees, and modify
16 and reduce the types and amounts of services available through each program when the department determines
17 that expenditures can be reasonably expected to exceed the available state spending authority.

18 (b) The department shall develop a contingency plan if there is a spending cap as a condition of the
19 waiver and the spending cap is exceeded. The contingency plan must address the effects on new programs,
20 services, or eligibility groups.

21 (6) The department may coordinate the state children's health insurance program authorized under Title
22 53, chapter 4, part 10, with a section 1115 waiver for the purpose of increasing the state funding match available
23 under the waiver and expanding the number of participants in the state children's health insurance program.

24 (7) The department, subject to the terms and conditions of the section 1115 waiver:

25 (a) shall establish the eligibility groups based upon the funding principles stated in 53-6-101(2);

26 (b) may provide medicaid coverage for one or more optional medicaid eligibility groups;

27 (c) may provide medicaid coverage for one or more specific populations of persons who are not within
28 the federally authorized medicaid eligibility groups but who are within the requirements of subsection (8);

29 (d) may establish the service coverage, eligibility requirements, financial participation requirements, and
30 other features for the administration and delivery of services to each section 1115 waiver eligibility group;

- 1 (e) shall set limits on the number of participants for each section 1115 waiver eligibility group;
- 2 (f) shall set limits on the total expenditures under each demonstration project; and
- 3 (g) shall set the limits on the total expenditures on the services to be provided to each section 1115
4 waiver eligibility group.
- 5 (8) The categories of persons that the department may consider for establishment as a section 1115
6 waiver eligibility group include but are not limited to:
- 7 (a) low-income parents of children who are eligible to participate in medicaid under 53-6-131 or in the
8 state children's health insurance program authorized under Title 53, chapter 4, part 10;
- 9 (b) persons who because of low income and health-care needs are unable to procure health insurance
10 coverage and are eligible to participate in a comprehensive health association plan authorized under Title 33,
11 chapter 22, part 15;
- 12 (c) children who because of limits on enrollment may not be covered through the state children's health
13 insurance program authorized under Title 53, chapter 4, part 10;
- 14 (d) children who are eligible to participate in the state children's health insurance program authorized
15 under Title 53, chapter 4, part 10; and
- 16 (e) other specific groups of persons who are participants in programs or services funded solely or
17 primarily through state general funds or who the department determines are in need of specific types of health
18 care and related services, such as prescription drugs, reproductive health care, and mental health services, and
19 are without adequate financial means to procure health insurance coverage of those needs.
- 20 (9) Children participating in a section 1115 waiver eligibility group or children who would be eligible to
21 participate in the state children's health insurance program are subject to the eligibility criteria applicable under
22 53-4-1004, except as provided in subsection (10) of this section, for participation in the state children's health
23 insurance program and must receive benefits as provided through the state children's health insurance program
24 under 53-4-1005.
- 25 (10) (a) Except as provided in this subsection (10), the eligibility for the section 1115 waiver eligibility
26 groups may not exceed 150% of the federal poverty level.
- 27 (b) The department may establish eligibility at greater than 150% but no more than 200% of the federal
28 poverty level for any of the following groups established for purposes of a section 1115 waiver:
- 29 (i) participants in the state children's health insurance program;
- 30 (ii) participants in a group that may be covered under the state children's health insurance program;

- 1 (iii) participants in a family planning program;
- 2 (iv) participants in a group composed of persons previously served through a program funded with state
3 general fund money and other nonmedicaid money; or
- 4 (v) participants in a group composed of persons with a significant need for particular services that are
5 not readily available to that population through insurance products or because of personal financial limitations.
- 6 (c) In establishing the eligibility criteria based upon federal poverty levels, the department shall select
7 levels to ensure that the resulting expenditures will remain within the available funding and will conform with the
8 terms and conditions of approval by the U.S. department of health and human services.
- 9 (d) The department may adopt additional programmatic and financial eligibility criteria for a section 1115
10 waiver eligibility group in order to appropriately define the subject population, to limit use for fiscal and
11 programmatic purposes, to prevent improper use, and to conform the administration of the program with the terms
12 and conditions of the section 1115 waiver.
- 13 (e) Eligibility criteria applicable to a section 1115 waiver eligibility group need not conform to the criteria
14 applicable to another section 1115 waiver eligibility group or to a medicaid eligibility group that is not
15 encompassed within the demonstration project.
- 16 (11) (a) For each section 1115 waiver eligibility group, the department shall establish the program benefit
17 or benefits to be available to the participants in the group.
- 18 (b) Program benefits may be in the form of:
- 19 (i) assistance in the payment of health insurance premiums for health care coverage through an
20 employer or other existing group coverage available to the program enrollee;
- 21 (ii) assistance in the payment of health insurance premiums for health care coverage that meets a set
22 of defined standards and limitations adopted by the department in consultation with the commissioner of
23 insurance and obtained from participating private insurers or through self-insured pools;
- 24 (iii) premium purchase for insurance coverage on behalf of children who are 18 years of age or younger
25 for the defined set of health care and related services adopted by the department for the state children's health
26 insurance program authorized in Title 53, chapter 4, part 10; or
- 27 (iv) coverage of a defined set of health care and related services administered directly by the department
28 on a fee-for-service basis.
- 29 (c) The department may limit the types of program benefits available to enrollees in a program. For
30 programs in which the department provides for more than one type of program benefit, the department may

1 require that enrollees, either as a whole or on an individual basis based on certain circumstances, use certain
2 types of program benefits in lieu of using other types of program benefits.

3 (d) The department shall, as necessary to maintain expenditures for a program within the available
4 funding for that program, set monetary limitations on the total benefit amounts available on a periodic basis for
5 an enrollee through that program, whether that benefit is in the form of premium assistance, premium purchase,
6 or a set of covered services.

7 (12) The benefits for a section 1115 waiver eligibility group may be in the form of a defined set of covered
8 services consisting of one or more of the mandatory and optional medicaid state plan services specified in
9 53-6-101 or other health-care related services. The department may select the types of services that constitute
10 a defined set of covered services for a section 1115 waiver eligibility group. The department may provide
11 coverage of a service not specified in 53-6-101 if the department determines the service to be appropriate for the
12 particular section 1115 waiver eligibility group. The department may define the nature, components, scope,
13 amount, and duration of each covered service to be made available to a section 1115 waiver eligibility group. The
14 nature, components, scope, amount, and duration of a covered service made available to a section 1115 waiver
15 eligibility group need not conform to those aspects of that service as defined by the department for delivery as
16 a covered service to another section 1115 waiver eligibility group or to a medicaid eligibility group that is not
17 encompassed within a section 1115 waiver.

18 (13) The department may adopt financial participation requirements for enrollees in a section 1115
19 eligibility group to foster appropriate use among enrollees and to maintain the fiscal accountability of the program.
20 The department may adopt financial participation requirements, including but not limited to copayments, payment
21 of monthly or yearly enrollment fees, or deductibles. The requirements may vary among the section 1115 waiver
22 eligibility groups. In adopting financial participation requirements for enrollees selecting coverage as provided in
23 subsection (11)(b)(iv), the department may not adopt cost-sharing amounts that exceed the nominal deductible,
24 coinsurance, copayment, or similar charges adopted by the department to apply to categorically or medically
25 needy persons for a service pursuant to the state medicaid plan.

26 (14) The department shall adopt rules as necessary for the implementation of a section 1115 waiver.
27 Rules may include but are not limited to:

- 28 (a) designation of programs and activities for implementation of a section 1115 waiver;
29 (b) features and benefit coverage of the programs;
30 (c) the nature, components, scope, amount, and duration of each program service;

1 (d) appropriate insurance products and coverage as benefits;
2 (e) required enrollee eligibility information;
3 (f) enrollee eligibility categories, criteria, requirements, and related measures;
4 (g) limits upon enrollment;
5 (h) requirements and limitations for service costs and expenditures;
6 (i) measures to ensure the appropriateness and quality of services to be delivered;
7 (j) provider requirements and reimbursement;
8 (k) financial participation requirements for enrollees;
9 (l) use measures; and
10 (m) other appropriate provisions necessary for administration of a demonstration project and for
11 implementation of the conditions placed upon approval of a section 1115 waiver by the U.S. department of health
12 and human services.

13 (15) The department shall administer the programs and activities that are subject to a section 1115 waiver
14 in accordance with the terms and conditions of approval by the U.S. department of health and human services.
15 The department may modify aspects of established programs and activities administered by the department as
16 may be necessary to implement a section 1115 waiver as provided in this section.

17 (16) The department may seek an initial duration and durational extensions for a section 1115 waiver as
18 the department determines appropriate for demonstration and fiscal considerations.

19 (17) The department shall provide a report to the legislature, as provided in 5-11-210, on the conditions
20 of approval and the status of implementation for each section 1115 waiver approved by the U.S. department of
21 health and human services. For any proposed section 1115 waiver not approved by the U.S. department of health
22 and human services, the department shall provide to the next legislative budget session a report on the basis for
23 disapproval and an analysis of the fiscal costs and programmatic impacts of serving the persons within the
24 proposed section 1115 waiver eligibility groups through eligibility under one of the optional medicaid eligibility
25 categories established in federal law and authorized by 53-6-131.

26 (18) The department shall present a section 1115 waiver proposal to the appropriate medicaid advisory
27 council, which must include consumer advocates, prior to the submission of the proposal to the federal
28 government.

29 (19) The department shall present a section 1115 waiver proposal to the house appropriations committee
30 or, during the interim, the children, families, health, and human services interim committee for review and

1 comment at a public hearing prior to the submission of the proposal to the federal government for formal approval
2 and shall also present the section 1115 waiver after final approval from the federal government.

3 (20) (a) The department shall provide for a public comment period on the proposed section 1115 waiver
4 at least 60 days before the submission of the section 1115 waiver application to the federal government for formal
5 approval.

6 (b) The department shall give notice of the proposal by announcing the pending submittal, stating its
7 general purpose, and informing the public that information on the proposal is available on the department's
8 website.

9 (c) The department shall provide for public comment through electronic means or mail and shall provide
10 for a public forum in at least one location at which members of the public can submit views on the proposal. The
11 department shall consider comments received and make any appropriate changes to the waiver request before
12 submitting it to the federal government.

13 (d) The department shall post on its website the waiver concept paper, formal correspondence regarding
14 a waiver proposal, and the final approved waiver, including documents received from the center for medicare and
15 medicaid services."

16

17 **Section 98.** Section 60-3-212, MCA, is amended to read:

18 **"60-3-212. Interim apportionment to match federal-aid funds.** During the interim between legislative
19 budget sessions, the department of transportation is delegated power and authority to develop formulas to
20 apportion state construction funds in an equitable manner consistent with the intent of this title to match
21 federal-aid funds for highway systems or purposes not enumerated in this title. Such apportionment formulas shall
22 be valid only until approved, modified, or rejected by the next legislative budget session."

23

24 **Section 99.** Section 61-2-109, MCA, is amended to read:

25 **"61-2-109. Emergency medical services grants.** The department of transportation shall report to the
26 governor and the legislative finance committee not later than November 1 of the year preceding a regular budget
27 session of the legislature regarding emergency medical services grants that are awarded during each biennium.
28 The report must include a listing of all grant requests and a listing of grants awarded, including a summary of the
29 use of grant funds."

30

1 **Section 100.** Section 75-5-313, MCA, is amended to read:

2 **"75-5-313. Temporary nutrient criteria.** (1) The department may, on a case-by-case basis, approve
3 the use of temporary nutrient criteria in a discharge permit based upon adequate justification pursuant to
4 subsection (2) that attainment of the base numeric nutrient standards is precluded due to economic impacts or
5 the limits of technology.

6 (2) (a) The department, in consultation with the nutrient work group, shall develop guidelines to ensure
7 that the economic impacts from base numeric nutrient standards on public and private systems are equally and
8 adequately addressed. In developing those guidelines, the department and the nutrient work group shall consider
9 economic impacts appropriate for application within Montana and may also consider relevant guidance of the
10 United States environmental protection agency pertaining to analysis of economic impacts from water quality
11 standards.

12 (b) In the event that economic impacts do not justify temporary nutrient criteria for a particular discharger,
13 the department may approve temporary nutrient criteria based upon a finding that the limits of technology
14 preclude the attainment of the base numeric nutrient standards. The department's determination that the limits
15 of technology justify temporary nutrient criteria must be based on available and proven treatment technologies
16 at the time the temporary nutrient criteria are approved.

17 (c) The department shall consult with the nutrient work group prior to recommending base numeric
18 nutrient standards or criteria to the board and shall continue to consult with the nutrient work group in
19 implementing temporary nutrient criteria.

20 (3) The department shall review each application for temporary nutrient criteria on a case-by-case basis
21 to determine if there are reasonable alternatives, such as trading or permit compliance schedules, that preclude
22 the need for the temporary criteria.

23 (4) (a) Temporary nutrient criteria approved by the department become effective and may be
24 incorporated into a permit only after a public hearing and adoption by the department under the rulemaking
25 procedures of Title 2, chapter 4, part 3.

26 (b) Temporary nutrient criteria may be established for a period not to exceed 20 years and must be
27 reviewed by the department every 5 years from the date of adoption to ensure that the justification for their
28 adoption is still valid.

29 (c) On or before July 1 of each year, the department, in consultation with the nutrient work group, shall
30 report to the environmental quality council by providing a summary of the status of the base numeric nutrient

1 standards, temporary nutrient criteria, and implementation of those criteria, including estimated economic
2 impacts.

3 (d) On or before September 1 of each year preceding the convening of a ~~regular~~ general session of the
4 legislature, the department, in consultation with the nutrient work group, shall summarize the previous two reports
5 provided in subsection (4)(c) to the environmental quality council in accordance with 5-11-210."
6

6

7 **Section 101.** Section 75-11-318, MCA, is amended to read:

8 **"75-11-318. Powers and duties of board.** (1) The board shall administer the petroleum tank release
9 cleanup fund in accordance with the provisions of this part, including the payment of reimbursement to owners
10 and operators. The board may hire its own staff to assist in the implementation of this part.

11 (2) The board shall determine whether to approve reimbursement of eligible costs under the provisions
12 of 75-11-309(3), shall obligate money from the fund for approved costs, and shall act on requests for the
13 guarantee of payments through the procedures and criteria provided in 75-11-309.

14 (3) The board may conduct meetings, hold hearings, undertake legal action, and conduct other business
15 that may be necessary to administer its responsibilities under this part. The board shall meet at least quarterly
16 for the purpose of reviewing and approving claims for reimbursement from the fund and conducting other
17 business as necessary.

18 (4) The board shall use the fund to pay for:

19 (a) department expenses incurred in providing assistance to the board. The board shall review and
20 comment on all department administrative budget proposals that are assessed against the fund prior to submittal
21 of the department budget for legislative approval. Department administrative expenses on behalf of the board may
22 include:

23 (i) the review or preparation of corrective action plans;

24 (ii) the oversight of corrective action undertaken by owners and operators for the purposes of this part;

25 and

26 (iii) the actual and necessary administrative support provided to the board.

27 (b) department of transportation staff expenses used for the collection of the petroleum storage tank
28 cleanup fee;

29 (c) third-party review of corrective action plans or claims pursuant to 75-11-312;

30 (d) board staff expenses; and

- 1 (e) expenses of implementing the board's duties as provided in this part.
- 2 (5) The board shall adopt rules to administer this part, including:
- 3 (a) rules governing submission of claims by owners or operators to the department and board;
- 4 (b) procedures for determining owners or operators who are eligible for reimbursement and determining
- 5 the validity of claims;
- 6 (c) procedures for the review and approval of corrective action plans;
- 7 (d) procedures for conducting board meetings, hearings, and other business necessary for the
- 8 implementation of this part;
- 9 (e) the criteria and reimbursement rates applicable to those owners and operators who comply with a
- 10 violation letter issued by the department; and
- 11 (f) other rules necessary for the administration of this part.
- 12 (6) The board may apply for, accept, and repay loans from the board of investments pursuant to
- 13 17-6-225.
- 14 (7) The board shall conduct an analysis of the short-term and long-term viability of the fund and report
- 15 its findings to the director of the department and the legislative auditor by July 1 prior to each ~~regular~~ legislative
- 16 budget session. This analysis must include but is not limited to:
- 17 (a) trends in fund revenue and expenditure activity;
- 18 (b) exposure to long-term liabilities;
- 19 (c) impacts of changes in state and federal regulations relating to underground and aboveground storage
- 20 tanks;
- 21 (d) availability of petroleum storage tank liability insurance in the private sector and trends in provisions
- 22 of the insurance; and
- 23 (e) the continuing need for collection of all or part of the petroleum tank release cleanup fee."
- 24
- 25 **Section 102.** Section 77-1-108, MCA, is amended to read:
- 26 **"77-1-108. Trust land administration account -- administrative costs -- appropriation.** (1) There is
- 27 a trust land administration account in the state special revenue fund. Money in the account is available to the
- 28 department by appropriation and must be used to pay the costs of administering state trust lands. This includes
- 29 the cost of managing assets, including but not limited to real property and monetary assets.
- 30 (2) Appropriations from the account for each fiscal year may not exceed an amount equal to 25% of the

1 distributable revenue, as defined in 77-1-101, generated in the fiscal year completed prior to the legislative budget
2 session that will appropriate money for the next biennium. This excludes revenue generated by the forest
3 improvement fee provided for in 77-5-204.

4 (3) (a) Pursuant to subsection (1), the administrative costs must be determined for each land trust. The
5 department may adopt rules regarding the calculation of administrative costs as necessary.

6 (b) Each fiscal year, the department shall compare administrative costs for each land trust to the amount
7 of revenue that land trust generates for the account. If the amount of revenue deposited pursuant to 77-1-109(2)
8 exceeds the administrative costs for a specific land trust, the excess revenue must be distributed as provided in
9 subsection (4) of this section.

10 (c) If revenue deposited from a specific land trust is insufficient to defray the administrative costs
11 associated with managing that land trust and the money held for that trust in the earnings reserve account
12 established in 77-1-132 is also insufficient, the board may receive a general fund loan pursuant to 17-2-107 to
13 offset the difference. A general fund loan made pursuant to this subsection (3)(c) must be repaid within 5 years
14 and must bear interest at a rate of return equal to that earned by the board of investments' short-term investment
15 pool during that period.

16 (4) (a) Except as provided in subsections (4)(b) and (5), up to one-third of the unreserved distributable
17 revenue remaining in the account at the end of a fiscal year may be transferred to the earnings reserve account
18 provided for in 77-1-132 and accounted for by trust. The remaining unreserved revenue must be transferred to
19 each of the permanent funds in proportionate shares to each fund's contribution to the account.

20 (b) At the end of the fiscal year, unreserved funds received pursuant to 77-1-109(2)(a)(ii) and (2)(a)(iii)
21 must be transferred to each of the permanent funds or to the appropriate trust or distributed to the beneficiary
22 in proportionate shares to each fund's contribution to the account.

23 (5) (a) The amount of \$80,000 each biennium is transferred from the state general fund to an account
24 in the state special revenue fund. The account is statutorily appropriated, as provided in 17-7-502, to the
25 department for the purposes of administering the land granted to the state pursuant to the Morrill Act of 1862, 7
26 U.S.C. 301 through 308, and the Morrill Act of 1890, 7 U.S.C. 321 through 329. Any unexpended portion of the
27 statutory appropriation may be retained in the account and used for the administration of the Morrill Act land.

28 (b) At the end of each fiscal year, the department shall pay from the appropriation in subsection (5)(a)
29 to the trust containing proceeds derived from land granted to the state pursuant to the Morrill Act of 1862, 7
30 U.S.C. 301 through 308, and the Morrill Act of 1890, 7 U.S.C. 321 through 329, an amount calculated to be the

1 cost of administering the investment of the fund derived from that trust. The payment must be based upon the
2 percentage that the Morrill Act fund constitutes of the total fund derived from all trust lands. If the appropriation
3 in subsection (5)(a) is insufficient to pay the calculated administrative cost, a general fund loan may be used
4 pursuant to 17-2-107 to offset the difference."
5

6 **Section 103.** Section 77-1-109, MCA, is amended to read:

7 **"77-1-109. Deposits of proceeds in trust land administration account.** (1) The amount of money that
8 is deposited into the trust land administration account established in 77-1-108 may not exceed an amount equal
9 to 25% of distributable revenue generated in the fiscal year completed prior to the legislative budget session that
10 will appropriate money for the next biennium. This excludes revenue generated by the forest improvement fee
11 provided for in 77-5-204.

12 (2) (a) Subject to subsection (1), the department shall deposit into the trust land administration account
13 the following:

14 (i) distributable revenue;

15 (ii) the proceeds or income from the sale of easements and timber, except timber from public school and
16 Montana university system lands;

17 (iii) mineral royalties; and

18 (iv) fees collected pursuant to 77-2-328.

19 (b) As deposits are made, they must be identified and accounted for by trust.

20 (c) The department may not make deductions from interest or income generated from lands granted to
21 the state pursuant to the Morrill Act of 1862, 7 U.S.C. 301 through 308, and the Morrill Act of 1890, 7 U.S.C. 321
22 through 329.

23 (3) After the deposits in subsection (2) have been made, the remainder of the proceeds, other than
24 proceeds from timber from Montana university system lands and other than those purchased pursuant to
25 17-6-340, must be deposited in accordance with 17-3-1003, 18-2-107, and 20-9-341(2). Timber proceeds from
26 university system lands must be paid over to the state treasurer, who shall deposit the money to the credit of the
27 proper fund for use as provided in 17-3-1003. Royalty payments purchased pursuant to 17-6-340 must be used
28 as provided in that section and 20-9-622."
29

30 **Section 104.** Section 77-1-132, MCA, is amended to read:

1 **"77-1-132. Earnings reserve account.** (1) There is an earnings reserve account in the state special
2 revenue fund.

3 (2) Funds are deposited in the earnings reserve account in accordance with the provisions of
4 77-1-108(4)(a) and must be accounted for by trust.

5 (3) The balance of this account may not exceed two times the appropriation to the trust land
6 administration account for the last completed fiscal year prior to the legislative budget session that will appropriate
7 money for the next biennium.

8 (4) The earnings reserve account must be invested. Any interest earned must be deposited in the
9 earnings reserve account in proportionate share to each fund's contribution to the account."
10

11 **Section 105.** Section 77-2-366, MCA, is amended to read:

12 **"77-2-366. Land banking -- report to environmental quality council.** The department shall provide
13 a report to the environmental quality council by the July 1 prior to each ~~regular~~ legislative general session that
14 describes the results of the land banking program in detail. At a minimum, the report must summarize the sale
15 and purchase transactions made through the program by type, location, acreage, value, and trust beneficiary.
16 The environmental quality council shall make any recommendations that it determines necessary regarding the
17 implementation of the state land banking process, including recommendations for legislation."
18

19 **Section 106.** Section 85-1-203, MCA, is amended to read:

20 **"85-1-203. State water plan.** (1) The department shall gather from any source reliable information
21 relating to Montana's water resources and prepare from the information a continuing comprehensive inventory
22 of the water resources of the state. In preparing this inventory, the department may:

23 (a) conduct studies;

24 (b) adopt studies made by other competent water resource groups, including federal, regional, state, or
25 private agencies;

26 (c) perform research or employ other competent agencies to perform research on a contract basis; and

27 (d) hold public hearings in affected areas at which all interested parties must be given an opportunity to
28 appear.

29 (2) The department shall formulate and adopt and amend, extend, or add to a comprehensive,
30 coordinated multiple-use water resources plan known as the "state water plan". The state water plan may be

1 formulated and adopted in sections, with some of these sections corresponding with hydrologic divisions of the
2 state. The state water plan must set out a progressive program for the conservation, development, utilization, and
3 sustainability of the state's water resources and propose the most effective means by which these water
4 resources may be applied for the benefit of the people, with due consideration of alternative uses and
5 combinations of uses.

6 (3) Sections of the state water plan must be completed for the Missouri, Yellowstone, and Clark Fork
7 River basins, submitted to the ~~2015~~ 2016 general session of the legislature, and updated at least every 20 years.

8 These basinwide plans must include:

- 9 (a) an inventory of consumptive and nonconsumptive uses associated with existing water rights;
10 (b) an estimate of the amount of surface and ground water needed to satisfy new future demands;
11 (c) analysis of the effects of frequent drought and new or increased depletions on the availability of future
12 water supplies;
13 (d) proposals for the best means, such as an evaluation of opportunities for storage of water by both
14 private and public entities, to satisfy existing water rights and new water demands;
15 (e) possible sources of water to meet the needs of the state; and
16 (f) any legislation necessary to address water resource concerns in these basins.

17 (4) (a) The department shall create a water user council in both the Yellowstone and Missouri River
18 basins that is inclusive and representative of all water interests and interests in those basins. For the Clark Fork
19 River basin, the department shall continue to utilize the Clark Fork River basin task force established pursuant
20 to 85-2-350.

21 (b) The councils in the Missouri and Yellowstone River basins consist of representatives of existing
22 watershed groups or councils within the basins.

23 (c) Each council may have up to 20 members.

24 (d) Each water user council shall make recommendations to the department on the basinwide plans
25 required by subsection (3).

26 (5) Before adopting the state water plan or any section of the plan, the department shall hold public
27 hearings in the state or in an area of the state encompassed by a section of the plan if adoption of a section is
28 proposed. Notice of the hearing or hearings must be published for 2 consecutive weeks in a newspaper of general
29 county circulation in each county encompassed by the proposed plan or section of the plan at least 30 days prior
30 to the hearing.

1 (6) The department shall submit to the environmental quality council established in 5-16-101 and to the
2 legislature at the beginning of each ~~regular~~ general session the state water plan or any section of the plan or
3 amendments, additions, or revisions to the plan that the department has formulated and adopted.

4 (7) The legislature, by joint resolution, may revise the state water plan.

5 (8) The department shall prepare a continuing inventory of the ground water resources of the state. The
6 ground water inventory must be included in the comprehensive water resources inventory described in subsection
7 (1) but must be a separate component of the inventory.

8 (9) The department shall publish the comprehensive inventory, the state water plan, the ground water
9 inventory, or any part of each, and the department may assess and collect a reasonable charge for these
10 publications.

11 (10) In developing and revising the state water plan as provided in this section, the department shall
12 consult with the environmental quality council established in 5-16-101 and solicit the advice of the environmental
13 quality council in carrying out its duties under this section."
14

15 **Section 107.** Section 85-1-704, MCA, is amended to read:

16 **"85-1-704. Prioritization of water storage projects -- governor's report.** (1) The governor shall submit
17 to each ~~regular~~ budget session of the legislature a report identifying specific water storage projects proposed for
18 development, including the rehabilitation of existing projects and new project proposals. The report must contain:

- 19 (a) a list of water storage project priorities;
20 (b) an implementation strategy for each priority project that identifies the resources (including specific
21 budget requests), government actions, and other actions needed to accomplish the project; and
22 (c) a progress report on the development of water storage projects during the previous 2 years.

23 (2) In setting priorities among new water storage projects, the governor shall consider whether a project:

- 24 (a) solves a severe water problem;
25 (b) provides multiple uses and benefits;
26 (c) provides for public uses;
27 (d) shows strong evidence of broad citizen support;
28 (e) is able to obtain nonstate sources of funding;
29 (f) protects and seeks to enhance social, ecological, cultural, and aesthetic values;
30 (g) improves local and state economic development;

- 1 (h) could resolve Indian and federal reserved water rights issues;
- 2 (i) supports water conservation activities; and
- 3 (j) promotes the use of water reserved under Montana law.
- 4 (3) In setting priorities among water storage rehabilitation projects, the governor shall consider whether
- 5 the project:
- 6 (a) is needed to protect public safety;
- 7 (b) has impacts if not repaired or rehabilitated; and
- 8 (c) accomplishes the goals listed in subsections (2)(a) through (2)(j).
- 9 (4) In establishing budget priorities for the allocation of state water storage development funds:
- 10 (a) first preference must be given to projects that resolve threats to life and property posed by
- 11 high-hazard facilities that are in an unsafe condition;
- 12 (b) second preference must be given to projects that improve or expand existing water storage facilities;
- 13 and
- 14 (c) third preference must be given to the planning and construction of new water storage facilities."
- 15

16 **Section 108.** Section 85-2-218, MCA, is amended to read:

17 **"85-2-218. Process and criteria for designating priority basins or subbasins.** (1) The water judges

18 and the department, in performing their functions in the adjudication process, shall give priority to basins or

19 subbasins designated each biennium by the legislature in each general session. Basins or subbasins must be

20 designated according to the following criteria:

- 21 (a) recurring water shortages within the basin or subbasin have resulted in urgent water rights
- 22 controversies that require adjudication to determine relative rights;
- 23 (b) federal or Indian reserved rights are nearing determination, either by compact or adjudication, thus
- 24 making adjudication of other rights in the basin or subbasin important for timely issuance of preliminary or final
- 25 decrees;
- 26 (c) the basin or subbasin's location would help ensure efficient use of department and water court
- 27 resources; and
- 28 (d) the adjudication process in the basin or subbasin is nearing the issuance of a decree.
- 29 (2) The water judge may designate a basin for priority adjudication upon petition of 100 or more persons
- 30 who have filed claims within the basin or may designate a subbasin for priority adjudication upon petition of a

1 majority of persons who have filed claims within the subbasin. However, the basin or subbasin may receive
 2 priority only if it meets one or more of the criteria in subsection (1).

3 (3) If adjudication work in one or more of the priority basins or subbasins has been completed or has
 4 been suspended for good cause, the water judge may select other basins or subbasins for priority adjudication
 5 based on the criteria in subsection (1)."

6

7 **Section 109.** Section 85-2-281, MCA, is amended to read:

8 **"85-2-281. (Temporary) Reporting requirements.** The department and the water court shall:

9 (1) provide reports to the environmental quality council at each meeting during a legislative interim on:

10 (a) the progress of the adjudication on a basin-by-basin basis; and

11 (b) the number of basins for which examination was completed during the reporting period;

12 (2) include a status report on the adjudication in their presentation to the applicable appropriation
 13 subcommittees during each legislative budget session including the number of basins for which examination was
 14 completed during the reporting period; and

15 (3) provide a budget that outlines how each of the entities will be funded in the next biennium, including
 16 general fund money and state special revenue funds. (Terminates June 30, 2020--sec. 18, Ch. 288, L. 2005; sec.
 17 11, Ch. 319, L. 2007.)"

18

19 **Section 110.** Section 85-2-350, MCA, is amended to read:

20 **"85-2-350. Clark Fork River basin task force -- duties -- water management plan.** (1) The governor's
 21 office shall designate an appropriate entity to convene and coordinate a Clark Fork River basin task force to
 22 prepare proposed amendments to the state water plan provided for under 85-1-203 related to the Clark Fork River
 23 basin. The designated appropriate entity shall:

24 (a) identify the individuals and organizations, public, tribal, and private, that are interested in or affected
 25 by water management in the Clark Fork River basin;

26 (b) provide advice and assistance in selecting representatives to serve on the task force;

27 (c) develop, in consultation with the task force, appropriate opportunities for public participation in studies
 28 of water management in the Clark Fork River basin; and

29 (d) ensure that all watershed and viewpoints within the basin are adequately represented on the task
 30 force, including a representation from the following:

- 1 (i) the reach of the Clark Fork River in Montana below its confluence with the Flathead River;
- 2 (ii) the Flathead River basin, including Flathead Lake, from Flathead Lake to the confluence of the
3 Flathead River and the Clark Fork River;
- 4 (iii) the Flathead River basin upstream from Flathead Lake;
- 5 (iv) the reach of the Clark Fork River between the confluence of the Blackfoot River and the Clark Fork
6 River and the confluence of the Clark Fork River and the Flathead River;
- 7 (v) the Bitterroot River basin as defined in 85-2-344; and
- 8 (vi) the Upper Clark Fork River basin as defined in 85-2-335.
- 9 (2) Task force members shall serve 2-year terms and may serve more than one term. The Confederated
10 Salish and Kootenai tribal government has the right to appoint a representative to the task force.
- 11 (3) The task force shall:
- 12 (a) identify short-term and long-term water management issues and problems and alternatives for
13 resolving any issues or problems identified;
- 14 (b) identify data gaps regarding basin water resources, especially ground water;
- 15 (c) coordinate water management by local basin watershed groups, water user organizations, and
16 individual water users to ensure long-term sustainable water use;
- 17 (d) provide a forum for all interests to communicate about water issues;
- 18 (e) advise government agencies about water management and permitting activities in the Clark Fork
19 River basin;
- 20 (f) consult with local and tribal governments within the Clark Fork River basin;
- 21 (g) make recommendations, if recommendations are considered necessary, to the department for
22 consideration as amendments to the state water plan provided for under 85-1-203 related to the Clark Fork River
23 basin; and
- 24 (h) report to:
- 25 (i) the department on a periodic basis;
- 26 (ii) the environmental quality council annually; and
- 27 (iii) the appropriations subcommittee that deals with natural resources and commerce each legislative
28 budget session."
- 29

30 **Section 111.** Section 87-1-272, MCA, is amended to read:

1 **"87-1-272. Future fisheries improvement program -- funding priority -- reports required.** (1) In order
2 to enhance future fisheries through natural reproduction, the department shall establish and implement a
3 statewide voluntary program that promotes fishery habitats and spawning areas for the rivers, streams, and lakes
4 of Montana's fisheries.

5 (2) When projects are suggested by the future fisheries review panel, the department shall, through a
6 public hearing process and with the approval of the commission, prioritize projects that have been recommended
7 by the review panel to be funded. Emphasis must be given to projects that enhance the historic habitat of native
8 fish species. The department shall fund and implement the program regarding the long-term enhancement of
9 streams and streambanks, instream flows, water leasing, lease or purchase of stored water, and other voluntary
10 programs that deal with wild fish and aquatic habitats. A project conducted under the future fisheries improvement
11 program may not restrict or interfere with the exercise of any water rights or property rights of the owners of
12 streambeds and property adjacent to streambeds, streambanks, and lakes. The fact that a program project has
13 been completed on private property does not create any right of public access to the private property unless that
14 right is granted voluntarily by the property owner.

15 (3) The department shall work in cooperation with private landowners, conservation districts, irrigation
16 districts, local officials, anglers, and other citizens to implement the future fisheries improvement program. Any
17 department employee who is employed under this section to facilitate contact with landowners must have
18 experience in commercial or irrigated agriculture. The department shall encourage the use of volunteer labor and
19 grants, matching grants, and private donations to accomplish program purposes. The department may use
20 contracted services:

21 (a) for negotiations with landowners, local officials, citizens, and others;
22 (b) for coordination with other agencies that may be involved in projects conducted under this section;
23 and
24 (c) to perform and supervise project work.

25 (4) Funds expended under this section may be used only for projects for the protection of the fisheries
26 resource that have been identified by the review panel established in 87-1-273 and approved by the commission
27 and may not be used for the acquisition of any interest in land.

28 (5) (a) The department shall report to the commission on the progress of the future fisheries improvement
29 program every 12 months and post a copy of the report on a state electronic access system to ensure public
30 access to the report.

1 (b) The department shall also present a detailed report to each ~~regular~~ budget session of the legislature
2 on the progress of the future fisheries improvement program. The legislative report must include the department's
3 program activities and expenses since the last report and the project schedules and anticipated expenses for the
4 ensuing 10 years' implementation of the future fisheries improvement program.

5 (c) In order to implement 87-1-273 and this section, the department may expend revenue from the future
6 fisheries improvement program for up to two additional full-time employees."
7

8 **Section 112.** Section 90-2-1111, MCA, is amended to read:

9 **"90-2-1111. State and local grants.** (1) A department, agency, board, commission, or other division
10 of state government or any city, county, or other political subdivision or tribal government within the state may
11 apply, in accordance with the procedures established by the department, for a grant from the natural resources
12 projects state special revenue account established in 15-38-302 for a project that is consistent with the policy and
13 purpose of the reclamation and development grants program.

14 (2) The department shall evaluate applications under the eligibility criteria provided in 90-2-1112 and the
15 evaluation criteria provided in 90-2-1113.

16 (3) The department shall solicit and consider in its evaluation of applications the views of interested
17 persons and public agencies.

18 (4) Based on its evaluation of eligible applications, the department shall recommend to the governor
19 projects to receive grants from the natural resources projects state special revenue account established in
20 15-38-302.

21 (5) The governor shall submit all proposals, with the governor's recommended priorities, to the legislature
22 by the first day of any ~~regular~~ legislative budget session. The legislature may approve by appropriation or other
23 appropriate means grants for those projects it finds consistent with the policies and purposes of the reclamation
24 and development grants program. The department shall administer and oversee the grants to approved projects
25 and monitor the projects."
26

27 **Section 113.** Section 90-4-310, MCA, is amended to read:

28 **"90-4-310. Energy emergency powers of governor.** In addition to existing powers and duties, the
29 governor has the following duties and special energy emergency powers, subject to the definitions and limitations
30 in this part:

1 (1) The governor may, upon finding that a situation exists that threatens to seriously disrupt or diminish
2 energy supplies to the extent that life, health, or property may be jeopardized, declare a condition or state of
3 energy emergency, at which time all of the general and specific emergency powers enumerated in this section
4 become effective.

5 (2) The condition of energy emergency terminates after 90 consecutive days unless extended by a
6 declaration of the legislature by joint resolution of a continuing condition of energy emergency of a duration to
7 be established by the legislature.

8 (3) The conditions of an energy emergency alternatively cease to exist upon a declaration to that effect
9 by either of the following:

10 (a) the governor; or

11 (b) the legislature, by joint resolution if in ~~regular~~ budget, general, or special session.

12 (4) In a declared state of energy emergency, the governor may:

13 (a) implement programs, controls, standards, priorities, and quotas for the production, allocation,
14 conservation, and consumption of energy, including plans for the curtailment of energy. However, in so doing,
15 the governor may impose controls, quotas, or curtailments according to the nature of the end use to be made of
16 the energy consistent with existing transmission and distribution systems serving the geographic area affected
17 by the energy emergency.

18 (b) suspend and modify existing pollution control standards and requirements or any other standards
19 or requirements affecting or affected by the use of energy, including those relating to air or water quality control;
20 and

21 (c) establish and implement regional programs and agreements for the purposes of coordinating the
22 energy programs and actions of the state with those of the federal government and of other states, localities, and
23 other persons.

24 (5) Except as provided in 90-4-313, this part does not mean that any program, control, standard, priority
25 quota, or other policy created under the authority of the emergency powers authorized by this part has any
26 continuing legal effect after the cessation of a declared state of energy emergency.

27 (6) Because of the emergency nature of this part, all actions authorized or required under this part or
28 taken pursuant to any order issued by the governor are exempted from all requirements and provisions of the
29 Montana Environmental Policy Act, including but not limited to the requirement for environmental impact
30 statements.

1 (7) Except as provided in this section, this part does not exempt a person from compliance with the
2 provisions of any other law, rule, or directive unless specifically ordered by the governor or unless impossibility
3 of compliance is a direct result of an order of the governor."
4

5 **Section 114.** Section 90-4-402, MCA, is amended to read:

6 **"90-4-402. Appointment of council members by governor.** (1) The governor shall appoint at the
7 beginning of each gubernatorial term two persons to serve as members of the council as provided in Public Law
8 96-501.

9 (2) An appointment of a council member by the governor is subject to the confirmation of the senate,
10 except that the governor may appoint a council member to assume office before the senate meets in its next
11 ~~regular~~ general session to consider the appointment. A member so appointed is vested with all the functions of
12 the office upon assuming the office and is a de jure officer, notwithstanding the fact that the senate has not yet
13 confirmed the appointment. If the senate does not confirm the appointment of a member, the governor shall make
14 a new appointment.

15 (3) A council member serves at the pleasure of the governor. The governor may remove a council
16 member at any time and appoint a new member to the office.

17 (4) If a vacancy occurs in the office of a council member, the governor shall appoint, as soon as
18 reasonably possible, a new member to serve at the pleasure of the governor.

19 (5) The governor shall appoint the initial members within 30 days of March 12, 1981."
20

21 **Section 115.** Section 90-4-614, MCA, is amended to read:

22 **"90-4-614. Appropriation of energy cost savings.** (1) In preparing the executive budget each
23 biennium, the governor shall include for each state agency participating in the state energy conservation program:

24 (a) an estimate of the energy cost savings expected for that agency in each year of the biennium; and

25 (b) a projection of the debt service on energy conservation program bonds that should be apportioned
26 to that agency in each year of the biennium. Debt service is zero after the term of bond repayment.

27 (2) Each budget session, the legislature shall review the governor's submission pursuant to 90-4-606
28 and subsection (1) of this section and appropriate in the general appropriations act the following:

29 (a) authority for each participating state agency to transfer funds in an amount equal to the agency's
30 projected debt service to the energy conservation program account established in 90-4-612; and

1 (b) authority for each participating state agency to transfer funds to the long-range building program fund
2 in an amount equal to the difference between the estimated energy cost savings to the agency and the projected
3 debt service apportioned to that agency.

4 (3) The current level utility appropriations of state agencies participating in the energy conservation
5 program must be reduced by the sum of the amounts appropriated in subsections (2)(a) and (2)(b).

6 (4) Each participating state agency shall transfer upon request of the department the amounts
7 appropriated in accordance with subsection (2)."

8

9 **Section 116.** Section 90-6-710, MCA, is amended to read:

10 **"90-6-710. Priorities for projects -- procedure -- rulemaking.** (1) The department of commerce must
11 receive proposals for infrastructure projects from local governments. The department shall work with a local
12 government in preparing cost estimates for a project. In reviewing project proposals, the department may consult
13 with other state agencies with expertise pertinent to the proposal. For the projects under 90-6-703(1)(a), the
14 department shall prepare and submit a list containing the recommended projects and the recommended form and
15 amount of financial assistance for each project to the governor, prioritized pursuant to subsection (2). The
16 governor shall review the projects recommended by the department and shall submit a list of recommended
17 projects and the recommended financial assistance to the legislature.

18 (2) In preparing recommendations under subsection (1), preference must be given to infrastructure
19 projects based on the following order of priority:

20 (a) projects that solve urgent and serious public health or safety problems or that enable local
21 governments to meet state or federal health or safety standards;

22 (b) projects that reflect greater need for financial assistance than other projects;

23 (c) projects that incorporate appropriate, cost-effective technical design and that provide thorough,
24 long-term solutions to community public facility needs;

25 (d) projects that reflect substantial past efforts to ensure sound, effective, long-term planning and
26 management of public facilities and that attempt to resolve the infrastructure problem with local resources;

27 (e) projects that enable local governments to obtain funds from sources other than the funds provided
28 under this part;

29 (f) projects that provide long-term, full-time job opportunities for Montanans, that provide public facilities
30 necessary for the expansion of a business that has a high potential for financial success, or that maintain the tax

1 base or that encourage expansion of the tax base; and

2 (g) projects that are high local priorities and have strong community support.

3 (3) After the review required by subsection (1), the projects must be approved by the legislature.

4 (4) The department shall adopt rules necessary to implement the treasure state endowment program.

5 (5) The department shall report to each regular budget session of the legislature the status of all projects
6 that have not been completed in order for the legislature to review each project's status and determine whether
7 the authorized grant should be withdrawn."

8

9 **Section 117.** Section 90-6-810, MCA, is amended to read:

10 **"90-6-810. Procedure for approval of projects -- role of department and governor -- approval by**
11 **legislature.** (1) The department shall:

12 (a) receive proposals for school facility projects from public school districts;

13 (b) assist public school districts in preparing cost estimates for projects;

14 (c) as appropriate, consult with other state agencies, including but not limited to the department of
15 administration and the office of public instruction;

16 (d) with the exception of emergency grants and matching planning grants, prepare and submit to the
17 governor a list of recommendations as to projects and the form and amount of financial assistance for each
18 project, prioritized in accordance with the requirements of 90-6-811;

19 (e) report to each regular budget session of the legislature the status of all school facility projects for
20 which grants were approved by a previous legislature but have not been completed;

21 (f) award matching planning grants, in accordance with rules adopted by the department, to public school
22 districts for the planning of school facility projects within the limits of legislative appropriations for this purpose.

23 The department shall prioritize the award of matching planning grants in accordance with the requirements of
24 90-6-811. The department shall report to the governor and the legislature regarding each matching planning grant
25 awarded during a biennium.

26 (g) award emergency grants to public school districts in accordance with rules adopted by the
27 department and within the limits of legislative appropriations for this purpose. The department shall report to the
28 governor and the legislature regarding each emergency grant awarded during a biennium.

29 (2) The governor shall review the projects recommended by the department under subsection (1)(d) and
30 submit to the legislature a list of recommendations as to projects and the form and amount of financial assistance

1 for each project.

2 (3) (a) The legislature shall:

3 (i) consider the governor's recommendations, approve grants to public school districts for school facility
4 projects, and appropriate money to the department from the account to fund the grants that have been approved,
5 after the deduction of administrative expenses by the department; and

6 (ii) authorize funding and appropriate money to the department from the account to be awarded to public
7 school districts by the department for matching planning grants and emergency grants, after the deduction of
8 administrative expenses by the department.

9 (b) Grants approved by the legislature are dependent on the availability of funds and will be made
10 available by the department in the order that the grant recipient satisfies the conditions described in 90-6-812."

11

12 **NEW SECTION. Section 118. Codification instruction.** (1) [Sections 1 through 4] are intended to be
13 codified as an integral part of Title 5, chapter 2, and the provisions of Title 5, chapter 2, apply to [sections 1
14 through 4].

15 (2) [Section 39] is intended to be codified as an integral part of Title 5, chapter 3, part 1, and the
16 provisions of Title 5, chapter 3, part 1, apply to [section 39].

17

18 **NEW SECTION. Section 119. Severability.** If a part of [this act] is invalid, all valid parts that are
19 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications,
20 the part remains in effect in all valid applications that are severable from the invalid applications.

21

- END -