

1 \_\_\_\_\_ BILL NO. \_\_\_\_\_

2 INTRODUCED BY \_\_\_\_\_  
3 (Primary Sponsor)

4 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING THE MONTANA RAILROAD DEVELOPMENT  
5 AUTHORITY; DEFINING TERMS; ESTABLISHING AUTHORITY MEMBERSHIP; AUTHORIZING THE  
6 APPOINTMENT OF AUTHORITY MEMBERS; CLARIFYING THE PUBLIC SERVICE COMMISSION'S  
7 AUTHORITY; REQUIRING THAT THE LEGISLATURE APPROVE THE AUTHORITY'S ACQUISITION OF A  
8 RAILROAD FACILITY; PROVIDING THE AUTHORITY WITH CERTAIN POWERS; PROVIDING THE  
9 AUTHORITY WITH RULEMAKING AUTHORITY, INCLUDING RULEMAKING AUTHORITY THAT ALLOWS IT  
10 TO ISSUE REVENUE BONDS; CLASSIFYING CERTAIN AUTHORITY RAILROAD FACILITY PROPERTY AS  
11 CLASS NINE PROPERTY FOR PROPERTY TAX PURPOSES; CLASSIFYING CERTAIN AUTHORITY  
12 RAILROAD FACILITY PROPERTY AS CLASS TWELVE PROPERTY FOR PROPERTY TAX PURPOSES;  
13 PROVIDING THAT AUTHORITY FACILITIES ARE SUBJECT TO THE PRIVILEGE TAX; REQUIRING THE  
14 DEPARTMENT OF TRANSPORTATION TO CONSULT WITH THE AUTHORITY IN ADMINISTERING THE  
15 MONTANA ESSENTIAL FREIGHT RAIL ACT; ELIMINATING THE RAIL SERVICE COMPETITION COUNCIL;  
16 PROVIDING AN APPROPRIATION; AMENDING SECTIONS 7-12-2156, 7-14-4301, 10-3-1204, 15-6-141,  
17 15-6-145, 15-6-201, 15-8-111, 15-8-405, 15-23-101, 15-23-203, 15-23-204, 15-23-205, 15-23-211, 15-24-1203,  
18 18-2-101, 18-4-313, 27-2-207, 37-60-105, 39-2-703, 44-4-902, 44-4-903, 44-4-904, 60-11-111, 60-11-119,  
19 60-11-120, 60-11-123, 69-1-110, 69-1-112, 69-14-101, 69-14-201, 69-14-202, 69-14-203, 69-14-204, 69-14-205,  
20 69-14-206, 69-14-207, 69-14-208, 69-14-209, 69-14-210, 69-14-214, 69-14-232, 69-14-236, 69-14-237,  
21 69-14-238, 69-14-239, 69-14-240, 69-14-252, 69-14-513, 69-14-514, 69-14-531, 69-14-532, 69-14-533,  
22 69-14-534, 69-14-536, 69-14-538, 69-14-539, 69-14-552, 69-14-553, 69-14-554, 69-14-555, 69-14-557,  
23 69-14-558, 69-14-560, 69-14-561, 69-14-562, 69-14-601, 69-14-612, 69-14-620, 69-14-626, 69-14-701,  
24 69-14-702, 69-14-703, 69-14-704, 69-14-706, 69-14-707, 69-14-708, 69-14-710, 69-14-711, 69-14-714,  
25 69-14-721, 69-14-722, 69-14-801, 69-14-804, 69-14-805, 69-14-811, 69-14-901, 69-14-902, 69-14-904,  
26 69-14-909, 69-14-910, 69-14-1005, 69-14-1006, 69-14-1101, 70-30-102, 81-5-102, 81-8-252, 85-1-208,  
27 85-7-1909, 85-8-341, 85-8-342, AND 85-8-366, MCA; REPEALING SECTION 2-15-2511, MCA; AND  
28 PROVIDING AN EFFECTIVE DATE."

29

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



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30

**NEW SECTION. Section 1. Short title.** [Sections 1 through 19] may be cited as the "Montana Railroad Development Authority Act".

**NEW SECTION. Section 2. Definitions.** As used in [sections 1 through 19], unless the context clearly requires otherwise, the following definitions apply:

- (1) (a) "Authority" means the Montana railroad development authority provided for in [section 3].
- (b) The term does not include a railroad company.
- (2) "Department" means the department of transportation provided for in 2-15-2501.
- (3) "Federal government" means the United States of America or any agency or instrumentality, corporate or otherwise, of the United States of America.
- (4) (a) "Railroad facilities" means railroads and railroad facilities, including but not limited to terminal buildings, roadways, tracks, crossings, bridges, causeways, tunnels, equipment, rolling stock, and related infrastructure that may be necessary to carry out the provisions of [sections 1 through 19].
- (b) The term does not include abandoned railroads or railroad facilities acquired by a rail authority pursuant to Title 7, chapter 14, part 16.
- (5) "Security" means any note, any common or preferred stock, any bond, debenture, evidence of indebtedness, transferable share, voting-trust certificate, or interest or instrument commonly known as a security, or any certificate of interest, temporary or interim certificate for, receipt for, or warrant or right to subscribe to or purchase a security.
- (6) "Swap agreement" means:
  - (a) any interest rate swap, option, future, or forward agreement, including a rate floor, rate cap, rate collar, or cross-currency rate swap agreement, or a basis swap;
  - (b) a spot, same day-tomorrow, tomorrow-next, forward, or other foreign exchange or precious metals agreement;
  - (c) a currency swap, option, future, or forward agreement;
  - (d) a total return, credit spread, or credit swap, option, future, or forward agreement;
  - (e) a commodity index or a commodity swap, option, future, or forward agreement;
  - (f) a weather swap, weather derivative, or weather option;
  - (g) any option to enter into an agreement or transaction referred to in this subsection (6); and

1 (h) any master agreement that provides for an agreement or transaction referred to in this subsection  
2 (6).

3  
4 NEW SECTION. **Section 3. Montana railroad development authority -- membership --**  
5 **compensation -- staff.** (1) There is a Montana railroad development authority. The authority is constituted as  
6 a public instrumentality, and its exercise of the powers conferred by [sections 1 through 19] must be considered  
7 to be the performance of an essential governmental public function.

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

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

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

11 (c) the chief business development officer of the office of economic development provided for in  
12 2-15-218;

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

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

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

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

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

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

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

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

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

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

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

1 for the unexpired term.

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

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

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

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

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

12

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

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

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

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

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

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

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

30 (g) purchase, take, receive, subscribe for, or otherwise acquire, hold, make a tender offer for, vote,

1 employ, sell, lend, lease, exchange, transfer, or otherwise dispose of, mortgage, pledge, or grant a security  
2 interest in bonds and other obligations, shares, or other securities issued by others, whether engaged in a similar  
3 or different business or activity, subject to constitutional restrictions;

4 (h) make and execute agreements, contracts, and other instruments necessary or convenient in the  
5 exercise of authority powers and functions under [sections 1 through 19];

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

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

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

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

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

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

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

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

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

28 (r) make any inquiry, investigation, survey, or study that the authority determines is necessary to enable  
29 it to effectively carry out the provisions of [sections 1 through 19];

30 (s) subject to the Montana Administrative Procedure Act, adopt, amend, and repeal rules involving

1 authority operations, property, and facilities in order to implement the provisions of [sections 1 through 19];

2 (t) enter into any swap agreement for the purpose of hedging risks; and

3 (u) perform other functions necessary to carry out the provisions of [sections 1 through 19].

4 (2) The authority may not exercise the power of eminent domain pursuant to Title 70, chapter 30, to  
5 acquire railroad facilities, including rights-of-way and track.

6

7 **NEW SECTION. Section 5. Authority powers related to rail service.** (1) In addition to and without  
8 limiting the general powers provided for in [section 4] and except as provided in [section 4(2)] and [section 6], the  
9 authority may, in compliance with Title 69, chapter 14:

10 (a) acquire, sell, construct, improve, rehabilitate, maintain, and operate railroad facilities necessary to  
11 maintain adequate, reliable, efficient, and economic rail service within or outside the state;

12 (b) determine the location, construction, use, and operation of its railroad facilities and the potential  
13 lease, purchase, ownership, or acquisition of other railroad facilities;

14 (c) apply to the appropriate agencies of the federal government, the state, or other state governments  
15 for licenses, permits, or approval of the authority's plans or projects and accept those licenses, permits, or  
16 approvals granted by agencies or officials, including any terms and conditions;

17 (d) institute suit, apply to the legislature for legislation, or take other action that furthers the purposes of  
18 [sections 1 through 19] and protect any rights or obligations pursuant to [sections 1 through 19];

19 (e) study means of maintaining rail service within the state and attracting agriculture, commerce, and  
20 industry to the state;

21 (f) cooperate with and enter into contractual arrangements with private rail service providers and railroad  
22 corporations regarding the:

23 (i) ownership, construction, and operation of railroad facilities by the authority; and

24 (ii) construction, completion, acquisition, ownership, and operation of railroad facilities;

25 (g) enter into cooperative and contractual arrangements with political subdivisions with respect to the  
26 construction, improvement, rehabilitation, ownership, and operation of railroad facilities;

27 (h) acquire from a rail service provider or railroad corporation all franchises and responsibilities for rail  
28 service, including the responsibility to provide safe and adequate service; and

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

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

- 1 (a) promote rail service in the state that results in reliable and adequate service at reasonable rates;
- 2 (b) develop a comprehensive and coordinated plan to increase rail service in the state;
- 3 (c) develop various means to assist Montanans impacted by high rates and poor rail service;
- 4 (d) analyze the feasibility of developing legal structures to facilitate growth of producer transportation
- 5 investment cooperatives;
- 6 (e) provide advice and recommendations to the department on the department's activities under
- 7 60-11-113 through 60-11-116;
- 8 (f) coordinate efforts and develop cooperative partnerships with other states and federal agencies to
- 9 promote rail service;
- 10 (g) act as the state's liaison in working with Class I railroads to promote rail service; and
- 11 (h) promote the expansion of existing rail lines and the construction of new rail lines in the state.
- 12

13 **NEW SECTION. Section 6. Legislative authority -- public service commission authority.** (1) Prior

14 to acquiring, expanding, constructing, leasing, improving, rehabilitating, maintaining, operating, selling, or

15 purchasing railroad facilities, the authority shall:

- 16 (a) obtain general estimates of the costs associated with these proposals;
- 17 (b) prioritize proposals; and
- 18 (c) provide a prioritized list and the associated costs of the proposals to the legislature by the first day
- 19 of any regular legislative session.

20 (2) Information required pursuant to subsection (1) is baseline information and does not include

21 engineering studies, advanced analysis, or preconstruction or construction planning.

22 (3) The legislature may approve those proposals that it finds consistent with the policies and purposes

23 of [sections 1 through 19] and in the public interest.

24 (4) The authority may not acquire, expand, construct, lease, improve, rehabilitate, maintain, operate, sell,

25 or purchase railroad facilities without prior approval of the legislature.

26 (5) The public service commission shall regulate the rates, services, and practices related to railroads

27 owned or operated by the authority pursuant to Title 69, chapter 14.

28

29 **NEW SECTION. Section 7. Bonds -- bond anticipation notes -- notes of authority.** (1) Subject to

30 legislative approval as provided in [section 6], the authority may by resolution issue negotiable notes and revenue

1 bonds to:

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

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

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

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

7 (e) establish or maintain other funds or accounts for the purpose or purposes that the authority considers  
8 necessary or desirable in implementing the provisions of [sections 1 through 19];

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

12 (g) establish or replenish reserves securing the payment of its bonds and notes and finance all other  
13 expenditures of the authority incident to and necessary or convenient to carry out the provisions of [sections 1  
14 through 19].

15 (2) The authority may by resolution:

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

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

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

20 (d) in anticipation of the sale of its securities under [sections 1 through 19], issue temporary notes and  
21 renewal notes.

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

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

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

29 (ii) be in denominations;

30 (iii) be in a registered form;

- 1 (iv) carry registration privileges;
- 2 (v) be payable in a medium of payment at places inside or outside the state; and
- 3 (vi) be subject to terms of redemption as provided in resolutions of the authority.
- 4 (b) The notes and bonds of the authority may be sold at public or private sale at prices that may be
- 5 above or below par and that are determined by the authority.

6

7 **NEW SECTION. Section 8. Refunding obligations.** (1) The authority may provide for the issuance

8 of refunding obligations for refunding any outstanding obligations that have been issued under [sections 1 through

9 19], including the payment of any redemption premium and any interest accrued to or to accrue to the date of

10 redemption of the obligations. The issuance of obligations, the maturities and other details, the rights of the

11 holders, and the rights, duties, and obligations of the authority are governed by the appropriate provisions of

12 [sections 1 through 19] that relate to the issuance of obligations.

13 (2) Refunding obligations issued as provided in subsection (1) may be sold or exchanged for outstanding

14 obligations issued under [sections 1 through 19]. The proceeds of refunding obligations may be applied to the

15 purchase, redemption, or payment of outstanding obligations. The proceeds of refunding obligations may be

16 invested as provided in Title 17, chapter 6, pending the application of the proceeds of refunding obligations, with

17 other available funds, to the payment of principal, accrued interest, and any redemption premium on the

18 obligations being refunded and, if permitted in the resolution authorizing the issuance of the refunding obligations

19 or in the trust agreement securing them, to the payment of interest on refunding obligations and expenses in

20 connection with refunding.

21

22 **NEW SECTION. Section 9. Provisions of bond resolutions.** A resolution authorizing notes or bonds

23 or any issue of the notes or bonds may contain provisions that must be a part of the contract or contracts with

24 the holders of the notes or bonds as to:

- 25 (1) pledging all or any part of the revenue or funds of the authority to secure the payment of the notes
- 26 or bonds or of any issue of the notes or bonds, subject to existing agreements with noteholders or bondholders;
- 27 (2) pledging all or any part of the assets of the authority, including lease agreements, loan agreements,
- 28 mortgages, indentures, trust indentures, and obligations securing them, to secure the payment of the notes or
- 29 bonds or of any issue of the notes or bonds, subject to existing agreements with noteholders or bondholders;
- 30 (3) the setting aside of reserves for debt service funds in the possession of trustees, paying agents, and

1 other depositories and the regulation and disposition of the debt service funds;

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

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

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

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

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

13 (9) defining the acts or omissions that constitute a default in the obligations and duties of the authority  
14 to the noteholders or bondholders and providing for the rights and remedies of the noteholders or bondholders  
15 in the event of a default, including as a matter of right the appointment of a receiver. Rights and remedies may  
16 not be inconsistent with the laws of this state and the other provisions of [sections 1 through 19].

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

19

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

24

25 **NEW SECTION. Section 11. Trust indenture.** (1) In the discretion of the authority, the bonds or notes  
26 of the authority may be secured by a trust indenture between the authority and a corporate trustee, which may  
27 be a trust company or bank having the power of a trust company inside or outside the state. A trust indenture may  
28 contain provisions for protecting and enforcing bondholders' rights and remedies that are reasonable and proper  
29 and not in violation of law, including covenants setting forth the duties of the authority in relation to the exercise  
30 of its powers and the custody, safeguarding, and application of all money. The authority may provide by a trust

1 indenture for the payment of the proceeds of the bonds or notes and the revenue to the trustee under the trust  
2 indenture of another depository and for the method of disbursement, with safeguards and restrictions it considers  
3 necessary.

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

6

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

11

12 NEW SECTION. **Section 13. Negotiability of bonds or notes.** Notwithstanding any other provisions  
13 of law, a bond or note issued under [sections 1 through 19] is fully negotiable for all purposes of the Uniform  
14 Commercial Code, Title 30, chapters 1 through 9A, and a holder or owner of a bond or note or of a coupon  
15 appurtenant to it, by accepting the bond, note, or coupon, is conclusively presumed to have agreed that the bond,  
16 note, or coupon is fully negotiable for all purposes of the Uniform Commercial Code.

17

18 NEW SECTION. **Section 14. Bonds or notes as legal investments.** Notwithstanding the restrictions  
19 of any other law, all banks, trust companies, savings banks and institutions, building and loan associations,  
20 savings and loan associations, investment companies, and other persons carrying on a banking business, all  
21 insurance companies, insurance associations, and other persons carrying on an insurance business, and all  
22 executors, administrators, guardians, trustees, and other fiduciaries may legally invest debt service funds, money,  
23 or other funds belonging to them or within their control in bonds or notes issued under [sections 1 through 19].

24

25 NEW SECTION. **Section 15. Tax exemption of bonds.** (1) Bonds, notes, or other obligations issued  
26 by the authority under [sections 1 through 19], including the transfer, income, and any profits made on the sale  
27 of the bonds, notes, or other obligations, are free from taxation by the state or any political subdivision or other  
28 instrumentality of the state, except for estate taxes and gift taxes. The authority is not required to pay recording  
29 or transfer fees or taxes on instruments recorded by it.

30 (2) The securities and other obligations issued by the authority and the transfer and income from those

1 securities and other obligations must, at all times, be free from taxation by the state or any municipality, except  
2 for estate and gift taxes.

3  
4 **NEW SECTION. Section 16. Additional funds and accounts.** The authority may establish additional  
5 reserves or other funds or accounts to further the purposes of [sections 1 through 19] or to comply with the  
6 provisions of any of its agreements or resolutions.

7  
8 **NEW SECTION. Section 17. Credit of state not pledged.** Obligations issued under the provisions of  
9 [sections 1 through 19] do not constitute a liability or obligation or a pledge of the faith and credit of the state but  
10 are payable solely from revenue or funds of the authority generated or received for purposes of [sections 1  
11 through 19]. An obligation issued under [sections 1 through 19] must contain on the face of the obligation a  
12 statement to the effect that the state of Montana is not liable on the obligation and the obligation is not a debt of  
13 the state and neither the faith and credit nor the taxing power of the state is pledged to the payment of the  
14 principal of or the interest on the obligation.

15  
16 **NEW SECTION. Section 18. Care and custody of bonds purchased by authority.** The authority may:

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

20 (a) the care, custody, or safekeeping of bonds or other investments held or owned by the authority  
21 pursuant to [sections 1 through 19];

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

23 (c) the delivery to the authority of bonds or other investments purchased by it or sold by it pursuant to  
24 [sections 1 through 19];

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

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

30

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

5  
 6            **Section 20.** Section 7-12-2156, MCA, is amended to read:

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

14  
 15            **Section 21.** Section 7-14-4301, MCA, is amended to read:

16            "**7-14-4301. Regulation of railways.** (1) The city or town council may grant the right-of-way through the  
 17 streets, avenues, and other property of a city or town for the purpose of street or other railroads, to regulate the  
 18 running and management of the railroads, and to compel the owner of a street or other railroad to:

19            (a) keep the street in repair when occupied by the street or other railroad;  
 20            (b) to regulate the speed of railroad engines; and  
 21            (c) to require railroad companies or the Montana railroad development authority to station flag persons  
 22 at street crossings.

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

25  
 26            **Section 22.** Section 10-3-1204, MCA, is amended to read:

27            "**10-3-1204. State emergency response commission.** (1) There is a state emergency response  
 28 commission that is attached to the department for administrative purposes. The commission consists of ~~29~~ 30  
 29 members appointed by the governor. The commission must include representatives of the national guard, the  
 30 air force, the department of environmental quality, the division, the department of transportation, the department

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

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

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

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

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

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

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

30 (8) The commission may collect and disseminate information relating to emergency response to

1 incidents.

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

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

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

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

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

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

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

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

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

23

24 **Section 23.** Section 15-6-141, MCA, is amended to read:

25 **"15-6-141. Class nine property -- description -- taxable percentage.** (1) Class nine property includes:

26 (a) centrally assessed allocations of an electric power company or centrally assessed allocations of an  
27 electric power company that owns or operates transmission or distribution facilities or both;

28 (b) if congress passes legislation that allows the state to tax property owned by an agency created by  
29 congress to transmit or distribute electrical energy, allocations of properties constructed, owned, or operated by  
30 a public agency created by congress to transmit or distribute electrical energy produced at privately owned

1 generating facilities, not including rural electric cooperatives;

2 (c) rural electric cooperatives' property, except wind generation facilities, biomass generation facilities,  
3 and energy storage facilities classified under 15-6-157 and property used for headquarters, office, shop, or other  
4 similar facilities, used for the sole purpose of serving customers representing less than 95% of the electric  
5 consumers located within the incorporated limits of a city or town of more than 3,500 persons in which a centrally  
6 assessed electric power company also owns property or serving an incorporated municipality with a population  
7 that is greater than 3,500 persons formerly served by a public utility that after January 1, 1998, received service  
8 from the facilities of an electric cooperative;

9 (d) allocations for centrally assessed natural gas distribution utilities, rate-regulated natural gas  
10 transmission or oil transmission pipelines regulated by either the public service commission or the federal energy  
11 regulatory commission, a common carrier pipeline as defined in 69-13-101, a pipeline carrier as defined in 49  
12 U.S.C. 15102(2), or the gas gathering facilities specified in 15-6-138(5); ~~and~~

13 (e) centrally assessed companies' allocations except:

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

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

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

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

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

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

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

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

24 (f) centrally assessed allocations of the property owned by the Montana railroad development authority.

25 (2) Class nine property is taxed at 12% of market value."  
26

27 **Section 24.** Section 15-6-145, MCA, is amended to read:

28 **"15-6-145. Class twelve property -- description -- taxable percentage.** (1) Class twelve property  
29 includes;

30 (a) all property of a railroad car company as defined in 15-23-211, all railroad transportation property as

1 described in the Railroad Revitalization and Regulatory Reform Act of 1976 as it read on January 1, 1986, and  
 2 all airline transportation property as described in the Tax Equity and Fiscal Responsibility Act of 1982 as it read  
 3 on January 1, 1986; and

4 (b) centrally assessed railroad facilities owned or operated by the Montana railroad development  
 5 authority.

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

9 (3) R = A/B where:

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

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

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

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

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

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

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

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

1 in 15-1-101(1)(d)."

2

3 **Section 25.** Section 15-6-201, MCA, is amended to read:

4 **"15-6-201. Governmental, charitable, and educational categories -- exempt property.** (1) The  
5 following categories of property are exempt from taxation:

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

8 (i) the United States, except:

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

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

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

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

14 (iv) municipal corporations;

15 (v) public libraries;

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

17 (vii) special districts created pursuant to Title 7, chapter 11, part 10; and

18 (viii) subject to subsection (2), federally recognized Indian tribes in the state if the property is located  
19 entirely within the exterior boundaries of the reservation of the tribe that owns the property and the property is  
20 used exclusively by the tribe for essential government services. Essential government services are tribal  
21 government administration, fire, police, public health, education, recreation, sewer, water, pollution control, public  
22 transit, and public parks and recreational facilities.

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

30 (c) land and improvements upon the land, not to exceed 15 acres, owned by a federally recognized

1 Indian tribe when the land has been set aside by tribal resolution and designated as sacred land to be used  
2 exclusively for religious purposes;

3 (d) property owned and used exclusively for agricultural and horticultural societies not operated for gain  
4 or profit;

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

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

10 (ii) has an attendance policy; and

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

12 (f) property, of any acreage, owned by a tribal corporation created for the sole purpose of establishing  
13 schools, colleges, and universities if the property meets the requirements of subsection (1)(e);

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

18 (h) property that is:

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

20 or

21 (B) owned by a federally recognized Indian tribe within the state and set aside by tribal resolution; and

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

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

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

28 (j) evidence of debt secured by mortgages of record upon real or personal property in the state of  
29 Montana;

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

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

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

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

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

13 (o) property owned by a nonprofit corporation that is organized to provide facilities primarily for training  
14 and practice for or competition in international sports and athletic events and that is not held or used for private  
15 or corporate gain or profit. For purposes of this subsection (1)(o), "nonprofit corporation" means an organization  
16 that is exempt from taxation under section 501(c) of the Internal Revenue Code and incorporated and admitted  
17 under the Montana Nonprofit Corporation Act, Title 35, chapter 2.

18 (2) (a) (i) For the purposes of tribal property under subsection (1)(a)(viii), the property subject to  
19 exemption may not be:

20 (A) operated for gain or profit;

21 (B) held under contract to operate, lease, or sell by a taxable individual;

22 (C) used or possessed exclusively by a taxable individual or entity; or

23 (D) held by a tribal corporation except for educational purposes as provided in subsection (1)(f).

24 (ii) For the purposes of parks and recreational facilities under subsection (1)(a)(viii), the property must  
25 be:

26 (A) set aside by tribal resolution and designated as park land, not to exceed 640 acres, or be designated  
27 as a recreational facility; and

28 (B) open to the general public.

29 (b) For the purposes of subsection (1)(b), the term "clergy" means, as recognized under the federal  
30 Internal Revenue Code:

- 1 (i) an ordained minister, priest, or rabbi;
- 2 (ii) a commissioned or licensed minister of a church or church denomination that ordains ministers if the  
3 person has the authority to perform substantially all the religious duties of the church or denomination;
- 4 (iii) a member of a religious order who has taken a vow of poverty; or
- 5 (iv) a Christian Science practitioner.
- 6 (c) For the purposes of subsection (1)(i):
- 7 (i) the term "institutions of purely public charity" includes any organization that meets the following  
8 requirements:
- 9 (A) The organization offers its charitable goods or services to persons without regard to race, religion,  
10 creed, or gender and qualifies as a tax-exempt organization under the provisions of section 501(c)(3), Internal  
11 Revenue Code, as amended.
- 12 (B) The organization accomplishes its activities through absolute gratuity or grants. However, the  
13 organization may solicit or raise funds by the sale of merchandise, memberships, or tickets to public  
14 performances or entertainment or by other similar types of fundraising activities.
- 15 (ii) agricultural property owned by a purely public charity is not exempt if the agricultural property is used  
16 by the charity to produce unrelated business taxable income as that term is defined in section 512 of the Internal  
17 Revenue Code, 26 U.S.C. 512. A public charity claiming an exemption for agricultural property shall file annually  
18 with the department a copy of its federal tax return reporting any unrelated business taxable income received by  
19 the charity during the tax year, together with a statement indicating whether the exempt property was used to  
20 generate any unrelated business taxable income.
- 21 (iii) up to 15 acres of property owned by a purely public charity is exempt at the time of its purchase even  
22 if the property must be improved before it can directly be used for its intended charitable purpose. If the property  
23 is not directly used for the charitable purpose within 8 years of receiving an exemption under this section or if the  
24 property is sold or transferred before it entered direct charitable use, the exemption is revoked and the property  
25 is taxable. In addition to taxes due for the first year that the property becomes taxable, the owner of the property  
26 shall pay an amount equal to the amount of the tax due that year times the number of years that the property was  
27 tax-exempt under this section. The amount due is a lien upon the property and when collected must be distributed  
28 by the treasurer to funds and accounts in the same ratio as property tax collected on the property is distributed.  
29 At the time the exemption is granted, the department shall file a notice with the clerk and recorder in the county  
30 in which the property is located. The notice must indicate that an exemption pursuant to this section has been

1 granted. The notice must describe the penalty for default under this section and must specify that a default under  
2 this section will create a lien on the property by operation of law. The notice must be on a form prescribed by the  
3 department.

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

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

14 (i) actually used by the governmental entity or nonprofit organization as a part of its public display;

15 (ii) held for future display; or

16 (iii) used to house or store a public display."  
17

18 **Section 26.** Section 15-8-111, MCA, is amended to read:

19 **"15-8-111. Assessment -- market value standard -- exceptions.** (1) All taxable property must be  
20 assessed at 100% of its market value except as otherwise provided.

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

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

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

30 (d) Except as provided in subsection (4), the market value of special mobile equipment and agricultural

1 tools, implements, and machinery is the average wholesale value shown in national appraisal guides and  
2 manuals or the value before reconditioning and profit margin. The department shall prepare valuation schedules  
3 showing the average wholesale value when a national appraisal guide does not exist.

4 (3) In valuing class four residential and commercial property described in 15-6-134, the department shall  
5 conduct the appraisal following the appropriate uniform standards of professional appraisal practice for mass  
6 appraisal promulgated by the appraisal standards board of the appraisal foundation. In valuing the property, the  
7 department shall use information available from any source considered reliable. Comparable properties used for  
8 valuation must represent similar properties within an acceptable proximity of the property being valued.

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

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

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

17 (c) (i) for condominium property, the department shall establish the value as provided in subsection (5);  
18 and

19 (ii) for a townhome or townhouse, as defined in 70-23-102, the department shall determine the value in  
20 a manner established by the department by rule; and

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

22 (5) (a) Subject to subsection (5)(c), if sufficient, relevant information on comparable sales is available,  
23 the department shall use the comparable sales method to appraise residential condominium units. Because the  
24 undivided interest in common elements is included in the sales price of the condominium units, the department  
25 is not required to separately allocate the value of the common elements to the individual units being valued.

26 (b) Subject to subsection (5)(c), if sufficient, relevant information on income is made available to the  
27 department, the department shall use the capitalization-of-net-income method to appraise commercial  
28 condominium units. Because the undivided interest in common elements contributes directly to the  
29 income-producing capability of the individual units, the department is not required to separately allocate the value  
30 of the common elements to the individual units being valued.

1 (c) If sufficient, relevant information on comparable sales is not available for residential condominium  
2 units or if sufficient, relevant information on income is not made available for commercial condominium units, the  
3 department shall value condominiums using the construction-cost method. When using the construction-cost  
4 method, the department shall determine the value of the entire condominium project and allocate a percentage  
5 of the total value to each individual unit. The allocation is equal to the percentage of undivided interest in the  
6 common elements for the unit as expressed in the declaration made pursuant to 70-23-403, regardless of whether  
7 the percentage expressed in the declaration conforms to market value.

8 (6) For purposes of taxation, assessed value is the same as appraised value.

9 (7) The taxable value for all property is the percentage of market or assessed value established for each  
10 class of property.

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

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

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

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

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

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

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

27 (9) Land and the improvements on the land are separately assessed when any of the following  
28 conditions occur:

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

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

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

2

3 **Section 27.** Section 15-8-405, MCA, is amended to read:

4 **"15-8-405. Street railroads, bridges, and ferries.** Street railroads, bridges, and ferries owned by  
5 persons, or corporations, or the Montana railroad development authority must be listed and assessed in the  
6 county, town, or district where the property or any portion of the property is located. The track of the railroad and  
7 the bridge are personal property."

8

9 **Section 28.** Section 15-23-101, MCA, is amended to read:

10 **"15-23-101. Properties centrally assessed.** The department shall centrally assess each year:

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

14 (2) property owned by a corporation or other person operating a single and continuous property operated  
15 in more than one county or more than one state including but not limited to:

16 (a) telegraph, telephone, microwave, and electric power or transmission lines;

17 (b) rate-regulated natural gas transmission or oil transmission pipelines regulated by the public service  
18 commission or the federal energy regulatory commission;

19 (c) common carrier pipelines as defined in 69-13-101 or a pipeline carrier as defined in 49 U.S.C.  
20 15102(2);

21 (d) natural gas distribution utilities;

22 (e) the gas gathering facilities specified in 15-6-138(5);

23 (f) canals, ditches, flumes, or like properties; and

24 (g) if congress passes legislation that allows the state to tax property owned by an agency created by  
25 congress to transmit or distribute electrical energy, property constructed, owned, or operated by a public agency  
26 created by congress to transmit or distribute electrical energy produced at privately owned generating facilities,  
27 not including rural electric cooperatives;

28 (3) all property of scheduled airlines;

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

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

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

3

4 **Section 29.** Section 15-23-203, MCA, is amended to read:

5 **"15-23-203. Definitions relating to taxes.** As used in this part, unless the context requires otherwise,  
6 the following definitions apply:

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

9 (b) ~~For tax year 1999, base value means the system value of railroad transportation property used to~~  
10 ~~determine the railroad's Montana property taxes paid for the 1998 tax year.~~

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

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

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

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

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

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

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

26 (9) "Railroad development authority" means the Montana railroad development authority established  
27 pursuant to [section 3].

28 ~~(9)(10)~~ "System cost" means the total depreciated cost, including leased property within the state and  
29 outside the state of:

30 (a) all railroad transportation property; or

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

3

4            **Section 30.** Section 15-23-204, MCA, is amended to read:

5            "**15-23-204. Assessment of railroads.** The railroad development authority, the president, secretary,  
 6 or managing agent, or such other any other officer as designated by the department of revenue may designate  
 7 of any corporation, and each person or association of persons owning or operating any a railroad in more than  
 8 one county in this state or more than one state must shall on or before April 15 of each year furnish the  
 9 department with a statement signed and sworn to by one of such officers a member of the railroad development  
 10 authority, an officer, or by the person or one of the persons forming such the association; showing in detail for  
 11 the year ending December 31 immediately preceding:

12            (1) the whole number of miles of railroad in the state and, ~~where~~ if the line is partly out of the state, the  
 13 whole number of miles ~~without~~ outside the state and the whole number within the state, owned or operated by  
 14 ~~such the~~ railroad development authority, corporation, person, or association;

15            (2) the value of the roadway, roadbed, and rails of the whole railroad outside the state and the value of  
 16 the ~~same~~ roadway, roadbed, and rails of the whole railroad within the state;

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

18            (4) the number of each kind of all rolling stock used by ~~such the~~ railroad development authority,  
 19 corporation, person, or association in operating the entire railroad, including the part ~~without~~ outside the state;

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

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

23            (7) the number, kind, and value of rolling stock owned but used out of the state, either upon divisions  
 24 of road operated by the party making the returns or by and upon other railroads;

25            (8) the whole number of sidetracks in each county, including the number of miles of track in each railroad  
 26 yard in the state;

27            (9) the number of each kind of rolling stock used in operating the entire railroad, including the part ~~without~~  
 28 outside the state, which must include a detailed statement of the number and value ~~thereof~~ of all engines; all  
 29 passenger, mail, express, baggage, freight, and other cars; ~~or~~ and all property owned or leased by ~~such the~~  
 30 railroad development authority, corporation, person, or association;

1 (10) the number of sleeping and dining cars not owned by ~~such~~ the railroad development authority,  
 2 corporation, person, or association but used in operating the railroads of ~~such~~ the railroad development authority,  
 3 corporation, person, or association in the state or on the line of the road ~~without~~ outside the state during each  
 4 month of the year ~~for which the return is made; also, along with~~ the number of miles each month that the cars  
 5 have been run or operated within and ~~without~~ outside the state;

6 (11) a description of the road, giving the points of entrance into and the points of exit from each county,  
 7 with a statement of the number of miles in each county. ~~When~~ After a description of the road ~~has once been is~~  
 8 given, no other annual description ~~thereof~~ of the road is necessary unless the road ~~has been is~~ changed.  
 9 ~~Whenever~~ If the road or any portion of the road is advertised to be sold or is sold for state or county taxes, ~~either~~  
 10 ~~state or county~~; no other description is necessary other than that given by, ~~and the same is conclusive upon~~; the  
 11 railroad development authority, person, corporation, or association ~~giving the description pursuant to this~~  
 12 subsection. ~~No~~ An assessment is not invalid ~~on account of~~ due to a misdescription of the railroad or the  
 13 right-of-way for the ~~same~~ assessment. If ~~such~~ the statement is not furnished as ~~above~~ provided in this section,  
 14 the department's assessment ~~made by the department upon~~ on the property of the railroad development  
 15 authority, corporation, person, or association failing to furnish the statement is conclusive and final.

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

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

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

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

22 (16) capital stock authorized;

23 (17) capital stock paid in;

24 (18) funded debt;

25 (19) number of shares authorized;

26 (20) number of shares of stock issued;

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

29 (22) any other facts that the department may require."  
 30

1           **Section 31.** Section 15-23-205, MCA, is amended to read:

2           **"15-23-205. Assessment -- how made.** (1) The department shall assess the railroad transportation  
3 property of all railroads operated in more than one county or more than one state as provided in this section.  
4 Assessment must be made to the person or the railroad development authority owning, ~~or~~ leasing, or using the  
5 property and must be made upon the entire railroad within the state.

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

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

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

12           (c) The gross profit margin change factor is determined by dividing the average gross profit margin for  
13 the 2 years immediately preceding the current tax year by the average gross profit margin for the 2 years  
14 immediately preceding the previous tax year.

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

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

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

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

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

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

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

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

30           (6) The department shall take into account extenuating circumstances to adjust the assessed value of

1 railroad property in the state. Occurrences that may result in an adjustment to the assessed value of railroad  
2 property include but are not limited to:

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

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

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

11

12 **Section 32.** Section 15-23-211, MCA, is amended to read:

13 **"15-23-211. Definitions.** As used in 15-23-211 through 15-23-216, unless the context requires  
14 otherwise, the following definitions apply:

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

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

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

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

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

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

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

25

26 **Section 33.** Section 15-24-1203, MCA, is amended to read:

27 **"15-24-1203. Privilege tax on industrial, trade, or other business use of tax-exempt property --**  
28 **exceptions.** (1) There is imposed and must be collected a tax upon the possession or other beneficial use for  
29 industrial, trade, or other business purposes enjoyed by any private individual, association, or corporation of any  
30 property, real or personal, that for any reason is exempt from taxation. The tax is imposed upon the possession

1 or other beneficial use of:

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

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

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

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

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

12 (c) the possession or other beneficial use of public lands occupied under the terms of recreational,  
13 mineral, timber, or grazing leases or permits issued by the United States or the state of Montana or upon any  
14 easement unless the lease, permit, or easement entitles the lessee or permittee to exclusive possession of the  
15 premises to which the lease, permit, or easement relates; or

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

18

19 **Section 34.** Section 18-2-101, MCA, is amended to read:

20 **"18-2-101. Definitions of building, costs, and construction.** In part 1 of this chapter, with the  
21 exception of 18-2-104, 18-2-107, 18-2-113, 18-2-114, 18-2-122, and 18-2-123, the following definitions apply:

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

23 (i) constructed or purchased wholly or in part with state money;

24 (ii) at a state institution;

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

26 (iv) constructed for the use or benefit of the state with federal or private money as provided in  
27 18-2-102(2)(d).

28 (b) "Building" does not include a building, facility, or structure:

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

30 (ii) used as a component part of an environmental remediation or abandoned mine land reclamation

1 project, a highway, or a water conservation project, unless the building will require a continuing state general fund  
 2 financial obligation after the environmental remediation or abandoned mine land reclamation project is completed;  
 3 or

4 (iii) leased or to be leased by a state agency; or

5 (iv) constructed, owned, or operated by the Montana railroad development authority provided for in  
 6 [section 3].

7 (2) (a) "Construction" includes the construction, alteration, repair, maintenance, and remodeling of a  
 8 building and the equipping and furnishing of a building during construction, alteration, repair, maintenance, and  
 9 remodeling.

10 (b) "Construction" does not include work performed under an energy performance contract entered into  
 11 pursuant to Title 90, chapter 4, part 11.

12 (3) "Costs" means those expenses defined in 17-5-801."  
 13

14 **Section 35.** Section 18-4-313, MCA, is amended to read:

15 **"18-4-313. Contracts -- terms, extensions, and time limits.** (1) Except as provided in subsection (2)  
 16 or unless otherwise provided by law, a contract, lease, or rental agreement for supplies or services may not be  
 17 made for a period of more than 7 years. A contract, lease, or rental agreement may be extended or renewed if  
 18 the terms of the extension or renewal, if any, are included in the solicitation, if funds are available for the first fiscal  
 19 period at the time of the agreement, and if the total contract period, including any extension or renewal, does not  
 20 exceed 7 years. Payment and performance obligations for succeeding fiscal periods are subject to the availability  
 21 and appropriation of funds for the fiscal periods.

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

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

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

26 (c) a department of corrections contract governed by the term specified in 53-1-203, 53-30-505, or  
 27 53-30-608; ~~and~~

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

1           (e) a Montana railroad development authority contract governed by the provisions of [sections 1 through  
2 19].

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

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

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

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

9

10           **Section 36.** Section 27-2-207, MCA, is amended to read:

11           **"27-2-207. Injuries involving property.** Within 2 years, a person shall take action ~~is the period~~  
12 ~~prescribed for the commencement of an action for the:~~

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

14           (2) taking, detaining, or injuring of any goods or chattels, including actions for the specific recovery of  
15 personal property; or

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

18

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

20           **"37-60-105. Exemptions.** (1) Except as provided in subsection (2), this chapter does not apply to:

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

24           (b) a person:

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

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

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

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

30           (d) a person engaged exclusively in the business of obtaining and furnishing information as to the

1 financial rating of persons or as to the personal habits and financial responsibility of applicants for insurance,  
2 indemnity bonds, or commercial credit;

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

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

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

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

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

15 (j) insurers, and insurance producers, and insurance brokers licensed by the state while performing  
16 duties in connection with insurance transacted by them the insurer, insurance producer, or insurance broker;

17 (k) individuals engaged in the collection and examination of physical material for forensic purposes;

18 (l) an insurance adjuster, as defined in 37-60-101;

19 (m) an internal investigator or auditor while making an investigation incidental to the business of the  
20 agency or company by which the investigator or auditor is singularly and regularly employed; or

21 (n) a person who evaluates and advises management on personnel and human resource issues in the  
22 workplace.

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

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

27

28 **Section 38.** Section 39-2-703, MCA, is amended to read:

29 **"39-2-703. Liability of railway corporation or Montana railroad development authority for**  
30 **negligence of fellow servants employees.** (1) A The Montana railroad development authority or a person or

1 corporation operating a railway or railroad in this state is liable for all damages sustained by any employee of the  
 2 authority, person, or corporation in consequence of the neglect of any other employee of the authority, person,  
 3 or corporation or by the mismanagement of any other employee and in consequence of the willful wrongs,  
 4 whether of commission or omission, of any other employee of the authority, person, or corporation when the  
 5 neglect, mismanagement, or wrongs are in any manner connected with the use and operation of a railway or  
 6 railroad on or about which the employee is employed. A contract that restricts the liability is not legal or binding.

7 (2) If the death of an employee described in subsection (1) results from any injury or damage sustained,  
 8 the right of action provided by subsection (1) survives and may be prosecuted and maintained by the deceased  
 9 employee's heirs or personal representatives.

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

15 (4) A contract of insurance, relief, benefit, or indemnity in case of injury or death or any other contract  
 16 entered into, either before or after the injury, between the person injured and any of the employers named in  
 17 subsection (3) is not a bar or defense to any cause of action brought under the provisions of this section, except  
 18 as otherwise provided in the Workers' Compensation Act."

19

20 **Section 39.** Section 44-4-902, MCA, is amended to read:

21 **"44-4-902. Application for appointment.** A ~~class~~ Class I railroad corporation, as defined by the  
 22 interstate commerce commission in part 1201 of 49 CFR, and, if it is operating a Class I railroad, the Montana  
 23 railroad development authority provided for in [section 3] desiring the appointment of an officer or employee as  
 24 a special peace officer shall apply to the attorney general. The application must state the name, age, and place  
 25 of residence of the person applying for appointment. The applicant must have at least 3 years of experience as  
 26 a ~~class~~ Class I railroad peace officer or have completed a training course at an approved law enforcement  
 27 academy, or meet the qualifications described in 7-32-303 and adopted pursuant to Title 44, chapter 4, part 4.  
 28 The application must be signed by the applicant and a managing officer of the railroad corporation or a member  
 29 of the Montana railroad development authority. The managing officer or member signing the application shall at  
 30 the same time submit an affidavit to the effect that the officer or member is acquainted with the person seeking

1 appointment, that the officer or member believes the applicant to be of good moral character, and that the  
 2 applicant ~~is of good moral character~~ and has experience such showing that the applicant can be safely entrusted  
 3 with the powers and duties of a special peace officer."  
 4

5 **Section 40.** Section 44-4-903, MCA, is amended to read:

6 **"44-4-903. Limitations on special peace officer.** A person appointed and sworn as a special peace  
 7 officer must when on duty have the power and authority of a peace officer but may exercise the power and  
 8 authority only in the protection of the property of the ~~class~~ Class I railroad corporation or the Montana railroad  
 9 development authority employing the person."  
 10

11 **Section 41.** Section 44-4-904, MCA, is amended to read:

12 **"44-4-904. Responsibility of corporation.** The ~~class~~ Class I railroad corporation or the Montana  
 13 railroad development authority employing a special peace officer is solely responsible for the compensation of  
 14 the special peace officer and is civilly liable for any action of the officer arising out of the officer's actions as a  
 15 special peace officer. The ~~class~~ Class I railroad corporation or the Montana railroad development authority  
 16 employing a special peace officer shall hold the state, its subdivisions, other than the authority, and the officers  
 17 and employees of the state and its subdivisions harmless and indemnify them from any claim or liability, including  
 18 costs and attorney fees, arising out of any action of a special peace officer or the certification of the special peace  
 19 officer by the state."  
 20

21 **Section 42.** Section 60-11-111, MCA, is amended to read:

22 **"60-11-111. Identification and acquisition of railroad rights-of-way -- identification of railroad lines**  
 23 **for rehabilitation.** (1) Identification of those railroad lines proposed for abandonment in the state of Montana that  
 24 may have potential for local transportation service or future use as transportation corridors is necessary to  
 25 determine the feasibility of acquisition by the state and to allow the state to negotiate for acquisition of those  
 26 railroad lines or easements in the lines.

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

- 1           (3) The department of transportation, in consultation with the Montana railroad development authority:
- 2           (a) shall identify railroad rights-of-way in this state that may be abandoned and research the feasibility
- 3 of acquisition by the state of Montana of those rights-of-way that may be abandoned;
- 4           (b) shall identify, under the state rail planning program, railroad branch lines that should be preserved
- 5 for continued operation;
- 6           (c) may negotiate for and acquire easements in the rights-of-way or the railroad rights-of-way and
- 7 attendant facilities identified pursuant to subsection (3)(a) and:
- 8           (i) hold all acquired lands in trust for transportation purposes; and
- 9           (ii) ~~upon creation of an appropriate local authority, other than an agency of state government~~; shall
- 10 transfer to ~~the~~ an appropriately created local authority or the Montana railroad development authority all attendant
- 11 facilities and all rights and responsibility to operate and maintain transportation services over the lands acquired
- 12 in subsection (3)(c);
- 13           (d) shall cooperate with and assist persons representing recreational, transportation, and utility interests
- 14 and other interested persons, including adjacent landowners, in acquiring ownership or easement of abandoned
- 15 railbeds; and
- 16           (e) shall establish procedures, including the use of federal funds received for rail freight assistance
- 17 programs under former 49 U.S.C. 1654, for providing loans and grants under 60-11-120.
- 18           (4) Abandoned rights-of-way acquired and held in trust pursuant to subsection (3)(c)(i) must be
- 19 administered by the department of natural resources and conservation, as prescribed in Title 77, until the land
- 20 is needed for transportation purposes."

21

22           **Section 43.** Section 60-11-119, MCA, is amended to read:

23           **"60-11-119. Authority to issue revenue bonds.** (1) The board may issue and sell essential freight rail

24 revenue bonds to make loans to finance the cost of projects, to pay the costs of issuing the bonds, and to provide

25 for reserves, upon recommendation of the department. The bonds must be issued under Title 17, chapter 5, part

26 15.

27           (2) Projects proposed by the Montana railroad development authority provided for in [section 3] are not

28 eligible for essential freight rail revenue bonds."

29

30           **Section 44.** Section 60-11-120, MCA, is amended to read:

1           **"60-11-120. Railroad and intermodal transportation facility loans -- authorization -- eligibility. (1)**  
2 Money appropriated by the legislature for the purposes provided for in this section and pursuant to 60-11-115  
3 must be used by the department, in consultation with the Montana railroad development authority, after deducting  
4 the necessary costs and expenses for administering this section, to provide loans for:  
5           (a) the preservation and continued operation of railroad branch lines identified in 60-11-111; and  
6           (b) the development, improvement, construction, purchase, maintenance, or rehabilitation of:  
7           (i) intermodal transportation facilities except as prohibited by federal law;  
8           (ii) branch lines or short lines;  
9           (iii) sidings;  
10          (iv) light density railroad lines; and  
11          (v) rolling stock, including rail cars.  
12          (2) An owner or operator of a railroad identified in 60-11-111(2) is eligible for a loan under this section  
13 if the owner or operator:  
14          (a) undertakes to repair, improve, or replace rail facilities to allow the continued operation of the railroad  
15 for local rail transportation service; and  
16          (b) derives revenue from the continued operation of the railroad.  
17          (3) A port authority created under Title 7, chapter 14, part 11, is eligible for a loan under this section if:  
18          (a) the port authority is included in the state transportation planning process as described in 23 U.S.C.  
19 135; and  
20          (b) the purpose for which a loan is sought is integrally related to the railroad transportation system of the  
21 state.  
22          (4) Applications for a loan must include:  
23          (a) a financial statement;  
24          (b) evidence of matching funds required pursuant to subsection (5);  
25          (c) an operating or business plan that demonstrates the applicant's ability to repay the funds; and  
26          (d) upon request of the department, an independent feasibility study.  
27          (5) Pursuant to requirements of former 49 U.S.C. 1654, which is providing a portion of the funds under  
28 60-11-115, rehabilitation projects must be matched with 30% in other funds and new construction projects must  
29 be matched with 50% in other funds. The transportation commission, provided for in 2-15-2502, in consultation  
30 with the Montana railroad development authority, shall establish matching fund requirements for other project

1 categories.

2 (6) The transportation commission, in consultation with the Montana railroad development authority, is  
3 responsible for determining funding recipients. Recipients must be determined using the guidelines provided in  
4 60-2-110.

5 (7) The department shall administer the Montana Essential Freight Rail Act with input from the  
6 department of commerce, the department of agriculture, the Montana railroad development authority, and the  
7 governor's office.

8 (8) Funding recipients shall pay the standard prevailing wage on any construction projects or  
9 subcontracted construction projects conducted with funds received under this section."

10

11 **Section 45.** Section 60-11-123, MCA, is amended to read:

12 **"60-11-123. Disposition of revenue from state-owned railroads -- use of money.** (1) Unless  
13 otherwise required by law, revenue from the lease or sale of assets of or revenue paid to the state of Montana  
14 by an operator of a railroad owned by the state of Montana, other than a railroad owned by the Montana railroad  
15 development authority as provided in [sections 1 through 19], must be deposited in the state general fund.

16 (2) The department of transportation is authorized ~~to administer~~, as provided in 60-11-120 through  
17 60-11-123, to administer funding available to provide for improvement of railroad tracks and associated facilities  
18 of any state-owned railroad in Montana, other than a railroad owned by the Montana railroad development  
19 authority, and to provide loans and grants to railroad lines and intermodal transportation facilities as provided in  
20 60-11-120."

21

22 **Section 46.** Section 69-1-110, MCA, is amended to read:

23 **"69-1-110. Conduct of commission business.** (1) The commission shall hold sessions at times and  
24 places in this state as may be expedient. A majority of the commission constitutes a quorum for the transaction  
25 of business.

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

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

1

2           **Section 47.** Section 69-1-112, MCA, is amended to read:

3           **"69-1-112. Prohibition on acceptance of favors from railroads.** (1) Public service commissioners or  
4 their staff may not, directly or indirectly, solicit or request from or recommend to any railroad corporation, the  
5 Montana railroad development authority, or any officer, attorney, or agent of a railroad corporation or the Montana  
6 railroad development authority the appointment of any person to any place or position, and any railroad  
7 corporation or the Montana railroad development authority or its attorney or agent may not offer any place,  
8 appointment, or position or other consideration to commissioners or their staff. Commissioners and their staff may  
9 not accept, receive, or request any pass from any railroad in this state for themselves or for any other person,  
10 except as otherwise provided in 69-1-111, or any present, gift, or gratuity of any kind from any railroad corporation  
11 or the Montana railroad development authority.

12           (2) A request or acceptance, except as specified in 69-1-111, of any place or position, pass, present,  
13 gift, or other gratuity referred to in subsection (1) results in forfeiture of the office of the commissioner or the staff  
14 requesting or accepting the ~~same~~ place or position, pass, present, gift, or other gratuity referred to in subsection  
15 (1). A person violating any of the provisions of this section is guilty of a misdemeanor."

16

17           **Section 48.** Section 69-14-101, MCA, is amended to read:

18           **"69-14-101. Definitions.** Unless the context requires otherwise, in this chapter the following definitions  
19 apply:

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

22           (2) "Railroad" means the Montana railroad development authority provided for in [section 3] or a  
23 corporation, company, or individual owning or operating a railroad in whole or in part in this state. The term also  
24 includes express companies, sleeping-car companies, and a rail authority established under Title 7, chapter 14,  
25 part 16.

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

27

28           **Section 49.** Section 69-14-201, MCA, is amended to read:

29           **"69-14-201. General duties of railroad corporation and Montana railroad development authority.**

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

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

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

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

9

10 **Section 50.** Section 69-14-202, MCA, is amended to read:

11 **"69-14-202. Duty to furnish shipping and passenger facilities.** (1) ~~Every~~ Except as provided in  
12 subsection (2), the Montana railroad development authority or a person, corporation, or association operating a  
13 railroad in the state on January 1, 1987, or a its successor ~~thereto~~, shall maintain and staff facilities for shipment  
14 and delivery of freight and shall ship and deliver freight and accommodate passengers in ~~such~~ facilities ~~as were~~  
15 similar to those maintained and staffed on January 1, 1987.

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

22 (a) the facts and testimony presented by the general public; <sub>1</sub>

23 (b) the existing burdens on the railroad; <sub>1</sub>

24 (c) the burdens placed upon ~~the shipping shippers~~ and the general public if the application is granted; <sub>1</sub>

25 and

26 (d) any other factors the commission considers significant to provide adequate rail service."

27

28 **Section 51.** Section 69-14-203, MCA, is amended to read:

29 **"69-14-203. Posting of information concerning train schedules.** (1) ~~Every~~ (a) Except as provided  
30 in subsection (1)(c), the Montana railroad development authority or railway company or corporation managing,

1 operating, or leasing any railroad in this state that is engaged in the transportation of passengers shall place or  
 2 ~~cause to be placed~~ a bulletin board in a conspicuous place in ~~and about each and every~~ each station or depot  
 3 where an agent, ~~telephone, or telegraph operator~~ is kept. Such

4 (b) The authority or railway company or corporation shall, for the information of the traveling public, at  
 5 least 3 hours before the advertised, scheduled time of the arrival of each passenger train stopping upon such  
 6 route at such the station, ~~cause to be posted upon such bulletin board~~ post the number of the train, the time such  
 7 the train is due, and the fact whether such the train is on scheduled time or not and, if late, how much, and shall  
 8 indicate at the end of 2 hours thereafter any gain or loss of more than 15 minutes made by such train and  
 9 thereafter, every 30 minutes any gain or loss of more than 15 minutes made by such train, on such bulletin board  
 10 at such station, showing at each time indicated how much said train is running behind its scheduled time. If the  
 11 train is late, the authority or railway company or corporation shall update the schedule. Updates must be provided  
 12 every 2 hours and include any gain or loss of more than 15 minutes. Nothing in this section shall be so construed  
 13 as to compel such

14 (c) The authority or a railway company or corporation leasing, operating, or managing any railroad in this  
 15 state is not required to post the number, scheduled time, and lateness of such trains as arriving or departing from  
 16 such stations aforesaid while there is no such agent, telegraph, or telephone operator or any other person on  
 17 duty, but immediately after such. When an agent, telegraph, or telephone operator in charge of such the station  
 18 comes on duty arrives, such the authority or railway company or corporation shall ~~cause to be indicated on said~~  
 19 update the bulletin board with the number of any trains then due, or overdue, or scheduled to be due within 3  
 20 hours, the time any train or trains are due, and how much the trains are running behind their scheduled time.

21 (2) (a) Any such If a passenger train is not more than 10 minutes late shall be deemed to be it is  
 22 considered to be on time as to the operation of this section. When such

23 (b) If a station is connected by telephone with the central exchange in any a town or city, such the  
 24 authority, railway company or corporation, upon request of such the central exchange, shall promptly notify such  
 25 the central exchange as to with the time of arrival of such the passenger train, giving the same information as is  
 26 posted on said bulletin board and at the time of said posting in accordance with subsection (1).

27 (2)(3) Every The authority or a railway company or corporation managing, operating, or leasing any  
 28 railroad in this state that shall willfully or negligently violate that violates the provisions of this section shall be  
 29 deemed is guilty of a misdemeanor and upon conviction shall be punished by a fine of may be fined not less than  
 30 \$50 or more than \$200 for each offense; such action to be. Violations must be prosecuted by the county attorney

1 of the county in which where the violation occurs, ~~in the name of the state of Montana.~~"

2

3 **Section 52.** Section 69-14-204, MCA, is amended to read:

4 **"69-14-204. Effect of refusal to accept passengers or property.** ~~In case of refusal by such~~ If the  
5 Montana railroad development authority or a corporation or its agents ~~so to take and refuse to~~ transport any  
6 passengers or property or to deliver ~~the same~~ passengers or property at the regular appointed places, ~~such the~~  
7 authority or corporation must pay to the party aggrieved party all damages ~~which are sustained thereby, with~~  
8 costs of suit sustained plus costs."

9

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

11 **"69-14-205. Accommodations for and care to be taken of passengers.** (1) ~~Every~~ The Montana  
12 railroad development authority or a railroad corporation ~~must~~ shall furnish on the inside of its passenger cars  
13 sufficient room and accommodations for all passengers ~~to whom tickets are sold~~ who purchase tickets for any  
14 one trip and for all persons presenting tickets entitling them to travel ~~thereon~~ in the passenger cars.

15 (2) When fare is taken for transporting passengers on any baggage, wood, gravel, or freight car, the  
16 same care must be taken and the same responsibility is assumed by the corporation or the Montana railroad  
17 development authority ~~as~~ for passengers on passenger cars."

18

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

20 **"69-14-206. Rules for fare and conduct of passengers.** (1) ~~Every~~ The Montana railroad development  
21 authority or a railroad corporation ~~must have printed~~ shall print and conspicuously ~~posted~~ post on the inside of  
22 its passenger cars its rules regarding fare and conduct of ~~its~~ passengers.

23 (2) ~~In case any~~ If a passenger is injured on or from the platform of a car or on any baggage, wood,  
24 gravel, or freight car, in violation of ~~such the~~ printed regulations or in violation of ~~positive~~ verbal instructions or  
25 injunctions given to ~~such the~~ passenger in person by any officer of the train, the Montana railroad development  
26 authority or corporation is not responsible for damages for ~~such the~~ injuries unless the authority or corporation  
27 failed to comply with the provisions of 69-14-205."

28

29 **Section 55.** Section 69-14-207, MCA, is amended to read:

30 **"69-14-207. Expulsion of passengers refusing to pay fare.** If a passenger refuses to pay the

1 passenger's fare or to exhibit or surrender the passenger's ticket when reasonably requested to do so, the  
 2 conductor and employees of the authority or corporation may put the passenger and the passenger's baggage  
 3 out of the cars without using unnecessary force at any usual stopping place or near any dwelling house ~~on~~  
 4 ~~stopping the train~~ when the train makes a stop."

5

6 **Section 56.** Section 69-14-208, MCA, is amended to read:

7 **"69-14-208. Officers and employees of corporation or authority to wear badges.** (1) A conductor,  
 8 baggage master, engineer, brake tender, or other employee of the Montana railroad development authority or  
 9 any railroad corporation who is employed on a passenger train or at stations for passengers shall wear, upon the  
 10 person's hat or cap or in some conspicuous place on the breast of the person's coat, a badge indicating the  
 11 person's office or station and the initial letters of the name of the authority or corporation by which the person is  
 12 employed.

13 (2) A collector or conductor without a badge is not authorized to demand or to receive from any  
 14 passenger any fare, toll, or ticket or exercise any of the powers of the person's office or station, and any other  
 15 officer or employee without a badge does not have any authority to meddle or interfere with any passenger or  
 16 property."

17

18 **Section 57.** Section 69-14-209, MCA, is amended to read:

19 **"69-14-209. Issuance of passenger tickets.** (1) ~~Every~~ The Montana railroad development authority or  
 20 a railroad corporation ~~must provide and, on~~ shall, upon being tendered the regular rates of fare, furnish a ticket  
 21 to ~~every~~ each person desiring a passage on its passenger cars, which entitles the purchaser to a ride and to the  
 22 accommodations provided on its cars from the depot or station where the ~~same~~ ticket is purchased to any other  
 23 depot or station on the line of its road. ~~Every such~~ A ticket entitles the holder ~~thereof~~ to ride on its the passenger  
 24 cars to the station or depot of destination or any intermediate station and from any intermediate station to the  
 25 depot of destination designated in the ticket at any time within 6 months ~~thereafter~~ after purchase.

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

29

30 **Section 58.** Section 69-14-210, MCA, is amended to read:

1           **"69-14-210. Baggage checks.** A check must be affixed to ~~every~~ each package or parcel of baggage  
 2 when taken for transportation by an agent or employee of a railroad corporation or the Montana railroad  
 3 development authority, and a duplicate check must be given to the passenger or person delivering the package  
 4 or parcel in the passenger's behalf. If the check is refused on demand, the railroad corporation or the Montana  
 5 railroad development authority shall pay to the passenger the sum of \$20, to be recovered in an action for  
 6 damages, and a fare or toll may not be collected or received from the passenger, and if the passenger has paid  
 7 the fare, the fare must be returned by the conductor in charge of the train. On producing the check, if the baggage  
 8 is not delivered to the person by the agent or employee of the railroad corporation or the Montana railroad  
 9 development authority, the person may recover the value of the baggage from the corporation or the authority."

10

11           **Section 59.** Section 69-14-214, MCA, is amended to read:

12           **"69-14-214. Penalty for failure to redeem ticket.** ~~Any~~ An authorized ticket-selling agent who represents  
 13 the Montana railroad development authority, a railroad company, or a steamboat company which shall by any  
 14 of its authorized ticket-selling agents and who unreasonably refuses to redeem any coupon of a ticket or any  
 15 ticket as required by 69-14-213 within this state unreasonably refuse to redeem any coupon of a ticket or any  
 16 ticket as required by 69-14-213 shall pay to the state a fine not exceeding \$500 for each offense."

17

18           **Section 60.** Section 69-14-232, MCA, is amended to read:

19           **"69-14-232. Size and equipment of caboose.** (1) Occupied cabooses must be at least 24 feet in  
 20 length, exclusive of platforms, and must ~~be provided with~~ have a door in each end and ~~with~~ cupolas or bay  
 21 windows, platforms, guardrails, grabirons, and steps for the safety of persons in alighting or getting on cabooses.  
 22 Cabooses must be of metal frame construction and must be sufficiently insulated to eliminate track and other  
 23 related noise above 85 decibels in any octave in the speech range. Other requirements for cabooses are as  
 24 follows:

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

30           (b) Electric lighting of at least 40 foot-candles must be provided for direct illumination of the caboose

1 desk, reading areas, and lavatory facilities.

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

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

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

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

11 (2) ~~Any~~ The Montana railroad development authority or a person, corporation, or company, operating  
12 any that operates a railroad or railway in this state, violating and that violates any of the provisions of this section  
13 and 69-14-233 is guilty of a misdemeanor and upon conviction shall be fined not less than \$500 or more than  
14 \$1,000 for each offense."

15

16 **Section 61.** Section 69-14-236, MCA, is amended to read:

17 **"69-14-236. Headlights and speedometers for locomotives.** (1) ~~A~~ The Montana railroad development  
18 authority or a person, corporation, or company operating a railroad or railway in this state ~~must~~ shall equip all  
19 locomotive engines used in the transportation of trains over the railroad or railway with:

20 (a) electric headlights of at least 1,500 candlepower, measured without the aid of a reflector; and

21 (b) a speedometer that is ~~maintained~~ in good working order at all times and that is located in the lead  
22 or controlling unit.

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

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

27 (4) ~~Any~~ The Montana railroad development authority or a person, corporation, or company, operating  
28 any that is operating a railroad or railway in this state, violating and that violates the provisions of this section ~~shall~~  
29 ~~be deemed~~ is guilty of a misdemeanor and upon conviction ~~thereof~~ shall be fined not less than \$100 or more than  
30 \$1,000 for each offense."

1

2 **Section 62.** Section 69-14-237, MCA, is amended to read:

3 **"69-14-237. Locomotive engines and electric motors to be marked with identifying numbers.** (1)

4 It ~~shall be~~ is the duty of ~~every~~ the Montana railroad development authority or a person, corporation, or company  
5 operating a railroad or railway in this state to equip all locomotive engines and electric motors used in hauling  
6 trains over ~~said~~ the railroad or railway with suitable numbers, which ~~numbers shall~~ must be displayed at the front  
7 and both sides of the headlight on ~~said~~ the locomotive engine or electric motor and ~~to be such size as to be~~ of  
8 a size easily read from a passing or meeting train.

9 (2) When a complaint is made to the commission that ~~any~~ the Montana railroad development authority  
10 or a person, corporation, or company operating a railroad or railway in this state has failed to comply with the  
11 provisions of this section, ~~such~~ the commission shall order a hearing and shall serve a notice ~~on such~~ to the  
12 Montana railroad development authority, person, corporation, or company at least 15 days before the date set  
13 for ~~such~~ the hearing. The notice may be served upon any agent of ~~such~~ the Montana railroad development  
14 authority, person, corporation, or company. At the conclusion of ~~such~~ the hearing, the commission may ~~make~~  
15 ~~such issue an~~ order in the premises as is deemed as considered necessary and may prescribe the time ~~within~~  
16 by which all ~~such~~ locomotive engines ~~shall~~ must be equipped with ~~such~~ numbers.

17 (3) ~~Any~~ The Montana railroad development authority or a person, corporation, or company operating a  
18 railroad or railway in this state who violates any of the provisions of this section ~~shall be deemed~~ is guilty of a  
19 misdemeanor and upon conviction ~~thereof~~ shall be fined not less than \$50 or more than \$100 for each offense."  
20

21 **Section 63.** Section 69-14-238, MCA, is amended to read:

22 **"69-14-238. Equipment for track motor cars.** (1) ~~A~~ The Montana railroad development authority, a  
23 person, firm, or corporation operating or controlling a railroad running through or within this state as a common  
24 carrier shall:

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

26 (i) a windshield of safety glass and a device for wiping rain, snow, and other moisture from the  
27 windshield, and the device must be maintained in good order and must be constructed to be controlled by the  
28 operator of the track motor car; and

29 (ii) upon request of the lead supervisor, a canopy or top constructed so that it adequately protects the  
30 occupants of the track motor car from the rays of the sun, rain, snow, or other inclement weather;

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

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

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

8 (2) Each violation of this section is a misdemeanor."  
9

10 **Section 64.** Section 69-14-239, MCA, is amended to read:

11 **"69-14-239. Operation of trains at grade crossings.** (1) Except as provided in subsection (2), ~~no the~~  
12 Montana railroad development authority or a railway company operating trains within this state ~~shall~~ may not  
13 permit any locomotives or cars to cross the tracks of any other railroad, at grade, without coming to a full stop  
14 immediately before crossing.

15 (2) (a) ~~If any railway company or companies using one or more tracks crossing each other or connecting~~  
16 ~~in any way at a common grade shall, by an interlocking plant, signal station, or any other works or fixtures, to be~~  
17 ~~erected by them or either of them, render it safe to pass over said crossings without stopping and if such plant,~~  
18 ~~works, or fixtures shall have been first approved by the county commissioners of the county wherein such works~~  
19 ~~are to be constructed and used and the plans of such works and fixtures for such crossing, designating the place~~  
20 ~~of such crossing, shall have been filed with such commissioners, then and in that case the foregoing provisions~~  
21 ~~of this section requiring the stopping of trains at such crossing shall not apply to said companies or either of them.~~  
22 Except as provided in subsection (2)(b), subsection (1) does not apply to the Montana railroad development  
23 authority or a railway company or companies using one or more tracks crossing each other or connecting in any  
24 way at a common grade if:

25 (i) by an interlocking plant, signal station, or any other works or fixtures erected, the Montana railroad  
26 development authority or the company or companies renders it safe to pass over the crossings without stopping;

27 (ii) the plant, works, or fixtures are approved by the county commissioners of the county where the works  
28 are constructed and used; and

29 (iii) the plans for the works and fixtures for the crossing, designating the place of the crossing, are filed  
30 with the commissioners.

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

15  
 16 **Section 65.** Section 69-14-240, MCA, is amended to read:  
 17 **"69-14-240. Duty to construct drains and ditches.** (1) ~~It shall be the duty of every~~ Within 3 months  
 18 of the completion of a railroad or branch through a county, the Montana railroad development authority or a  
 19 corporation, company, or person owning or operating ~~any a~~ railroad or branch thereof in this state ~~and of any~~  
 20 corporation, company, or person or constructing ~~any a~~ railroad in this state, ~~within 3 months after the completion~~  
 21 ~~of the same through any county in this state, to cause to be constructed and maintained~~ shall construct and  
 22 maintain suitable ditches and drains along each side of the roadbed of ~~such the~~ road or ~~to construct culverts or~~  
 23 openings through ~~such the~~ roadbed to connect with ditches, drains, or watercourses, ~~so as to afford sufficient~~  
 24 ~~outlet to drain and carry off the water along such the~~ railroad whenever the draining drainage of ~~such the~~ water  
 25 ~~has been is~~ obstructed or ~~rendered necessary by~~ because of the construction of ~~such the~~ railroad. ~~None of the~~  
 26 The drains or ditches herein referred to shall be required to be constructed by any of the persons or corporations  
 27 ~~herein named or described~~ are not required except when ~~required~~ needed to remove and drain off water  
 28 accumulated upon property adjacent to or upon the right-of-way ~~whose where the~~ natural channel or outlet has  
 29 been destroyed or impaired by the embankment of ~~such railway so constructed as aforesaid~~ the railroad.

30 (2) ~~In case such~~ If the Montana railroad development authority, corporation, company, or person shall

1 ~~fail fails or neglect neglects~~ to construct and maintain ~~such the~~ ditches or drains ~~as are herein required within the~~  
 2 ~~time limited in this section pursuant to subsection (1),~~ the board of county commissioners of any county ~~through~~  
 3 ~~which such where the~~ railroad has been or may be constructed and located and ~~in which the draining herein~~  
 4 ~~required has been neglected is hereby authorized and required,~~ where the ditches or drains have not been  
 5 constructed or maintained shall, upon the petition of 20 landowners of ~~such the~~ county along the line of and  
 6 contiguous to ~~such the~~ railroad, ~~to cause such require the~~ ditches or drains, ~~as are herein required,~~ to be  
 7 constructed and maintained. ~~Said~~ If the Montana railroad development authority, corporation, company or person  
 8 fails to comply with subsection (1) or fails to reimburse the board of county commissioners for the costs and  
 9 expenses incurred by the county in constructing and maintaining the drains or ditches, the board may apply by  
 10 written petition to any court in the county maintain an action against such corporation, company, or person so  
 11 failing to comply with the provisions of this section, in any court of competent jurisdiction and in the name of such  
 12 county, and shall be entitled to recover all the costs and expenses incurred in the construction and maintenance  
 13 of said drains or ditches."

14

15 **Section 66.** Section 69-14-252, MCA, is amended to read:

16 **"69-14-252. Accident reports.** ~~Every~~ The Montana railroad development authority or a railroad company  
 17 operating any line of railroad within this state shall promptly upon the occurrence of any accident mentioned in  
 18 subject to 69-14-112(2) report the same accident to the commission. In the The report shall be stated must  
 19 include the time and place of the accident, the names of the persons killed or injured, and the value of any  
 20 property destroyed."

21

22 **Section 67.** Section 69-14-513, MCA, is amended to read:

23 **"69-14-513. Lease or purchase of other railroads.** (1) ~~Any~~ The Montana railroad development  
 24 authority, in accordance with [section 6] and this chapter, or a railroad corporation, whether chartered by or  
 25 organized under the laws of Montana, the United States, or any other state, may lease or purchase the whole  
 26 or any part of the railroad or rail line of any railroad corporation or the Montana railroad development authority,  
 27 constructed or unconstructed, together with all the rights, powers, immunities, privileges, franchises, and all other  
 28 property or appurtenances to the railroad or rail line. The A railroad company of any other from another state of  
 29 the United States or the Montana railroad development authority that purchases or leases a railroad or any part  
 30 of a railroad in this state:

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

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

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

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

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

16 (4) ~~Before any~~ Except as provided in [sections 1 through 19], before a lease or purchase is effective, the  
17 lease or purchase must be ~~assented to or~~ approved or ratified by the stockholders of each corporation by a vote  
18 ~~in favor of the lease or purchase,~~ at a general or special meeting of stockholders; or by the holders of a majority  
19 of all the outstanding capital stock of the company."  
20

21 **Section 68.** Section 69-14-514, MCA, is amended to read:

22 **"69-14-514. Interrailroad business arrangements and out-of-state operations.** (1) ~~Any~~ The Montana  
23 railroad development authority, in accordance with [section 6] and this chapter, or a railroad company  
24 incorporated pursuant to the laws of this state, the United States, or any state ~~or territory of the United States~~ may  
25 ~~at any time, by means of subscription~~ subscribe to the capital stock of any other railroad company or by the  
26 purchase of its stock or bonds or by guaranteeing its bonds or otherwise, aid ~~such~~ the company in the  
27 construction of its railroad within or ~~without~~ outside this state and may take, purchase, hold, sell, and dispose of  
28 or guarantee the payment of the capital, stock, bonds, and securities of any other railroad corporation ~~whose~~ with  
29 a line of railroad within this state that is continuous of or connects with its own line.

30 (2) ~~Any~~ The Montana railroad development authority, in accordance with [section 6] and this chapter,

1 or a company owning or operating a railroad within this state may:

2 (a) extend the ~~same~~ railroad into any other state ~~or territory~~;

3 (b) build, buy, lease, or consolidate with any railroad or railroads in ~~such other~~ another state ~~or territory~~;

4 (c) operate the ~~same~~ railroad; and

5 (d) own ~~such~~ real estate and other property in ~~such other~~ another state ~~or territory~~ ~~as may be~~ that is  
6 necessary or convenient ~~in for~~ the operation of ~~such the~~ road.

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

11 (a) the Montana railroad development authority pursuant to [section 6], if the authority is a party to the  
12 purchase, sale, consolidation, or lease; or

13 (b) persons holding or representing a majority in amount of the capital stock of each of such the  
14 companies, respectively, at any annual stockholders' meeting, or at a special meeting of the stockholders called  
15 for that purpose, or by with the written approval in writing of a majority in interest of the stockholders of each  
16 company respectively.

17 (4) Before ~~any a~~ railroad corporation organized under the laws of ~~any other~~ another state ~~or territory~~ ~~or~~  
18 ~~of the United States shall be permitted to avail~~ avails itself of the benefits of this section, ~~such the~~ corporation  
19 shall file ~~with the secretary of state~~ a true copy of its charter or articles of incorporation with the secretary of state."

20

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

22 **"69-14-531. Authorization to operate railroad.** Any The Montana railroad development authority, in  
23 accordance with [section 6], or a railroad corporation shall be is authorized to locate, construct, maintain, and  
24 operate a railroad with a single or double track, with ~~such~~ sidetracks, turnouts, machine shops, offices, and  
25 depots as ~~may be~~ necessary, between any points it ~~may select~~ selects within the places named in the articles  
26 of incorporation as termini of ~~such the~~ road or in the case of the Montana railroad development authority, as  
27 provided for in [sections 1 through 19]. It may construct branches to any point in this state and connect its road  
28 with ~~that~~ road belonging to ~~any other~~ another person or corporation and may consolidate with any road that is  
29 not a parallel or competing line."

30

1           **Section 70.** Section 69-14-532, MCA, is amended to read:

2           "**69-14-532. Authority to plan, lay out, and construct rail lines.** Every The Montana railroad  
3 development authority, in accordance with [section 6], or a railroad corporation may:

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

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

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

17           (4) erect and maintain ~~all~~ necessary and convenient buildings, stations, depots, fixtures, and machinery  
18 for the accommodation and use of its passengers, freight, and business; and

19           (5) change the line of its road, in whole or in part; if:

20           (a) whenever a majority of the directors ~~so~~ determine, as is provided in 69-14-534; ~~but no such a~~ change  
21 may ~~not~~ vary the general route of ~~such~~ the road, as contemplated in its articles of incorporation; or

22           (b) the Montana railroad development authority members determine to do so as provided in [sections  
23 1 through 19]."

24

25           **Section 71.** Section 69-14-533, MCA, is amended to read:

26           "**69-14-533. Authority to enter land for survey purposes.** (1) For the purposes of 69-14-532(1), the  
27 officers, agents, and employees of a railroad corporation or the Montana railroad development authority may  
28 enter ~~upon the lands or waters of any person, subject to liability~~ private land or water.

29           (2) The Montana railroad development authority or railroad corporation is liable for all damages ~~which~~  
30 they do thereto done to the land or water."

1

2 **Section 72.** Section 69-14-534, MCA, is amended to read:

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

11

12 **Section 73.** Section 69-14-536, MCA, is amended to read:

13 **"69-14-536. Extension of rail lines into Montana.** (1) (a) ~~Any~~ The Montana railroad development  
 14 authority, as provided in [sections 1 through 19], or a railroad corporation chartered ~~by~~ or organized under the  
 15 laws of the United States or of ~~any another~~ state may extend, construct, maintain, and operate its railroad ~~into~~  
 16 in and through this state to any place within the state and may build branches from any point on the extension  
 17 or continuation of ~~any an~~ extension or branch.

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

22 (c) The Montana railroad development authority or railroad corporation shall enter its findings into the  
 23 record and file a copy of the record, certified by the president and secretary of the corporation or the presiding  
 24 officer of the Montana railroad development authority, in the office of ~~with~~ the secretary of state. The secretary  
 25 of state shall record the resolution.

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

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

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

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

7           (2)(3) Before any a railroad corporation organized under the laws of ~~any other~~ another state or of the  
8 United States is ~~permitted to avail~~ avails itself of the benefits of this section, the corporation shall file ~~with the~~  
9 ~~secretary of state~~ a copy of its charter or articles of incorporation with the secretary of state."

10

11           **Section 74.** Section 69-14-538, MCA, is amended to read:

12           **"69-14-538. Railroads on Indian and military reservations.** Any The Montana railroad development  
13 authority or a railroad corporation organized under the laws of this state for the purpose of building railroads ~~which~~  
14 ~~that extend upon into~~ Indian or military reservations within this state ~~shall does~~ not forfeit its charter or any rights  
15 or privileges by ~~reason of its failure~~ failing to build and complete any portion of its road ~~upon such on the~~  
16 reservations ~~until while seeking~~ a grant of a right-of-way ~~therefor has been obtained~~ from the United States or  
17 ~~any parties authorized in that behalf, and thereafter~~ on behalf of the United States. After being granted a  
18 right-of-way, the provisions of this part ~~shall be applicable to said~~ apply to the Montana railroad development  
19 authority in accordance with [sections 1 through 19] or to corporations."

20

21           **Section 75.** Section 69-14-539, MCA, is amended to read:

22           **"69-14-539. Connections between lines of different railroads.** Every The Montana railroad  
23 development authority or a railroad corporation ~~has power to may~~ cross, intersect, join, or unite its railroad with  
24 any other railroad, either before or after construction, at any point ~~upon on~~ its route and ~~upon on~~ the grounds of  
25 ~~such the~~ other railroad corporation, with the necessary turnouts, sidings, ~~and~~ switches, and ~~other~~ conveniences  
26 ~~in furtherance of the objects of its connections~~ necessary for connection. Every The Montana railroad  
27 development authority or a corporation whose railroad is or ~~shall be hereafter intersected by any~~ intersects a new  
28 railroad shall ~~unite with join~~ the owners of ~~such the~~ new railroad ~~in forming such and form~~ intersections and  
29 connections and ~~grant allow~~ facilities ~~therefor needed for the intersection or connection.~~ If the two ~~corporations~~  
30 ~~parties~~ cannot agree ~~upon on~~ the amount of compensation ~~to be made therefor for~~ for the intersection or connection

1 or the points or ~~the manner of such~~ the crossings, intersections, and connections, ~~the same shall be ascertained~~  
 2 ~~and~~ amount of compensation must be determined as is provided in Title 70, chapter 30."

3

4 **Section 76.** Section 69-14-552, MCA, is amended to read:

5 **"69-14-552. Authority to hold and transfer property.** ~~Every~~ The Montana railroad development  
 6 authority, in accordance with [section 6], or a railroad corporation may:

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

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

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

17 (4) subject to [section 4(2)], acquire them in the manner land, timber, stone, gravel, or other material as  
 18 provided in Title 70, chapter 30, ~~for the~~ by condemnation ~~of lands.~~"

19

20 **Section 77.** Section 69-14-553, MCA, is amended to read:

21 **"69-14-553. Acquisition and transfer of real estate.** A railroad corporation or, in accordance with  
 22 [section 6], the Montana railroad development authority may acquire by purchase or gift any land in the vicinity  
 23 of its road or through which the road may pass if the land is convenient or necessary to secure the right-of-way  
 24 or if the land is granted to aid in the construction of the road and, except as provided in [section 6], 69-14-931,  
 25 and 69-14-932, may convey the land in any manner that the directors or Montana railroad development authority  
 26 members may prescribe. All deeds and conveyances made by the corporation or the authority must be signed  
 27 by the president, under the seal of the corporation or, in the case of the authority, by the authority's presiding  
 28 officer."

29

30 **Section 78.** Section 69-14-554, MCA, is amended to read:

1           **"69-14-554. Right-of-way through canyons.** (1) ~~(a) Any such~~ If the right-of-way or track on the  
 2 right-of-way belonging to the Montana railroad development authority or a railroad corporation whose right-of-way  
 3 ~~or whose track upon such right-of-way~~ extends through any a canyon, pass, or defile ~~shall, the authority or~~  
 4 corporation may not exclude any other such prohibit another corporation from a passage through the ~~same~~  
 5 canyon, pass, or defile upon equitable terms. ~~In case of disagreement, upon application of either of the parties,~~  
 6           ~~(b) If the parties disagree,~~ with notice to the other party, ~~the same shall be adjusted by a party may apply~~  
 7 to a court of competent jurisdiction for resolution.

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

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

16           ~~(e) Should it be necessary that the said companies~~ If the parties ~~should~~ use the same track or bed in  
 17 passing through ~~such~~ the canyon, pass, or defile, the ~~same~~ passage may be done without ~~any~~ compensation  
 18 ~~therefor from one to the other,~~ except the for actual damage ~~by so doing~~ caused by the passage.

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

22

23           **Section 79.** Section 69-14-555, MCA, is amended to read:

24           **"69-14-555. Judgment liens against railroad property.** A judgment against ~~any the Montana railroad~~  
 25 development authority or a railroad corporation for ~~any an~~ injury to a person or property or for material furnished  
 26 or for work or labor ~~done upon any of~~ on the property of ~~such the authority or~~ corporation ~~shall~~ must be a lien  
 27 ~~within the county where recovered~~ on the property of ~~such the authority or~~ corporation in the county where it is  
 28 recovered, and ~~such the~~ lien ~~shall~~ must be prior and superior to the lien of any mortgage or trust deed provided  
 29 for in this part."

30

1           **Section 80.** Section 69-14-557, MCA, is amended to read:

2           **"69-14-557. State not liable for obligations of railroad.** Nothing in [sections 1 through 19] or this part  
 3 ~~shall~~ may be construed to make the state or any municipality ~~therein in the state~~ liable for any debts or obligations  
 4 of any character ~~which may be~~ that are contracted by such the Montana railroad development authority, provided  
 5 for in [sections 1 through 19], or by railroad corporations."

6

7           **Section 81.** Section 69-14-558, MCA, is amended to read:

8           **"69-14-558. Transportation of passengers and property.** ~~Every~~ The Montana railroad development  
 9 authority or a railroad corporation has power to may:

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

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

15

16           **Section 82.** Section 69-14-560, MCA, is amended to read:

17           **"69-14-560. Regulation of rates of railroad corporations and Montana railroad development**  
 18 **authority.** (1) The Montana railroad development authority or a railroad corporation may not:

19           (a) ask, charge, or demand an exorbitant rate of compensation for the transportation of freight, baggage,  
 20 express matter, or a passenger;

21           (b) make unjust discrimination in rates; or

22           (c) neglect to keep a table of passenger tariff and rates of freight conspicuously posted in each depot  
 23 within this state.

24           (2) Any If the Montana railroad development authority or a railroad corporation within this state shall be  
 25 deemed violates subsection (1), the authority or corporation is guilty of a misdemeanor and upon conviction  
 26 thereof shall be fined;

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

28           (b) in the sum of \$1,000, \$2,000 for the second violation of the same provision; \$2,000, and for every  
 29 other and further violation of any provision of which it has been twice before found guilty, a sum

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

1 ~~twice been found guilty, if the corporation shall:~~

2 ~~—— (1) ask, charge, or demand any exorbitant rate of compensation for the transportation of any freight,~~  
3 ~~baggage, express matter, or passenger;~~

4 ~~—— (2) make any unjust discrimination in its rates;~~

5 ~~—— (3) willfully neglect to keep a table of its passenger tariff and rates of freight conspicuously posted in each~~  
6 ~~depot within this state."~~

7

8 **Section 83.** Section 69-14-561, MCA, is amended to read:

9 **"69-14-561. Regulation of railroad equipment.** ~~Every~~ The Montana railroad development authority or  
10 a railroad corporation has power to may:

11 (1) regulate the force and speed of ~~their~~ its locomotives, cars, trains, or other machinery used ~~and~~  
12 ~~employed on their~~ its road; and

13 (2) establish, execute, and enforce ~~all needful and proper~~ rules necessary ~~for the management of its~~  
14 ~~business transactions usual and proper for railroad corporations."~~

15

16 **Section 84.** Section 69-14-562, MCA, is amended to read:

17 **"69-14-562. Regulation of safety on railroads.** (1) A railroad corporation within this state or the  
18 Montana railroad development authority is guilty of a misdemeanor and upon conviction is subject to the penalties  
19 provided in subsection ~~(2)~~ (3) if the corporation or authority:

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

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

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

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

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

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

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

1 to the train occupying the crossing;

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

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

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

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

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

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

17 (c) not less than \$5,000 or more than \$10,000 for subsequent violations of a provision for which it has  
18 twice been found guilty."

19

20 **Section 85.** Section 69-14-601, MCA, is amended to read:

21 **"69-14-601. Definition of railroad company.** ~~The words "railroad~~ "Railroad company", as used in  
22 69-14-601 through 69-14-611, ~~shall be taken and construed to mean any~~ means the Montana railroad  
23 development authority provided for in [section 3] or a corporation, person, or association of persons owning or  
24 operating a railroad."

25

26 **Section 86.** Section 69-14-612, MCA, is amended to read:

27 **"69-14-612. Reflectorized material on crossing signs required.** ~~Within 2 years after April 9, 1987,~~  
28 The Montana railroad development authority or a railroad company shall install and maintain reflectorized material  
29 on the front and back sides of crossbuck blades on all public crossing signs the ~~railroad~~ company or authority is  
30 required to construct and maintain under 69-14-602 and 69-14-603."

1

2 **Section 87.** Section 69-14-620, MCA, is amended to read:

3 **"69-14-620. Establishment of railroad quiet zones.** (1) For the purposes of this section, "quiet zone"  
4 means a segment of a railroad within which is situated one or a number of consecutive railroad crossings at which  
5 locomotive horns and bells are not routinely sounded.

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

14 (3) A quiet zone may not be established at a railroad crossing unless the governing body of a  
15 municipality or a board of county commissioners follows the procedure provided in subsection (2) and receives  
16 the approval of the secretary of the United States department of transportation or the secretary's designee."  
17

18 **Section 88.** Section 69-14-626, MCA, is amended to read:

19 **"69-14-626. Prohibition on extended obstruction of highway crossings.** (1) It ~~shall be~~ is unlawful  
20 for ~~any~~ the Montana railroad development authority or a corporation, association, or company to willfully obstruct,  
21 blockade, interfere with, or prevent the free use of ~~any~~ a public highway within the state where ~~such~~ a highway  
22 crosses ~~any~~ a railroad track outside of incorporated cities and towns by stopping ~~any~~ a railroad train, car, engine,  
23 or locomotive for more than 15 minutes at any one time or by placing, depositing, or leaving ~~any article or thing~~  
24 ~~whatsoever~~ an object on ~~any~~ a railroad track at the point where ~~any~~ a public highway crosses ~~such~~ the track  
25 outside of incorporated cities and towns.

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

1 highways."

2

3 **Section 89.** Section 69-14-701, MCA, is amended to read:

4 **"69-14-701. Maintenance of fences -- exception -- penalty.** (1) Railroad corporations and the Montana  
5 railroad development authority shall build and maintain a legal fence on both sides of their track and property and  
6 maintain cattle guards at all crossings over which cattle or other domestic animals cannot pass, except that a  
7 fence is not required in places where water ditches, embankments, terrain, or other sufficient protection prevents  
8 domestic animals from straying onto the right-of-way. An affected landowner or lessee may construct, maintain,  
9 or repair a fence subject to approval and reimbursement by the railroad corporation or the Montana railroad  
10 development authority.

11 (2) If a railroad corporation or the Montana railroad development authority does not build and maintain  
12 the fence and guards and ~~its engines or cars~~, because of the lack of a fence or maintenance of a fence, its  
13 engines or cars kill or maim cattle or other domestic animals upon its line of road, ~~it must~~ the corporation or  
14 authority shall pay to the owner of the cattle or other domestic animals, in all cases, a fair market price for the  
15 animal, unless it the damage occurred through the neglect or fault of the owner of the animal killed or maimed;  
16 ~~however.~~ However, ~~nothing in~~ this section may not be construed to prevent a person from recovering damages  
17 from a railroad corporation or the Montana railroad development authority for its negligent killing or injury to cattle  
18 or other domestic animals at spurs, sidings, Ys, crossings, and turntables.

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

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30

**Section 90.** Section 69-14-702, MCA, is amended to read:

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

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

**Section 91.** Section 69-14-703, MCA, is amended to read:

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

**Section 92.** Section 69-14-704, MCA, is amended to read:

**"69-14-704. Openings under trestles.** The Montana railroad development authority, railroad ~~company~~ corporation, lessee, person, ~~or~~ company, or corporation operating ~~any~~ a railroad, in addition to the openings required by 69-14-702, shall leave unfenced ~~any~~ places where the railroad runs over trestles that are sufficiently high for cattle to go underneath ~~the same.~~"

**Section 93.** Section 69-14-706, MCA, is amended to read:

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

**Section 94.** Section 69-14-707, MCA, is amended to read:

**"69-14-707. Liability for negligent destruction of domestic animals.** ~~Every~~ The Montana railroad

1 development authority or a railroad corporation or company operating ~~any a~~ railroad or branch thereof within the  
 2 limits of this state ~~which shall that~~ negligently ~~injure or kill~~ injures or kills any horse, mare, gelding, filly, jack, jenny,  
 3 mule, cow, heifer, bull, ox, steer, calf, or other domestic animal by running any engine or car over or against ~~any~~  
 4 ~~such the~~ animal ~~shall be~~ is liable to the owner of ~~such the~~ animal for the damages sustained by ~~such the~~ owner  
 5 by reason thereof. The killing or injury ~~shall be~~ is prima facie evidence of negligence on the part of ~~such the~~  
 6 authority, corporation, or company."

7

8 **Section 95.** Section 69-14-708, MCA, is amended to read:

9 **"69-14-708. Records of accidents involving livestock.** (1) ~~A~~ The Montana railroad development  
 10 authority or a railroad company ~~must~~ shall report to the department of livestock any livestock killed or injured by  
 11 a train or railroad equipment on the railroad right-of-way within 30 days after the killing or injuring of any livestock.

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

17

18 **Section 96.** Section 69-14-710, MCA, is amended to read:

19 **"69-14-710. Tender or deposit of value of animal.** If the Montana railroad development authority or  
 20 a corporation, association, company, or person owning, controlling, or operating a railroad or branch of a railroad  
 21 kills or injures an animal as described in 69-14-707 and tenders to the owner or to the owner's agent the amount  
 22 that the authority, corporation, association, company, or person considers to be the value of the animal or the  
 23 damage to the animal, or if the railroad development authority, railroad, corporation, association, company, or  
 24 person deposits with the department of livestock that amount for the owner of the animal and the owner or the  
 25 owner's agent refuses to accept the amount in settlement, then the owner shall pay all costs incurred in any action  
 26 instituted, after the tender or deposit, to recover the value or damage unless the owner recovers in the action  
 27 more than the amount tendered."

28

29 **Section 97.** Section 69-14-711, MCA, is amended to read:

30 **"69-14-711. Payment of damages to department of livestock.** (1) If livestock are killed by a railroad

1 ~~corporations~~ corporation or the Montana railroad development authority in violation of 69-14-701 and if the owner  
 2 of the livestock does not claim or assert a claim against the ~~railroad or railroad~~ corporation or authority for the  
 3 value of the livestock killed within 6 months from the date the animal is killed, the department of livestock shall  
 4 demand from the ~~railroad or railroad~~ corporation or authority payment in damages for the livestock. The  
 5 department shall institute and prosecute, in the name of the state, actions against the ~~railroad or railroad~~  
 6 ~~companies~~ corporation or authority in a court of competent jurisdiction to recover damages if the ~~railroad~~  
 7 corporation or authority fails, neglects, or refuses to make payment of the amount of the claim filed by the  
 8 department.

9 (2) The money recovered must be paid to the department and must be held by the department for a  
 10 period of 2 years after the date of its receipt. If the lawful owner of the animal killed does not present and prove  
 11 the owner's claim to the net proceeds received from the animal killed within the 2 years, the money must be paid  
 12 to the state treasurer and credited to the stock estray fund. If the owner of the animal killed proves the owner's  
 13 claim within the 2 years, the department may pay the claimant the amount of money to which the claimant is  
 14 entitled for the animal killed by the ~~railroad or railroad company,~~ corporation or authority from the damages for  
 15 ~~which have been~~ collected by the department.

16 (3) In actions prosecuted under this section for the recovery of the value of livestock killed, the prevailing  
 17 ~~or successful~~ party shall recover all costs. If the owner of an animal killed has not presented a claim against the  
 18 ~~railroad or railroad company~~ corporation or authority that caused it to be killed, a settlement made by the  
 19 department constitutes a bar against an action by the owner of the animal."  
 20

21 **Section 98.** Section 69-14-714, MCA, is amended to read:

22 **"69-14-714. Payment of claim -- penalty.** Upon determining liability for the amount of the value of an  
 23 animal killed or maimed under the circumstances described in 69-14-701, the railroad corporation or the Montana  
 24 railroad development authority shall pay the plaintiff within 30 days. Upon failure to pay the plaintiff within 30 days,  
 25 interest at a rate of 10% a year accrues on the amount due until the claim is paid."  
 26

27 **Section 99.** Section 69-14-721, MCA, is amended to read:

28 **"69-14-721. Control of fire hazard along right-of-way.** ~~A~~ The Montana railroad development authority,  
 29 a railroad corporation, or a railroad company operating a railroad within this state shall keep its railroad track and  
 30 either side of the track for a reasonable distance within its right-of-way; free from dead grass, weeds, or any

1 dangerous or combustible material. ~~A railroad~~ If the authority, corporation, or company failing fails to keep its  
 2 railroad track and each side of the track free of combustible material as specified in this section, the authority,  
 3 corporation, or company is liable for any damages ~~on account of~~ caused by fire emanating from trains, track  
 4 maintenance, or other railroad operations. ~~A~~ The Montana railroad development authority, railroad corporation,  
 5 or railroad company may not be required to keep free of combustible material, as specified in this section, land  
 6 that is not a part of its right-of-way."

7

8 **Section 100.** Section 69-14-722, MCA, is amended to read:

9 **"69-14-722. Maintenance of fireguards.** (1) ~~Every~~ Except as provided in subsection (3), the Montana  
 10 railroad development authority or a railroad corporation operating its lines of road or any part thereof of its lines  
 11 of road within this state shall, between April 15 and July 1 in each year, plow a continuous strip of not less than  
 12 6 feet in width on each side of its track in a good and workmanlike manner, covering the sod ~~well, upon on~~ each  
 13 side of its line of road, wherever it passes through a range or grazing country, ~~a continuous strip of not less than~~  
 14 ~~6 feet in width on each side of its track~~, as a fireguard. ~~Said~~ The strip ~~must~~ shall, as near as practicable, run  
 15 parallel with the line or lines of ~~said the~~ railroad, ~~and in.~~ In addition to ~~such~~ plowing, ~~said the Montana railroad~~  
 16 ~~development authority or a railroad company corporation~~ shall ~~cause to be burned~~, between July 15 and  
 17 September 15 of each year, burn all the grass and vegetation between the ~~said~~ plowed strips and a line of 50 feet  
 18 inside ~~said the~~ plowed strips. ~~Said~~ The plowing ~~shall~~ may not be ~~not~~ less than 300 feet from the center of the  
 19 railroad track on each side of ~~same the track~~ except in cases of cultivated fields, and then ~~such the~~ plowing and  
 20 burning ~~shall~~ must be ~~done~~ closer to ~~such the~~ railroad but not less than 70 feet from the center of the track.

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

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

23 (b) in private fields under cultivation;

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

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

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

30 (3)(4) If any the Montana railroad development authority or a railroad company corporation fails to

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

7

8 **Section 101.** Section 69-14-801, MCA, is amended to read:

9 **"69-14-801. Maintenance of loading platform by railroad.** (1) ~~A~~ The Montana railroad development  
 10 authority or a railroad company doing business in this state shall, within 60 days after notice from the commission,  
 11 erect one or more safe platforms for the transfer of commodities to cars. The platforms must be erected to not  
 12 endanger life and property.

13 (2) If ~~a~~ the Montana railroad development authority or a railroad company, after receiving notice as  
 14 provided for in this section, fails, refuses, or neglects to erect platforms as required by this section within 60 days,  
 15 the commission shall notify the authority or railroad company to appear before it at a certain time and place and  
 16 show cause why the commission should not issue an order requiring the authority or railroad company to comply  
 17 with the requirements of this section. The commission may, after the hearing, issue an order commanding the  
 18 ~~railroad~~ company or authority to erect the platform.

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

22

23 **Section 102.** Section 69-14-804, MCA, is amended to read:

24 **"69-14-804. Erection of scales.** ~~Every~~ The Montana railroad development authority or a railroad  
 25 company shall allow suitable scales to be erected either upon the platform or upon the grounds adjacent ~~thereto~~  
 26 to the platform, if upon their located on its right-of-way, for weighing and shipping purposes."

27

28 **Section 103.** Section 69-14-805, MCA, is amended to read:

29 **"69-14-805. Violations of loading platform provisions.** ~~Every~~ If the Montana railroad development  
 30 authority or a railroad company ~~neglecting or refusing~~ neglects or refuses to comply with the requirements of

1 69-14-801 and 69-14-803 through 69-14-805 ~~shall be deemed, the authority or company is~~ guilty of a  
 2 misdemeanor and ~~be is~~ subject to a fine of not less than \$500 for every 30 days ~~such the~~ failure ~~shall continue~~  
 3 continues after notice ~~as aforesaid is provided.~~"

4

5 **Section 104.** Section 69-14-811, MCA, is amended to read:

6 **"69-14-811. Industrial and commercial spurs.** (1) Except as provided in subsection (2), the  
 7 commission ~~shall have~~ has full power and authority, after notice and hearing, to compel railroad companies or  
 8 the Montana railroad development authority operating in the state to construct industrial or commercial spurs to  
 9 industries when there is or will be sufficient traffic to require ~~such the~~ facilities. Any ~~such~~ industrial or commercial  
 10 spur ~~shall must~~ be constructed pursuant to the usual and customary contract of the particular railroad company  
 11 or the Montana railroad development authority in constructing ~~such the~~ spurs.

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

14 (b) ~~Such The~~ industrial or commercial spur ~~shall may~~ not be ordered constructed except within the limits  
 15 of extreme switches of stations or yards or at sidings unless ~~such the~~ stations, yards, sidings, or spurs are more  
 16 than 7 miles apart or unless ~~such the~~ spurs can be ~~so safely and reasonably placed as to be reasonably safe~~ and  
 17 not unnecessarily interfere with main-line operation."

18

19 **Section 105.** Section 69-14-901, MCA, is amended to read:

20 **"69-14-901. Authorization to locate and erect grain warehouse or elevator on railroad right-of-way.**

21 (1) ~~Any A~~ person, firm, or corporation ~~desirous of erecting~~ that desires to erect and operating operate at or  
 22 contiguous to any railway station or siding a warehouse or elevator for the purchase, sale, shipment, or storage  
 23 of grain, including flaxseed, for the public for hire may make application in writing, containing a description of that  
 24 portion of the right-of-way of the railroad on which the person, firm, or corporation desires to erect a warehouse  
 25 or elevator, the size and capacity of the warehouse or elevator proposed to be erected, and the time for which  
 26 it is desired to maintain the warehouse or elevator. The application must be made to the Montana railroad  
 27 development authority, person, firm, or corporation owning, leasing, or operating the railroad at the station or  
 28 siding, for the right, privilege, and easement of erecting and maintaining for the time stated in the application and  
 29 for reasonable compensation for the warehouse or elevator upon the right-of-way pertaining to the railway at the  
 30 siding or station and within and between the outside switches of the yard of the railway station or siding. Upon

1 paying or securing in the manner prescribed in this section reasonable compensation for the right, privilege, and  
 2 easement, the person, firm, or corporation is absolutely and unconditionally entitled to the right, privilege, and  
 3 easement.

4 (2) The application must also state the amount the applicant considers reasonable compensation for the  
 5 right, privilege, and easement the applicant desires to acquire, and the applicant shall tender and pay to the  
 6 authority, person, firm, or corporation from whom the easement is sought the sum stated in the application.

7 (3) If the Montana railroad development authority, person, firm, or corporation owning, leasing, or  
 8 operating the railroad is not willing to allow the portion of the right-of-way selected by the applicant to be  
 9 appropriated for the stated purpose and the parties cannot agree as to the quantity and location of the land upon  
 10 which the grain warehouse or grain elevator is to be erected, the matter must be determined by the district court  
 11 in the same manner and by the same proceeding for determining the amount of compensation to be paid when  
 12 the parties cannot agree as to the amount."  
 13

14 **Section 106.** Section 69-14-902, MCA, is amended to read:

15 **"69-14-902. Decision on application by railroad.** It ~~shall be~~ is the duty of the Montana railroad  
 16 development authority or any person, firm, or corporation to whom application is made for the right to erect and  
 17 maintain an elevator or warehouse under the provisions of 69-14-901 through 69-14-911, within 30 days after  
 18 the receipt of ~~such the~~ application, to notify ~~said the~~ applicant in writing of the acceptance or rejection of the  
 19 amount stated in ~~said the~~ application to be reasonable compensation for the right, privilege, and easement sought  
 20 to be acquired. ~~In case such~~ If the authority, person, firm, or corporation fails to notify the applicant within ~~said~~  
 21 30 days, ~~such the authority, person, firm, or corporation shall be deemed to have accepted said~~ must be  
 22 considered to have accepted the amount, and, upon the payment or tender ~~thereof of the amount, said the~~  
 23 applicant ~~shall be deemed to have acquired~~ acquires the right, privilege, and easement applied for."  
 24

25 **Section 107.** Section 69-14-904, MCA, is amended to read:

26 **"69-14-904. Procedure in district court.** (1) The parties seeking the right, privilege, and easement  
 27 ~~aforsaid~~ shall present to and file with the district court a petition in writing and under oath; specifying and  
 28 describing the right, privilege, and easement sought, the time for which the ~~same~~ right, privilege, and easement  
 29 is sought, and the fact that the parties to the proceedings are unable to agree upon the amount of compensation  
 30 therefor.

1           (2) A copy of the application for ~~such the~~ privilege ~~shall~~ must be attached to ~~said the~~ petition, and  
 2 ~~thereupon it shall be at once the duty of the court shall,~~ by its written order ~~in writing to,~~ fix a time not more than  
 3 30 days ~~thereafter~~ after receipt of the application within which the Montana railroad development authority,  
 4 person, firm, or corporation ~~so~~ owning, managing, or controlling ~~such the~~ railroad shall appear and join issue in  
 5 ~~said the~~ proceeding. ~~Such The~~ notice ~~shall be~~ must be served as a summons ~~is served in a civil actions action,~~  
 6 ~~and shall be is~~ ample notice to the parties ~~so~~ served to appear and join in the proceedings, ~~and shall be is~~ ample  
 7 to give the court full jurisdiction over the party against whom the proceedings are instituted and the property  
 8 involved in the proceeding.

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

11           (4) The trial ~~of such issue shall~~ must be expedited by the court as much as possible. At the trial, the court  
 12 or jury, ~~as the case may be,~~ shall find and assess the compensation, both in the form of an annual rental and in  
 13 the form of a gross sum, for the right, privilege, and easement sought. Immediately after the finding or verdict ~~has~~  
 14 ~~been is~~ made, the party against whom the proceedings have been taken shall elect whether to receive the annual  
 15 rental or the gross sum found. ~~In case such~~ If the election is not made by ~~said the~~ party, then the other party to  
 16 the proceedings may make ~~such the~~ election. After election is made ~~as aforesaid,~~ judgment ~~shall be rendered~~  
 17 ~~adjudging, among other things,~~ must be rendered that upon payment of the gross sum found or the annual rental  
 18 found, yearly in advance, ~~as the case may be,~~ the party instituting the proceedings ~~shall be is~~ entitled to the right,  
 19 privilege, and easement of erecting and maintaining the elevator or warehouse asked for in the application and  
 20 petition ~~aforesaid~~ and for the time ~~therein~~ specified. ~~Thereupon the~~ The party in whose favor ~~said the~~ judgment  
 21 is rendered ~~shall be is~~ entitled to a writ of execution in proper form to immediately invest ~~such the~~ party with the  
 22 right, privilege, and easement ~~aforesaid.~~"

23  
 24           **Section 108.** Section 69-14-909, MCA, is amended to read:

25           **"69-14-909. Time limit for construction of elevator or warehouse.** ~~Any~~ (1) A person, firm, or  
 26 corporation availing itself of the provisions of 69-14-901 through 69-14-911 shall, within 60 days after the amount  
 27 to be paid for the easement acquired ~~thereunder~~ is finally determined, by agreement or by proceedings in court,  
 28 commence the erection of the warehouse or elevator mentioned in the application and complete the ~~same~~  
 29 erection within 90 days ~~thereafter.~~ ~~In case of failure to comply with the provisions of this section, such person or~~  
 30 ~~persons~~

1           (2) If the person, firm, or corporation fails to comply with the requirements of subsection (1), the person,  
 2 firm, or corporation shall be deemed to have abandoned abandons the right acquired, and the part or portion of  
 3 the railroad right-of-way described in the application ~~shall be~~ is subject to selection by other applicants who may  
 4 ~~desire to~~ avail themselves of the provisions of 69-14-901 through 69-14-911."

5

6           **Section 109.** Section 69-14-910, MCA, is amended to read:

7           **"69-14-910. Connection of railroad to elevator or warehouse.** (1) ~~Every~~ The Montana railroad  
 8 development authority or a railroad company ~~or~~ corporation organized under the laws of this state or doing  
 9 business ~~therein in this state~~ shall, upon application in writing, provide reasonable sidetrack facilities and running  
 10 connections between its main track and elevators and warehouses upon or contiguous to its right-of-way at  
 11 stations. ~~Every such~~ The Montana railroad development authority or a railroad corporation shall permit  
 12 connections to be made and maintained in a reasonable manner with its sidetracks to and from any warehouse  
 13 or elevator, without reference to its size, cost, or capacity, where grain is or may be stored. ~~Such~~ The Montana  
 14 railroad development authority or a railroad company ~~shall~~ corporation may not be required to construct or furnish  
 15 any sidetracks except upon its own land or right-of-way. The reasonable cost of the construction of ~~such~~ the  
 16 sidetracks and connections, except the cost of the rails and fastenings, ~~shall~~ must be paid by the person or  
 17 persons for whose benefit ~~such~~ the sidetracks are provided or connections made.

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

21

22           **Section 110.** Section 69-14-1005, MCA, is amended to read:

23           **"69-14-1005. Medical aid for injured train operator.** (1) If a railroad train operator or employee of ~~any~~  
 24 the Montana railroad development authority or a railroad corporation doing business in this state is injured during  
 25 the operator's or employee's regular course of employment, any employee of the authority or railroad corporation  
 26 is empowered and authorized to call upon and retain the services of the nearest practicing physician or surgeon  
 27 to care for and treat the injured train operator or employee during and until the time that one of the regularly  
 28 employed and paid physicians or surgeons of the Montana railroad development authority or railroad corporation  
 29 is able to render service.

30           (2) If the services of any physician or surgeon other than the regularly employed physician or surgeon

1 of the railroad corporation or the Montana railroad development authority are retained and hired as provided in  
2 this section, the physician or surgeon must be compensated and paid a reasonable fee for the services  
3 performed.

4 (3) If a railroad corporation or the Montana railroad development authority refuses or neglects to pay for  
5 the services of a physician as provided in subsection (2) within a reasonable time after the physician or surgeon  
6 has rendered the services, the authority or railroad corporation is guilty of a misdemeanor."

7

8 **Section 111.** Section 69-14-1006, MCA, is amended to read:

9 **"69-14-1006. Liability for death or injury to railroad employees.** (1) ~~A~~ The Montana railroad  
10 development authority or a person or corporation operating a railroad in this state is liable in damages to any  
11 person suffering injury while the person is employed by the authority, person, or corporation operating the railroad  
12 or, in case of the death of an employee, instantaneously or otherwise, to the employee's personal representative,  
13 for the benefit of the surviving spouse and children of the employee and, if none, then of the employee's parents  
14 and, if none, then of the next of kin dependent upon the employee. The damages must be for an injury or death  
15 resulting in whole or in part from the negligence of any of the officers, agents, or employees of the authority,  
16 person, or corporation operating the railroad, in or about the handling, movement, or operation of any train,  
17 engine, or car on or over the railroad or by reason of any defect or insufficiency, due to its negligence, in its cars,  
18 engines, appliances, machinery, track, roadbed, works, boats, wharves, or other equipment.

19 (2) (a) In all actions brought against ~~any~~ the Montana railroad development authority or a person or  
20 corporation operating the railroad, under or by virtue of any of the provisions of this section, the fact that the  
21 employee may have been guilty of contributory negligence may not bar a recovery, but the damages must be  
22 diminished by the jury in proportion to the amount of negligence attributable to the employee. However, an  
23 employee who is injured or killed may not be held to have been guilty of contributory negligence in any case in  
24 which the violation by the authority, person, or corporation operating the railroad of any statute enacted for the  
25 safety of employees contributed to the injury or death of the employee.

26 (b) An employee of the Montana railroad development authority or a person or corporation operating the  
27 railroad may not be considered to have assumed any risk incident to the employee's employment when the risk  
28 arises by reason of the negligence of the employer or of any person in the service of the employer.

29 (3) A contract, rule, or device, the purpose or intent of which is to enable the Montana railroad  
30 development authority or a person or corporation operating a railroad to exempt itself from any liability created

1 by this section, is, to that extent, void. In an action brought against the Montana railroad development authority,  
2 or a person or corporation operating a railroad under or by virtue of any of the provisions of this section, the  
3 person or corporation may set off any sum it has contributed or paid to any insurance, relief benefit, or indemnity  
4 that may have been paid to the injured employee or the person entitled to the payment on account of the injury  
5 or death for which the action is brought."  
6

7 **Section 112.** Section 69-14-1101, MCA, is amended to read:

8 **"69-14-1101. Definitions.** As used in this part, the following definitions apply:

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

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

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

18 (4) "Transaction" means the limited purchase, sale, or transfer of part of a line of railroad that will be  
19 operated by a common rail carrier."  
20

21 **Section 113.** Section 70-30-102, MCA, is amended to read:

22 **"70-30-102. Public uses enumerated.** Subject to the provisions of this chapter, the right of eminent  
23 domain may be exercised for the following public uses:

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

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

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

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

30 (5) projects to raise the banks of streams, remove obstructions from streambanks, and widen, deepen,

- 1 or straighten stream channels;
- 2 (6) water and water supply systems as provided in Title 7, chapter 13, part 44;
- 3 (7) roads, streets, alleys, controlled-access facilities, and other publicly owned buildings and facilities
- 4 for the benefit of a county, city, or town or the inhabitants of a county, city, or town;
- 5 (8) acquisition of road-building material as provided in 7-14-2123;
- 6 (9) stock lanes as provided in 7-14-2621;
- 7 (10) parking areas as provided in 7-14-4501 and 7-14-4622;
- 8 (11) airport purposes as provided in 7-14-4801, 67-2-301, 67-7-210, and Title 67, chapters 10 and 11;
- 9 (12) urban renewal projects as provided in Title 7, chapter 15, parts 42 and 43, except that private
- 10 property may be acquired for urban renewal through eminent domain only if the property is determined to be a
- 11 blighted area, as defined in 7-15-4206(2)(a), (2)(h), (2)(k), or (2)(n), and may not be acquired for urban renewal
- 12 through eminent domain if the purpose of the project is to increase government tax revenue;
- 13 (13) housing authority purposes as provided in Title 7, chapter 15, part 44;
- 14 (14) county recreational and cultural purposes as provided in 7-16-2105;
- 15 (15) city or town athletic fields and civic stadiums as provided in 7-16-4106;
- 16 (16) county cemetery purposes pursuant to 7-11-1021, cemetery association purposes as provided in
- 17 35-20-104, and state veterans' cemetery purposes as provided in 10-2-604;
- 18 (17) preservation of historical or archaeological sites as provided in 23-1-102 and 87-1-209(2);
- 19 (18) public assistance purposes as provided in 53-2-201;
- 20 (19) highway purposes as provided in 60-4-103 and 60-4-104;
- 21 (20) common carrier pipelines as provided in 69-13-104;
- 22 (21) water supply, water transportation, and water treatment systems as provided in 75-6-313;
- 23 (22) mitigation of the release or threatened release of a hazardous or deleterious substance as provided
- 24 in 75-10-720;
- 25 (23) the acquisition of nonconforming outdoor advertising as provided in 75-15-123;
- 26 (24) screening for or the relocation or removal of junkyards, motor vehicle graveyards, motor vehicle
- 27 wrecking facilities, garbage dumps, and sanitary landfills as provided in 75-15-223;
- 28 (25) water conservation and flood control projects as provided in 76-5-1108;
- 29 (26) acquisition of natural areas as provided in 76-12-108;
- 30 (27) acquisition of water rights for the natural flow of water as provided in 85-1-204;

- 1 (28) property and water rights necessary for waterworks as provided in 85-1-209 and 85-7-1904;
- 2 (29) conservancy district purposes as provided in 85-9-410;
- 3 (30) wharves, docks, piers, chutes, booms, ferries, bridges, private roads, plank and turnpike roads, and
- 4 railroads, except as provided in [section 4(2)];
- 5 (31) canals, ditches, flumes, aqueducts, and pipes for:
- 6 (a) supplying mines, mills, and smelters for the reduction of ores;
- 7 (b) supplying farming neighborhoods with water and drainage;
- 8 (c) reclaiming lands; and
- 9 (d) floating logs and lumber on streams that are not navigable;
- 10 (32) sites for reservoirs necessary for collecting and storing water. However, reservoir sites must possess
- 11 a public use demonstrable to the district court as the highest and best use of the land.
- 12 (33) roads, tunnels, and dumping places for working mines, mills, or smelters for the reduction of ores;
- 13 (34) outlets, natural or otherwise, for the flow, deposit, or conduct of tailings or refuse matter from mines,
- 14 mills, and smelters for the reduction of ores;
- 15 (35) an occupancy in common by the owners or the possessors of different mines of any place for the
- 16 flow, deposit, or conduct of tailings or refuse matter from their several mines, mills, or smelters for reduction of
- 17 ores and sites for reservoirs necessary for collecting and storing water for the mines, mills, or smelters. However,
- 18 the reservoir sites must possess a public use demonstrable to the district court as the highest and best use of
- 19 the land.
- 20 (36) private roads leading from highways to residences or farms;
- 21 (37) telephone or electrical energy lines, except that local government entities as defined in 2-7-501,
- 22 municipal utilities, or competitive electricity suppliers may not use this chapter to acquire existing telephone or
- 23 electrical energy lines and appurtenant facilities owned by a public utility or cooperative for the purpose of
- 24 transmitting or distributing electricity or providing telecommunications services;
- 25 (38) telegraph lines;
- 26 (39) sewerage of any:
- 27 (a) county, city, or town or any subdivision of a county, city, or town, whether incorporated or
- 28 unincorporated;
- 29 (b) settlement consisting of not less than 10 families; or
- 30 (c) public buildings belonging to the state or to any college or university;

1 (40) tramway lines;  
 2 (41) logging railways;  
 3 (42) temporary logging roads and banking grounds for the transportation of logs and timber products to  
 4 public streams, lakes, mills, railroads, or highways for a time that the court or judge may determine. However,  
 5 the grounds of state institutions may not be used for this purpose.

6 (43) underground reservoirs suitable for storage of natural gas;

7 (44) projects to mine and extract ores, metals, or minerals owned by the condemnor located beneath or  
 8 upon the surface of property where the title to the surface vests in others. However, the use of the surface of  
 9 property for strip mining or open-pit mining of coal (i.e., any mining method or process in which the strata or  
 10 overburden is removed or displaced in order to extract the coal) is not a public use, and eminent domain may not  
 11 be exercised for this purpose.

12 (45) projects to restore and reclaim lands that were strip-mined or underground-mined for coal and not  
 13 reclaimed in accordance with Title 82, chapter 4, part 2, and to abate or control adverse effects of strip or  
 14 underground mining on those lands."

15

16 **Section 114.** Section 81-5-102, MCA, is amended to read:

17 **"81-5-102. Driving animals upon railroad track.** If a person willfully drives an animal ~~upon~~ onto a  
 18 railroad track with intent to injure the Montana railroad development authority or corporation or persons owning  
 19 the railroad and ~~such the~~ animal is killed or injured ~~thereby~~, the person is ~~punishable by a fine not exceeding~~ may  
 20 be fined an amount not to exceed \$50,000 or imprisonment be imprisoned in the state prison ~~not exceeding for~~  
 21 a term not to exceed 5 years, or both, ~~and~~ The person is liable for all injury or damage ~~occasioned by reason~~  
 22 of such act caused by the person's actions."

23

24 **Section 115.** Section 81-8-252, MCA, is amended to read:

25 **"81-8-252. Hearing on application for certificate -- decision.** (1) Upon the filing of the application  
 26 under 81-8-251, the department shall fix a time and place for a hearing ~~thereon~~ on the application, which may  
 27 not be less than 10 days after the filing. The department shall have a copy of the application, excluding the  
 28 financial statement described in 81-8-251(2)(h), and notice of the hearing served by mail upon:

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

- 1 (b) the secretaries of the Montana stockgrowers association and the Montana woolgrowers association;  
 2 (c) the secretary of the district livestock association, if any;  
 3 (d) the secretary of the livestock association or associations, if any, within the vicinity of the proposed  
 4 livestock market, if known to the department; and  
 5 (e) ~~any the Montana railroad development authority or a~~ railroad company operating into or through the  
 6 town or city in which the proposed livestock market will be located.

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

15 **Section 116.** Section 85-1-208, MCA, is amended to read:

16 **"85-1-208. Construction across streams, highways, or other obstacles.** (1) The department may  
 17 construct irrigation works across any stream of water, watercourse, ~~streets, avenues, highways, railways, canals,~~  
 18 ~~ditches, or flumes in such manner as to afford security~~ street, avenue, highway, railway, canal, ditch, or flume to  
 19 secure life and property. The department shall restore the ~~same~~ stream of water, watercourse, street, avenue,  
 20 highway, railway, canal, ditch, or flume, when ~~so~~ crossed or intersected, to its former state, as near as ~~may be~~  
 21 possible, so as not to destroy its usefulness. ~~A~~ The Montana railroad development authority or a company whose  
 22 railroads are intersected or crossed by the works shall ~~unite with~~ join the department in forming the intersection  
 23 and crossing. If the railroad company or the Montana railroad development authority and the department or the  
 24 owners and controllers of the property, thing, or franchise ~~so to be~~ being crossed cannot agree upon the amount  
 25 ~~to be paid therefor for the property, thing, or franchise~~ or the points or the manner of the crossing or intersections,  
 26 the amount shall must be ~~ascertained and~~ determined in all respects as ~~herein~~ provided in Title 70, chapter 30,  
 27 in respect to taking of land for public use.

28 (2) This section does not require the payment to the state or any subdivision ~~thereof~~ of the state of a sum  
 29 for the right to cross a public highway with the works. A right-of-way is ~~hereby~~ given, dedicated, and set apart to  
 30 locate, construct, and maintain the works over and through the lands ~~which~~ that are the property of this state."

1

2 **Section 117.** Section 85-7-1909, MCA, is amended to read:

3 **"85-7-1909. Rights-of-way for irrigation works.** (1) (a) The board of commissioners ~~shall have~~ has  
4 the power to construct irrigation works across any stream of water, watercourse, street, avenue, highway, railway,  
5 canal, ditch, or flume ~~which where~~ the route of ~~said the~~ canal or canals ~~may intersect~~ intersects or ~~cross~~ crosses  
6 in ~~such a~~ manner ~~as to afford security to~~ that secures life and property.

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

10 (c) ~~Every~~ The Montana railroad development authority or a company whose railroad ~~shall be~~ is  
11 intersected or crossed by ~~said the~~ works shall ~~unite with said~~ join the board in forming ~~said the~~ intersection and  
12 crossing, and if ~~such the~~ authority, railroad company, or the owners and controllers of ~~said the~~ property, thing,  
13 or franchise ~~so to be~~ being crossed and ~~said the~~ board cannot agree upon the amount to be paid ~~therefor~~ for the  
14 property, thing, or franchise or the points or the manner of ~~said the~~ crossing or intersections, the ~~same~~ shall  
15 amount must be ~~ascertained and determined in all respects~~ as ~~herein~~ provided in Title 70, chapter 30, in respect  
16 to taking of land for public use.

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

21

22 **Section 118.** Section 85-8-341, MCA, is amended to read:

23 **"85-8-341. Preparation of report -- contents.** (1) As soon as ~~may be~~ possible after the confirmation  
24 of the preliminary report or within ~~such the~~ time as directed by the court ~~may direct,~~ ~~said the~~ commissioners shall;  
25 ~~proceed to~~

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

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

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

30 (d) report in writing to the court:

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

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

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

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

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

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

29           (3) If ~~any an~~ individual, association of individuals, or corporation would, in the judgment of ~~said the~~  
30 commissioners, derive special benefits from the whole or any part of ~~such the~~ proposed work, the commissioners

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

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

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

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

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

22  
 23 **Section 119.** Section 85-8-342, MCA, is amended to read:

24 **"85-8-342. Apportionment of costs.** (1) In apportioning the costs and expenses mentioned in  
 25 ~~85-8-341(1)(d)~~ 85-8-341(1)(d)(iv), the following classes of property, persons, corporations, and municipalities  
 26 shall must be assessed:

- 27 (a) all lands ~~which that~~ are swampy, bogged, or waterlogged and will be relieved and improved by virtue  
 28 ~~of the~~ construction of the proposed drainage system;
- 29 (b) all lands ~~which that~~ are becoming or are liable to become swampy, bogged, or waterlogged and  
 30 ~~which where~~ the construction of the proposed drainage system will prevent ~~from being thus affected~~ future

1 drainage problems;

2 (c) all lands ~~from which~~ where surface or seepage waters will enter or can be conducted into the  
3 proposed drainage system;

4 (d) all lands and improvements ~~thereto upon which or through which~~ to the land where surface or  
5 seepage water will be prevented from flowing or can be prevented from flowing by ~~virtue of the construction of~~  
6 constructing the proposed drainage system;

7 (e) all lands or improvements ~~which~~ that will sustain any direct benefit ~~of any kind or character~~  
8 whatsoever;

9 (f) all railways, whether operated by steam, electricity, or otherwise, whose right-of-way or roadbed will  
10 ~~be benefited or can be benefited by reason of~~ benefit by the construction of the proposed drainage system or  
11 levee project;

12 (g) all public utilities ~~whose~~ with easements or other facilities within the district that will ~~receive~~ benefit  
13 from the proposed work;

14 (h) all owners of irrigation ditches or canals included within ~~said~~ the district or from which water seeps,  
15 drains, or wastes to, upon, or through lands included within the district;

16 (i) the county or counties ~~which~~ where the proposed drainage system traverses or ~~which will be benefited~~  
17 as to will benefit public health, convenience, welfare, or improvement of any public highway;

18 (j) all incorporated cities or towns and lands included within townsites and subdivisions, in whole or in  
19 part, ~~directly benefited by reason of~~ that will benefit from the construction of the proposed drainage system.

20 (2) In apportioning the costs and expenses mentioned in ~~85-8-341(1)(d)~~, ~~the following principles shall~~  
21 ~~be regarded:~~ 85-8-341(1)(d)(iv), the provisions of this subsection (2) must be considered.

22 (a) ~~All of the above~~ The classes of lands, improvements, railways, public utilities, irrigation ditches,  
23 counties, cities, towns, townsites, and subdivisions ~~shall be liable to assessment~~ must be assessed for the  
24 construction of the proposed drainage system in ~~such~~ just and equitable proportions ~~as may seem just and~~  
25 equitable.

26 (b) The benefits ~~to accrue~~ accrued from the construction of the proposed drainage system to a railway,  
27 county, incorporated city or town, and lands included within a platted townsite or subdivision ~~being of a~~ are  
28 ~~different character than those to accrue to~~ accrued on agricultural lands ~~shall be.~~ The benefits must be considered  
29 in apportioning the assessment, ~~and also the.~~ The damages and inconvenience caused by seepage and waste  
30 waters from irrigation ditches and from the higher lands ~~shall also must~~ be considered in apportioning the

1 assessment to them.

2 (c) In the case of the construction of levees or other flood control facilities, lands and improvements  
 3 ~~which are~~ located or constructed at an elevation ~~which is~~ greater than the elevation of the design flood level ~~which~~  
 4 ~~said that the~~ levees or other flood control facilities are designed to protect against ~~shall~~ may not be assessed for  
 5 the payment of any part of the cost of constructing the levees or other flood control facilities, ~~nor shall such. Those~~  
 6 lands or improvements also may not be assessed for the payment of any part of the cost for repairs ~~thereto to~~  
 7 those lands or improvement, maintenance thereof to those lands or improvements, or the incidental expenses  
 8 attached to the establishment of ~~such the~~ drainage district.

9 (d) The assessment against each tract, lot, easement, town, city, county, irrigation ditch, railroad, public  
 10 utility, individual, or corporation ~~owner thereof owning the land which that will be benefited by~~ benefit from the  
 11 proposed work or ~~which, in any manner, that~~ contributes to the swamped, seeped, bogged, or waterlogged  
 12 condition of any land within ~~said the~~ district and the proportionate share of cost of construction of the proposed  
 13 drainage system ~~which each of them should bear shall~~ must be shown in tabular form, ~~the. The~~ columns of which  
 14 ~~shall be in the form~~ must be headed as follows:

- 15 (i) ~~Column 1--Owners~~ column 1, owners of property assessed;  
 16 (ii) ~~column 2--Description,~~ description of property assessed;  
 17 (iii) ~~column 3--Number,~~ number of acres assessed;  
 18 (iv) ~~column 4--Amount,~~ amount of benefits assessed;  
 19 (v) ~~column 5--Number,~~ number of acres taken for right-of-way;  
 20 (vi) ~~column 6--Value,~~ value of property taken;  
 21 (vii) ~~column 7--Damages,~~ damages; and  
 22 (viii) ~~column 8--Assessment,~~ assessment for costs, ~~or the assessment roll;~~ which shall be known as the  
 23 assessment roll.

24 (3) ~~Where~~ If property, persons, or corporations, public or private, contribute to the damaged condition  
 25 of the lands ~~to be being~~ reclaimed, ~~it shall not be necessary to assess in such the~~ assessment roll does not need  
 26 to include the benefits ~~to be derived by or accruing to them~~ accrued by the property, persons, or corporations."  
 27

28 **Section 120.** Section 85-8-366, MCA, is amended to read:

29 **"85-8-366. Drains on railroad lands.** (1) ~~Said The~~ The commissioners ~~shall~~ have the right to lay out and  
 30 construct all necessary drains, ditches, and levees across any railway right-of-way or yards in their district. ~~Any~~

1 The Montana railroad development authority or a railway company whose with right-of-way or yards ~~cross~~  
 2 crossing the line of any proposed drain, ditch, or levee shall open its right-of-way or yards and permit ~~such the~~  
 3 drain, ditch, or levee to cross the ~~same~~ right-of-way or yards as soon as ~~said the~~ drain, ditch, or levee is  
 4 constructed to ~~such the~~ right-of-way.

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

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

23  
 24 **NEW SECTION. Section 121. Repealer.** The following section of the Montana Code Annotated is  
 25 repealed:

26 2-15-2511. Rail service competition council.

27  
 28 **NEW SECTION. Section 122. Appropriation.** There is appropriated \$50,000 from the general fund to  
 29 the department of transportation for each of fiscal years 2016 and 2017 to support the Montana railroad  
 30 development authority and its work provided for in [sections 1 through 19].

1

2           NEW SECTION. **Section 123. Notification to tribal governments.** The secretary of state shall send  
3 a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell  
4 Chippewa tribe.

5

6           NEW SECTION. **Section 124. Codification instruction.** [Sections 1 through 19] are intended to be  
7 codified as an integral part of Title 2, chapter 15, and the provisions of Title 2, chapter 15, apply to [sections 1  
8 through 19].

9

10           NEW SECTION. **Section 125. Severability.** If a part of [this act] is invalid, all valid parts that are  
11 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications,  
12 the part remains in effect in all valid applications that are severable from the invalid applications.

13

14           NEW SECTION. **Section 126. Effective date.** [This act] is effective July 1, 2015.

15

- END -