



AN ACT GENERALLY REVISING THE ADMINISTRATION OF RECREATIONAL RESOURCE PROGRAMS; ADMINISTRATIVELY ATTACHING THE STATE PARKS AND RECREATION BOARD TO THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS; CLARIFYING DEPARTMENTAL AND BOARD POWERS AND DUTIES RELATED TO STATE PARKS AND BOATING, SNOWMOBILE, AND OFF-HIGHWAY VEHICLE PROGRAMS; AUTHORIZING THE HIRING OF AN EXECUTIVE DIRECTOR OF STATE PARKS AND RECREATION; PROVIDING A STATUTORY APPROPRIATION; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 2-15-3401, 2-15-3406, 15-35-108, 17-7-502, 18-2-301, 22-3-1002, 22-3-1003, 23-1-101, 23-1-102, 23-1-105, 23-1-108, 23-1-110, 23-1-111, 23-1-126, 23-1-128, 23-1-201, 23-1-202, 23-2-101, 23-2-102, 23-2-103, 23-2-404, 23-2-407, 23-2-409, 23-2-502, 23-2-519, 23-2-533, 23-2-536, 23-2-601, 23-2-615, 23-2-633, 23-2-636, 23-2-641, 23-2-657, 23-2-801, 23-2-806, 23-2-814, 23-2-824, 45-6-101, 45-6-203, 50-53-209, 61-3-321, 61-5-104, 70-16-302, 70-30-102, 77-2-101, 82-11-127, 82-11-185, 85-1-802, 87-1-201, 87-1-209, 87-1-218, 87-1-301, 87-1-603, AND 87-1-604, MCA; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE.

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

**Section 1.** Section 2-15-3401, MCA, is amended to read:

**"2-15-3401. Department of fish, wildlife, and parks -- head.** There is a department of fish, wildlife, and parks. The department head is the director of fish, wildlife, and parks appointed by the governor in accordance with 2-15-111. The director is the secretary of the:

———(1) fish and wildlife commission established in 2-15-3402; and

———(2) state parks and recreation board established in 2-15-3406."

**Section 2.** Section 2-15-3406, MCA, is amended to read:

**"2-15-3406. State parks and recreation board -- composition.** (1) There is a state parks and recreation board.

(2) The board consists of five members appointed by the governor, as prescribed in 2-15-124. The governor shall appoint one member from each of the following districts:

(a) District No. 1, consisting of Lincoln, Flathead, Sanders, Lake, Mineral, Missoula, Powell, Ravalli, Granite, and Lewis and Clark Counties;

(b) District No. 2, consisting of Deer Lodge, Silver Bow, Beaverhead, Madison, Jefferson, Broadwater, Gallatin, Park, and Sweet Grass Counties;

(c) District No. 3, consisting of Glacier, Toole, Liberty, Hill, Pondera, Teton, Chouteau, Cascade, Judith Basin, Fergus, Blaine, Meagher, and Wheatland Counties;

(d) District No. 4, consisting of Phillips, Valley, Daniels, Sheridan, Roosevelt, Petroleum, Garfield, McCone, Richland, Dawson, and Wibaux Counties;

(e) District No. 5, consisting of Golden Valley, Musselshell, Stillwater, Carbon, Yellowstone, Big Horn, Treasure, Rosebud, Custer, Powder River, Carter, Fallon, and Prairie Counties.

(3) Appointments must be made without regard to political affiliation and must be made solely for the wise management of state parks and outdoor recreational resources administered pursuant to Title 23, chapter 1, and Title 23, chapter 2, parts 1, 4, 6, 8, and 9.

(4) A person appointed to the board must be informed or experienced in the conservation and protection of state parks, heritage resources, natural resources, tourism promotion and development, or outdoor recreation.

(5) A vacancy on the board must be filled by the governor in the same manner and from the district in which the vacancy occurs.

(6) The board is designated as a quasi-judicial board for purposes of 2-15-124, except that the requirement that at least one member be an attorney does not apply.

(7) The board is allocated to the department of fish, wildlife, and parks for administrative purposes only, as prescribed in 2-15-121. However, the board may hire an executive director of state parks and recreation to oversee the day-to-day operations of the state parks, primitive parks, state recreational areas, public camping grounds, state historic sites, state monuments, and other heritage and recreational resources administered pursuant to Title 23, chapter 1, and Title 23, chapter 2, parts 1, 4, 6, 8, and 9. The executive director is the secretary of the board."

**Section 3.** Section 15-35-108, MCA, is amended to read:

**"15-35-108. (Temporary) Disposal of severance taxes.** Severance taxes collected under this chapter must, in accordance with the provisions of 17-2-124, be allocated as follows:

(1) Fifty percent of total coal severance tax collections is allocated to the trust fund created by Article IX, section 5, of the Montana constitution. The trust fund money must be deposited in the fund established under 17-6-203(6) and invested by the board of investments as provided by law.

(2) The amount of 12% of coal severance tax collections is allocated to the long-range building program account established in 17-7-205.

(3) The amount of 5.46% must be credited to an account in the state special revenue fund to be allocated by the legislature for provision of basic library services for the residents of all counties through library federations and for payment of the costs of participating in regional and national networking, conservation districts, and the Montana Growth Through Agriculture Act. Expenditures of the allocation may be made only from this account. Money may not be transferred from this account to another account other than the general fund. Any unreserved fund balance at the end of each fiscal year must be deposited in the general fund.

(4) The amount of 1.27% must be allocated to a permanent fund account for the purpose of parks acquisition or management. Income from this permanent fund account, excluding unrealized gains and losses, must be appropriated for the acquisition, development, operation, and maintenance of any sites and areas described in ~~23-1-102~~ 23-1-111.

(5) The amount of 0.95% must be allocated to the debt service fund type to the credit of the renewable resource loan debt service fund.

(6) The amount of 0.63% must be allocated to a trust fund for the purpose of protection of works of art in the capitol and for other cultural and aesthetic projects. Income from this trust fund account, excluding unrealized gains and losses, must be appropriated for protection of works of art in the state capitol and for other cultural and aesthetic projects.

(7) The amount of 5.8% through June 30, 2017, and beginning July 1, 2017, the amount of 2.9% must be credited to the coal natural resource account established in 90-6-1001(2).

(8) After the allocations are made under subsections (2) through (7), \$250,000 for the fiscal year must be credited to the coal and uranium mine permitting and reclamation program account established in 82-4-244.

(9) (a) Subject to subsection (9)(b), all other revenue from severance taxes collected under the provisions of this chapter must be credited to the general fund of the state and is statutorily appropriated, as

provided in 17-7-502, on July 1 each year to the trust fund for the public employees' retirement system defined benefit plan established pursuant to 19-3-103.

(b) The interest income of the coal severance tax permanent fund that is deposited in the general fund, less the annual transfer of \$1.275 million to the research and commercialization state special revenue account pursuant to 15-1-122(2), is statutorily appropriated, as provided in 17-7-502, on July 1 each year as follows:

(i) \$65,000 to the cooperative development center;

(ii) \$625,000 for the growth through agriculture program provided for in Title 90, chapter 9;

(iii) to the department of commerce:

(A) \$125,000 for a small business development center;

(B) \$50,000 for a small business innovative research program;

(C) \$425,000 for certified regional development corporations;

(D) \$200,000 for the Montana manufacturing extension center at Montana state university-Bozeman;

and

(E) \$300,000 for export trade enhancement; and

(iv) except as provided in subsection (9)(c), up to \$21 million to the public employees' retirement system defined benefit plan trust fund.

(c) If the legislative finance committee determines that the public employees' retirement board has failed to provide a sufficient report pursuant to 19-3-117, it shall recommend that \$5 million be subtracted from the amount allocated in subsection (9)(b)(iv) subject to legislative approval. (Terminates June 30, 2019--secs. 2, 3, Ch. 459, L. 2009.)

**15-35-108. (Effective July 1, 2019) Disposal of severance taxes.** Severance taxes collected under this chapter must, in accordance with the provisions of 17-2-124, be allocated as follows:

(1) Fifty percent of total coal severance tax collections is allocated to the trust fund created by Article IX, section 5, of the Montana constitution. The trust fund money must be deposited in the fund established under 17-6-203(6) and invested by the board of investments as provided by law.

(2) The amount of 12% of coal severance tax collections is allocated to the long-range building program account established in 17-7-205.

(3) The amount of 5.46% must be credited to an account in the state special revenue fund to be allocated by the legislature for provision of basic library services for the residents of all counties through library federations

and for payment of the costs of participating in regional and national networking, conservation districts, and the Montana Growth Through Agriculture Act. Expenditures of the allocation may be made only from this account. Money may not be transferred from this account to another account other than the general fund. Any unreserved fund balance at the end of each fiscal year must be deposited in the general fund.

(4) The amount of 1.27% must be allocated to a permanent fund account for the purpose of parks acquisition or management. Income from this permanent fund account, excluding unrealized gains and losses, must be appropriated for the acquisition, development, operation, and maintenance of any sites and areas described in ~~23-1-102~~ 23-1-111.

(5) The amount of 0.95% must be allocated to the debt service fund type to the credit of the renewable resource loan debt service fund.

(6) The amount of 0.63% must be allocated to a trust fund for the purpose of protection of works of art in the capitol and for other cultural and aesthetic projects. Income from this trust fund account, excluding unrealized gains and losses, must be appropriated for protection of works of art in the state capitol and for other cultural and aesthetic projects.

(7) The amount of 2.9% must be credited to the coal natural resource account established in 90-6-1001(2).

(8) After the allocations are made under subsections (2) through (7), \$250,000 for the fiscal year must be credited to the coal and uranium mine permitting and reclamation program account established in 82-4-244.

(9) (a) Subject to subsection (9)(b), all other revenue from severance taxes collected under the provisions of this chapter must be credited to the general fund of the state and is statutorily appropriated, as provided in 17-7-502, on July 1 each year to the trust fund for the public employees' retirement system defined benefit plan pursuant to 19-3-103.

(b) Except as provided in subsection (9)(c), up to \$24 million of the interest income from the coal severance tax permanent fund that is deposited in the general fund is statutorily appropriated, as provided in 17-7-502, on July 1 each year to the public employees' retirement system defined benefit plan trust fund.

(c) If the legislative finance committee determines that the public employees' retirement board has failed to provide a sufficient report pursuant to 19-3-117, it shall recommend that \$5 million be subtracted from the amount allocated in subsection (9)(b) subject to legislative approval."

**Section 4.** Section 17-7-502, MCA, is amended to read:

**"17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-120; 5-11-407; 5-13-403; 7-4-2502; 10-1-108; 10-1-1202; 10-1-1303; 10-2-603; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-121; 15-1-218; 15-35-108; 15-36-332; 15-37-117; 15-39-110; 15-65-121; 15-70-101; 15-70-433; 15-70-601; 16-11-509; 17-3-106; 17-3-112; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 17-7-215; 18-11-112; 19-3-319; 19-6-404; 19-6-410; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 19-20-607; 19-21-203; 20-8-107; 20-9-517; 20-9-520; 20-9-534; 20-9-622; 20-9-905; 20-26-617; 20-26-1503; 22-1-327; 22-3-116; 22-3-117; 22-3-1004; [section 18]; 23-4-105; 23-5-306; 23-5-409; 23-5-612; 23-7-301; 23-7-402; 30-10-1004; 37-43-204; 37-50-209; 37-51-501; 39-71-503; 41-5-2011; 42-2-105; 44-4-1101; 44-12-213; 44-13-102; 50-1-115; 53-1-109; 53-6-1304; 53-9-113; 53-24-108; 53-24-206; 60-11-115; 61-3-415; 69-3-870; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 76-13-150; 76-13-416; 77-1-108; 77-2-362; 80-2-222; 80-4-416; 80-11-518; 81-1-112; 81-7-106; 81-10-103; 82-11-161; 85-20-1504; 85-20-1505; [85-25-102]; 87-1-603; 90-1-115; 90-1-205; 90-1-504; 90-3-1003; 90-6-331; and 90-9-306.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the inclusion of 19-20-604 terminates contingently when the amortization period for the teachers' retirement system's unfunded liability is 10 years or less; pursuant to sec. 10, Ch. 10, Sp. L. May 2000, secs. 3 and 6, Ch. 481, L. 2003, and

sec. 2, Ch. 459, L. 2009, the inclusion of 15-35-108 terminates June 30, 2019; pursuant to sec. 73, Ch. 44, L. 2007, the inclusion of 19-6-410 terminates contingently upon the death of the last recipient eligible under 19-6-709(2) for the supplemental benefit provided by 19-6-709; pursuant to sec. 5, Ch. 442, L. 2009, the inclusion of 90-6-331 terminates June 30, 2019; pursuant to sec. 16, Ch. 58, L. 2011, the inclusion of 30-10-1004 terminates June 30, 2017; pursuant to sec. 6, Ch. 61, L. 2011, the inclusion of 76-13-416 terminates June 30, 2019; pursuant to sec. 13, Ch. 339, L. 2011, the inclusion of 81-1-112 and 81-7-106 terminates June 30, 2017; pursuant to sec. 11(2), Ch. 17, L. 2013, the inclusion of 17-3-112 terminates on occurrence of contingency; pursuant to sec. 5, Ch. 244, L. 2013, the inclusion of 22-1-327 terminates July 1, 2017; pursuant to sec. 27, Ch. 285, L. 2015, and sec. 1, Ch. 292, L. 2015, the inclusion of 53-9-113 terminates June 30, 2021; pursuant to sec. 6, Ch. 291, L. 2015, the inclusion of 50-1-115 terminates June 30, 2021; pursuant to sec. 28, Ch. 368, L. 2015, the inclusion of 53-6-1304 terminates June 30, 2019; pursuant to sec. 5, Ch. 383, L. 2015, the inclusion of 85-25-102 is effective on occurrence of contingency; pursuant to sec. 5, Ch. 422, L. 2015, the inclusion of 17-7-215 terminates June 30, 2021; pursuant to sec. 6, Ch. 423, L. 2015, the inclusion of 22-3-116 and 22-3-117 terminates June 30, 2025; pursuant to sec. 10, Ch. 427, L. 2015, the inclusion of 37-50-209 terminates September 30, 2019; and pursuant to sec. 33, Ch. 457, L. 2015, the inclusion of 20-9-905 terminates December 31, 2023.)"

**Section 5.** Section 18-2-301, MCA, is amended to read:

**"18-2-301. Bids required -- advertising.** (1) It is unlawful for any offices, departments, institutions, or any agent of the state of Montana acting for or in behalf of the state to do, to cause to be done, or to let any contract for the construction of buildings or the alteration and improvement of buildings and adjacent grounds on behalf of and for the benefit of the state when the amount involved is \$75,000 or more without first advertising in at least one issue each week for 3 consecutive weeks in two newspapers published in the state, one of which must be published at the seat of government and the other in the county where the work is to be performed, calling for sealed bids to perform the work and stating the time and place bids will be considered.

(2) All work may be done, caused to be done, or contracted for only after competitive bidding.

(3) If responsible bids are not received after two attempts, the department or agency may contract for the work in a manner determined to be cost-effective for the state.

(4) This section does not apply to work done by inmates at an institution in the department of corrections.

(5) (a) The provisions of Montana law governing advertising and competitive bidding do not apply when the ~~department of fish, wildlife, and parks~~ state parks and recreation board is preserving or restoring the historic buildings and resources that it owns at Bannack if:

- (i) the options listed in subsection (5)(b) are determined to be more cost-effective for the state; and
- (ii) the implementation of the options listed in subsection (5)(b) is necessary to save historic buildings and resources from degradation and loss.

(b) For the preservation or restoration of historic buildings and resources at Bannack when the conditions listed in subsection (5)(a) are met, the ~~department of fish, wildlife, and parks~~ state parks and recreation board may accomplish the preservation or restoration through:

- (i) a memorandum of understanding with a local, state, or federal entity or nonprofit organization when the entity or organization demonstrates the competence, knowledge, and qualifications to preserve or restore historic resources;
- (ii) the use of qualified and trained ~~department of fish, wildlife, and parks~~ employees and volunteers;
- (iii) a training program in historic preservation and restoration conducted by a qualified local, state, or federal entity or a qualified nonprofit organization; or
- (iv) any combination of the options described in this subsection (5)(b)."

**Section 6.** Section 22-3-1002, MCA, is amended to read:

**"22-3-1002. Montana heritage preservation and development commission.** (1) There is a Montana heritage preservation and development commission. The commission is attached to the department of commerce for administrative purposes only, pursuant to 2-15-121. The commission and the department shall negotiate a specific indirect administrative rate annually, with biennial review by a designated, appropriate legislative interim committee.

(2) (a) The commission consists of 14 members. The members shall broadly represent the state. Nine members must be appointed by the governor, one member must be appointed by the president of the senate, and one member must be appointed by the speaker of the house.

(b) If the president of the senate and the speaker of the house do not appoint the members for which they are responsible within 6 months of a vacancy having occurred in those positions, the members must be appointed by the governor.

(c) The director of the Montana historical society, ~~the director of the department of fish, wildlife, and parks,~~ and the director of the department of commerce, and the executive director of state parks and recreation shall serve as members. Of the members appointed by the governor under subsection (2)(a):

- (i) one member must have extensive experience in managing facilities that cater to the needs of tourists;
- (ii) one member must have experience in community planning;
- (iii) one member must have experience in historic preservation;
- (iv) two members must have broad experience in business;
- (v) one member must be a member of the tourism advisory council established in 2-15-1816;
- (vi) one member must be a Montana historian; and
- (vii) two members must be from the public at large.

(3) Except for the initial appointments, members appointed by the governor under subsection (2)(a) shall serve 3-year terms. Members appointed by the president of the senate and the speaker of the house or by the governor under subsection (2)(b) shall serve 2-year terms. If a vacancy occurs, the appointing authority shall make an appointment for the unexpired portion of the term.

(4) (a) The commission may employ:

- (i) an executive director who has general responsibility for the selection and management of commission staff, developing recommendations for the purchase of property, and overseeing the management of acquired property;
- (ii) a curator who is responsible for the display and preservation of the acquired property; and
- (iii) other staff that the commission and the executive director determine are necessary to manage and operate commission properties.

(b) The commission shall prescribe the duties and annual salary of the executive director, the curator, and other commission staff."

**Section 7.** Section 22-3-1003, MCA, is amended to read:

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

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

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

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

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

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

(f) Management activities must be undertaken to encourage the operation of properties in a manner that results in economic stability.

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

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

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

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

(b) The commission shall deposit the portion of profits not used for administrative costs and restoration of the properties in the general fund.

(4) The commission may solicit funds from other sources, including the federal government, for the management and operation of properties.

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

(b) The commission and volunteers stand in the relationship of employer and employee for purposes

of and as those terms are defined in Title 39, chapter 71. The commission shall provide each volunteer with workers' compensation coverage, as provided in Title 39, chapter 71, during the course of the volunteer's assistance.

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

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

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

- (a) whether the property represents the state's culture and history;
- (b) whether the property can become economically stable;
- (c) whether the property can contribute to the economic and social enrichment of the state;
- (d) whether the property lends itself to programs to interpret Montana history;
- (e) whether the acquisition or sale will create significant social and economic impacts to affected local governments and the state;
- (f) whether the sale is supported by the director of the Montana historical society;
- (g) whether the commission should include any preservation covenants in a proposed sale agreement for real property;
- (h) whether the commission should incorporate any design review ordinances established by Virginia City into a proposed sale agreement for real property; and
- (i) other matters that the commission considers necessary or appropriate.

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

(10) Public notice and the opportunity for a hearing must be given in the geographical area of a proposed acquisition or sale of real property before a final decision to acquire or sell the property is made. The commission

shall approve proposals for acquisition or sale of real property and recommend the approved proposal to the board of land commissioners.

(11) The commission, working with the board of investments, may establish trust funds to benefit historic properties. Interest from any trust fund established under this subsection must be used to preserve and manage assets owned by the commission.

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

**Section 8.** Section 23-1-101, MCA, is amended to read:

**"23-1-101. Purposes -- definitions.** (1) For the purposes of conserving the scenic, historic, archaeological, scientific, and recreational resources of the state, providing for their use and enjoyment, and contributing to the cultural, recreational, and economic life of the people and their health, the ~~department and board~~ is vested with the duties and powers set forth in this part.

(2) For the purposes of this part, the following definitions apply:

(a) "Board" means the state parks and recreation board established in 2-15-3406.

(b) "Commission" means the fish and wildlife commission established in 2-15-3402.

(c) "Department" means the department of fish, wildlife, and parks established in 2-15-3401.

~~(d) "Director" means the director of fish, wildlife, and parks as provided in 2-15-3401.~~

(d) "Executive director" means the executive director of state parks and recreation hired by the board pursuant to 2-15-3406."

**Section 9.** Section 23-1-102, MCA, is amended to read:

**"23-1-102. Powers and duties of department Acceptance of gifts and other funds or property. (1)**

~~The department shall make a study to determine the scenic, historic, archaeological, scientific, and recreational resources of the state. The department may:~~

~~— (a) by purchase, lease, agreement, or acceptance of donations acquire for the state any areas, sites, or objects that in its opinion should be held, improved, and maintained as state parks, state recreational areas, state monuments, or state historic sites;~~

~~\_\_\_\_\_ (b) with the consent of the board, acquire by condemnation, pursuant to Title 70, chapter 30, lands or structures for the purposes provided in 87-1-209(2);~~

~~\_\_\_\_\_ (c) with the consent of the board, enter into a contract pursuant to 18-4-313(2)(e);~~

~~\_\_\_\_\_ (d) accept in the name of the state, in fee or otherwise, any areas, sites, or objects conveyed, entrusted, donated, or devised to the state; and~~

~~\_\_\_\_\_ (e) lease those portions of designated lands that are necessary for the proper administration of the lands in keeping with the basic purposes of this part.~~

(2) The department may accept gifts, grants, bequests, or contributions of money or other property to be spent or used for any of the purposes of this part.

~~(3) A contract, for any of the purposes of this part, may not be entered into or another obligation incurred until money has been appropriated by the legislature or is otherwise available. If the contract or obligation pertains to acquisition of areas or sites in excess of either 100 acres or \$100,000 in value, the board of land commissioners shall specifically approve the acquisition:~~

~~\_\_\_\_\_ (4) The department has jurisdiction, custody, and control of all state parks, recreational areas, public camping grounds, historic sites, and monuments, except wayside camps and other public conveniences acquired, improved, and maintained by the department of transportation and contiguous to the state highway system. The department may designate lands under its control as state parks, state historic sites, state monuments, or any other designation that it considers appropriate. The department may remove or change the designation of any area or portion of an area and may name or change the name of any area."~~

**Section 10.** Section 23-1-105, MCA, is amended to read:

**"23-1-105. Fees and charges -- use of motor vehicle registration fee.** (1) The ~~department~~ board may levy and collect reasonable fees or other charges for the use of privileges and conveniences that may be provided and to may grant concessions that it considers advisable, except as provided in subsections (2) and (6). All money derived from the activities of the ~~department~~ board, except as provided in subsection (5), must be deposited in the state treasury in a state special revenue fund to the credit of the department and used for the purposes of this part.

(2) Overnight camping fees established by the ~~department~~ under subsection (1) must be discounted 50% for a campsite rented by a person who is a resident of Montana, as defined in 87-2-102, and is either 62 years

of age or older or certified as disabled in accordance with rules adopted by the department board.

(3) For a violation of ~~any~~ a fee collection rule involving a vehicle, the registered owner of the vehicle at the time of the violation is personally responsible if an adult is not in the vehicle at the time the violation is discovered by an authorized officer. A defense that the vehicle was driven into the fee area by another person is not allowable unless it is shown that at that ~~time~~, time the vehicle was being used without the consent of the registered owner.

(4) Money received from the collection of fees and charges is subject to the deposit requirements of 17-6-105(6) unless the department has submitted and received approval for a modified deposit schedule pursuant to 17-6-105(8).

(5) There is a fund of the enterprise fund type, as defined in 17-2-102(2)(a), for the purpose of managing state park visitor services revenue. The fund is to be used by the department board to serve the recreating public by providing for the obtaining of inventory through purchase, production, or donation and for the sale of educational, commemorative, and interpretive merchandise and other related goods and services at department sites and facilities administered pursuant to this part. The fund consists of money from the sale of educational, commemorative, and interpretive merchandise and other related goods and services and from donations. Gross revenue from the sale of educational, commemorative, and interpretive merchandise and other related goods and services must be deposited in the fund. All interest and earnings on money deposited in the fund must be credited to the fund for use as provided in this subsection.

(6) In recognition of the fact that individuals support state parks through the payment of certain motor vehicle registration fees, persons who pay the fee provided for in 61-3-321(19)(a) may not be required to pay a day-use fee for access to state parks. Other fees for the use of state parks ~~and fishing access sites~~, such as overnight camping fees, are still chargeable and may be collected ~~by the department~~.

(7) Any increase in the motor vehicle registration fee collected pursuant to 61-3-321(19)(a) on or after January 1, 2012, that is dedicated to state parks must be used ~~by the department~~ for maintenance and operation of state parks."

**Section 11.** Section 23-1-108, MCA, is amended to read:

**"23-1-108. Acquisition of certain state parks, monuments, or historic sites.** (1) Any person, association, or representative of a governing unit may submit a proposal for the acquisition of a site or area

described in ~~23-1-102~~ 23-1-111 from the income of the trust fund created in 15-35-108 to the ~~department~~ board by July 1 of the year preceding the convening of a legislative session.

(2) The board shall present to the legislature by the 15th day of any legislative session a list of areas, sites, or objects that were proposed for purchase for use as state parks, state recreational areas, state monuments, or state historic sites with the money contained in the parks account.

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

**Section 12.** Section 23-1-110, MCA, is amended to read:

**"23-1-110. Improvement or development of state park or fishing access site -- required public involvement -- rules.** (1) Any proposed improvement or development of a state park or fishing access site that significantly changes park or fishing access site features or use patterns is subject to notice of proposed modifications, both statewide and locally, and to opportunity for a public meeting and public comment on the advisability and acceptability of the proposal. Rules to govern the notice, meeting, and comment process must be adopted:

- (a) for state parks by the board; and
- (b) for fishing access sites by the commission.

(2) ~~(a) The~~ For a project that is subject to the provisions of subsection (1), the department shall prepare a public report regarding any project that is subject to the provisions of subsection (1) if the project affects a fishing access site and the board shall prepare a public report if the project affects a state park.

~~(b) The~~ A report prepared pursuant to subsection (2)(a) must include conclusions relating to the following aspects of the proposal:

- ~~(a)~~(i) the desires of the public as expressed to the department or board;
- ~~(b)~~(ii) the capacity of the park or fishing access site for development;
- ~~(c)~~(iii) environmental impacts associated with the improvement or development;
- ~~(d)~~(iv) the long-range maintenance of the improvements;
- ~~(e)~~(v) the protection of natural, cultural, and historical park or fishing access site features;
- ~~(f)~~(vi) potential impacts on tourism; and
- ~~(g)~~(vii) site-specific modifications as they relate to the park or fishing access site system as a whole."

**Section 13.** Section 23-1-111, MCA, is amended to read:

**"23-1-111. Powers and duties of board -- rulemaking -- meetings.** (1) Except as provided in ~~subsection (2)~~ subsections (7) through (9), for state parks, primitive parks, state recreational areas, public camping grounds, state historic sites, state monuments, and other heritage and recreational resources, land, and water administered pursuant to Title 23, chapter 1, and Title 23, chapter 2, parts 1, 4, 6, 8, and 9, the board shall:

(a) direct and set the policies ~~and provide direction to the department~~ for:

(i) ~~the management, protection, conservation, and preservation of~~ managing, protecting, conserving, and preserving these properties, lands, and waters and their appropriate role relative to tourism and the economic health of Montana; and

(ii) coordinating, integrating, promoting, and furthering opportunities for education and recreation at these sites, including but not limited to camping, hiking, snowmobiling, off-highway vehicle use, horseback riding, mountain biking, boating, and swimming;

(b) work with the commission to maintain hunting and angling opportunities on these lands and waters;

(c) establish the rules ~~of the department~~ governing the use of these properties and lands. The rules must be adopted in the interest of public health, public safety, public welfare, and protection of property and public resources in regulating recreation, including picnicking, camping, and swimming, and sanitation. These rules are subject to review and approval by the department of public health and human services with regard to issues of public health and sanitation before becoming effective. Copies of the rules must show that endorsement.

(d) review and approve all acquisitions or transfers of interest in these properties, lands, and waters ~~by the department~~, except as provided in ~~87-1-209(4)~~ [section 16(4)];

(e) review and approve the budget ~~of the department~~ for the administration of these properties, lands, and waters prior to its transmittal to the office of budget and program planning;

(f) review and approve construction projects that have an estimated cost of more than \$5,000;

(g) work with local, state, and federal agencies to evaluate, integrate, coordinate, and promote recreational opportunities statewide; and

(h) encourage citizen involvement in management planning for these properties, lands, and waters.

(2) A contract, for any purposes of this part, may not be entered into or another obligation may not be incurred until money has been appropriated by the legislature or is otherwise available.

(3) The board may lease:

(a) the portions of designated lands needed for the proper administration of the lands in keeping with the basic purposes of this part; and

(b) land that it administers in exchange for services to be provided by the lessee.

(4) The board may enter into a contract for concessions or visitor services pursuant to 18-4-313(2)(e).

(5) The board shall, in accordance with 87-1-622, address fire mitigation and pine beetle infestation, giving priority to forested lands in excess of 50 contiguous acres in any state park.

(6) The board may designate lands it administers pursuant to this part as state parks, state historic sites, state monuments, or another designation that it considers appropriate. The board may remove or change the designation of an area or portion of an area and may name or change the name of an area.

~~(2)(7)~~ Pursuant to 87-1-301(1), the board does not oversee department activities related to the administration of fishing access sites.

(8) The board does not oversee wayside camps and other public conveniences acquired, improved, and maintained by the department of transportation and contiguous to the state highway system.

(9) The director of fish, wildlife, and parks, appointed pursuant to 2-15-3401, retains legal authority over land administered by the board that is encumbered by state hunting or fishing license funding or federal Pittman-Robertson or Dingell-Johnson funding. The land must be managed pursuant to a cooperative agreement between the director and the board.

~~(3)(10)~~ The members of the board shall hold quarterly or other meetings for the transaction of business at times and places considered necessary and proper. The meetings must be called by the presiding officer or by a majority of the board and must be held at the time and place specified in the call for the meeting. A majority of the members constitutes a quorum for the transaction of any business. The board shall keep a record of all the business it transacts. The presiding officer and secretary shall sign all orders, minutes, or documents for the board."

**Section 14.** Section 23-1-126, MCA, is amended to read:

**"23-1-126. Good neighbor policy -- public recreational lands.** (1) The good neighbor policy of public land use, as applied to public recreational lands, seeks a goal of no impact upon adjoining private and public lands by preventing impact on those adjoining lands from noxious weeds, trespass, litter, noise and light pollution,

streambank erosion, and loss of privacy.

(2) In order to implement the good neighbor policy expeditiously, the legislature finds it necessary to require the department of fish, wildlife, and parks and board to place maintenance as a priority over additional development at all state parks and fishing access sites.

(3) The restriction in subsection (2) does not apply to:

~~(a)~~ development and improvement projects for which the legislature has appropriated funds prior to October 1, 1999;

~~(b)~~(a) activities directly related to the historic preservation, restoration, or protection of assets in state parks;

~~(c)~~(b) at the discretion of the department ~~of fish, wildlife, and parks,~~

(i) projects on the Missouri reach of the Missouri-Madison hydropower project or the Clark Fork basin hydropower project, undertaken pursuant to the federal energy regulatory commission's hydropower relicensing requirements and in conjunction with private entities, political subdivisions of the state of Montana, and federal agencies; and

~~(d)~~(ii) ~~at the discretion of the department of fish, wildlife, and parks,~~ projects on Fort Peck reservoir undertaken in conjunction with the U.S. army corps of engineers; or

~~(e)~~(c) partnership projects as designated within the park master plan.

(4) Any development in state parks and fishing access sites beyond those defined as maintenance in 23-1-127 must be approved by the legislature."

**Section 15.** Section 23-1-128, MCA, is amended to read:

**"23-1-128. Limits on camping in riparian areas and operation of off-highway vehicles.** (1) In order to protect riparian vegetation, provide for stable streambanks, reduce erosion, and provide for nutrient barriers to protect the quality of rivers and streams, camping in a motor vehicle, as defined in 61-1-101, is discouraged within 25 feet of a river or stream in state parks and fishing access sites.

(2) The operation of an off-highway vehicle, as defined in 23-2-801, within state parks and fishing access sites is prohibited except:

(a) for administrative purposes; ~~or~~

(b) as designated by the department on roads, trails, or specific areas in fishing access sites; or

(c) as designated by the board on roads, trails, or specific areas in state parks."

**Section 16. Land acquisition -- notice.** (1) The board shall make a study to determine the scenic, historic, archaeological, scientific, and recreational resources of the state. Except as provided in subsection (4) and subject to the provisions of subsection (5), the board may:

(a) by purchase, lease, agreement, or acceptance of donations acquire for the state any areas, sites, or objects that in its opinion should be held, improved, and maintained as state parks, state recreational areas, state monuments, or state historic sites;

(b) acquire by condemnation, pursuant to Title 70, chapter 30, lands or structures for the preservation of historic or archaeological sites that are threatened with destruction or alteration; and

(c) accept in the name of the state, in fee or otherwise, areas, sites, or objects conveyed, entrusted, donated, or devised to the state for the purposes of this part.

(2) For all land acquisitions proposed pursuant to this section, the board shall provide notice to the board of county commissioners in the county where the proposed acquisition is located at least 30 days before the proposed acquisition appears before the board for its consent. The notice must include:

(a) a description of the proposed acquisition, including acreage and the use proposed by the board;

(b) an estimate of the measures and costs the board plans to undertake to further the proposed use, including operating, staffing, and maintenance costs;

(c) an estimate of the property taxes payable on the proposed acquisition and a statement that if the board acquires the land, pursuant to [section 18], the board will pay a sum equal to the amount of taxes that would be payable on the county assessment of the property if it was taxable to a private citizen; and

(d) a draft agenda of the meeting at which the proposed acquisition will be presented to the board and information on how the board of county commissioners may provide comment.

(3) For all land acquisitions of 640 acres or more, the board shall also:

(a) conduct a public scoping process to identify issues and concerns as the initial phase of an environmental review pursuant to Title 75, chapter 1, part 2;

(b) provide the public with sufficient notice of the proposed acquisition and an opportunity to offer input on reasonable alternatives, mitigation alternatives, mitigation measures, issues, and potential impacts to be addressed in the environmental review; and

(c) respond to comments received during the public scoping process as part of the environmental review document.

(4) (a) When necessary and advisable for the management and use of property, the executive director is authorized to grant or acquire from willing sellers right-of-way easements for utilities, roads, drainage facilities, ditches for water conveyance, and pipelines if the full market value of the interest to be acquired is less than \$20,000. Whenever possible, easements must include a weed management plan.

(b) Approval of the board is not required for grants and acquisitions made pursuant to this subsection (4).

(c) In granting a right-of-way pursuant to this subsection (4), the executive director shall obtain a fair market value but is not otherwise required to follow the disposal requirements of [section 17].

(d) The executive director shall report any easement grant or acquisition made pursuant to this subsection (4) to the board at its next regular meeting.

(5) In the case of an acquisition involving more than 100 acres or more than \$100,000 in value, the acquisition must be specifically approved by the board of land commissioners.

**Section 17. Disposal of land -- notice.** (1) (a) Except as provided in subsection (4), the board may dispose of lands and water rights acquired by it on those terms after public notice as required by subsection (2), without regard to other laws that provide for sale or disposal of state lands and with or without reservation, as it considers necessary and advisable.

(b) (i) The executive director, with consent of the board, may convey lands and water rights administered by the board for full market value to other governmental entities or to adjacent landowners without regard to the requirements of subsection (2) if the land is less than 10 acres or if the full market value of the interest to be conveyed is less than \$20,000.

(ii) When land or water rights are conveyed to another governmental entity or to an adjacent landowner pursuant to this subsection (1), the executive director, in addition to giving notice pursuant to subsection (2)(a), shall give notice by mail to the landowners whose property adjoins the property being conveyed.

(2) (a) Notice of sale describing the lands or waters to be disposed of must be published once a week for 3 consecutive weeks in a newspaper with general circulation printed and published in the county where the lands or waters are situated or, if a newspaper is not published in that county, then in a newspaper with general

circulation in that county.

(b) The notice must advertise for cash bids to be presented to the executive director within 60 days from the date of the first publication. Each bid must be accompanied by a cashier's check or cash deposit in an amount equal to 10% of the amount bid. The highest bid must be accepted upon payment of the balance due within 10 days after mailing notice by certified mail to the highest bidder. If that bidder defaults on payment of the balance due, then the next highest bidders must be similarly notified in succession until a sale is completed. Deposits must be returned to the unsuccessful bidders except bidders defaulting after notification.

(c) The board shall reserve the right to reject bids that do not equal or exceed the full market value of the lands and waters as determined by the board. If the board does not receive a bid that equals or exceeds fair market value, the board may then sell the lands and water rights at private sale. The price accepted on a private sale must exceed the highest bid rejected in the bid process.

(3) The board shall convey lands and water rights without covenants of warranty by deed executed by the governor or in the governor's absence or disability by the lieutenant governor, attested by the secretary of state and further countersigned by the executive director.

(4) Land administered by the board that is encumbered by state hunting or fishing license funding or federal Pittman-Robertson or Dingell-Johnson funding may not be disposed of without the consent of the fish and wildlife commission pursuant to 87-1-209 and, as needed, the U.S. fish and wildlife service.

**Section 18. Payments to counties for state park land -- exceptions.** (1) This section applies only to state park land purchased after May 10, 2009.

(2) Before November 30 of each year, the treasurer of each county in which the department controls state park land purchased after May 10, 2009, shall describe the land, state the number of acres in each parcel, and request the drawing of a warrant to the county in a sum equal to the amount of taxes that would be payable on county assessment of the property if it was taxable to a private citizen.

(3) (a) The executive director shall approve or disapprove the request. The executive director may disapprove a request only if the executive director finds it to be inconsistent with this section.

(b) If the executive director disapproves a request, the executive director shall return it with an explanation detailing the reasons for the disapproval to the appropriate county treasurer for correction.

(c) If the executive director approves a request, the executive director shall transmit it to the department

of administration, which shall draw a warrant payable to the county in the amount shown on the request and send the warrant to the county treasurer. The warrant is payable out of any funds credited to the department for the administration of state parks.

(4) The amount to be paid to each county pursuant to this section is statutorily appropriated, as provided in 17-7-502.

**Section 19.** Section 23-1-201, MCA, is amended to read:

**"23-1-201. Establishment of state scientific and recreational park.** In order to preserve and protect the biological station grounds ~~hereafter referred to~~ and to remove fire hazards and the danger of other encroachments tending to detract from the scientific values and uses ~~thereof of the biological station grounds,~~ the ~~department board~~ is authorized to maintain a state scientific and recreational park on ~~a suitable an~~ area ~~to be designated by it~~ of not exceeding more than 15 acres at the southeast portion of the lands granted by the United States of America to the state of Montana for the use of the by the university of Montana-Missoula for biological station purposes."

**Section 20.** Section 23-1-202, MCA, is amended to read:

**"23-1-202. Rules governing use.** The ~~department board~~ shall make ~~such~~ rules governing the park's use; and occupancy; and the protection of the remaining lands of the grant as necessary to promote and continue the use of all of the lands for biological station purposes. The park itself ~~shall be so~~ must be maintained ~~as~~ to develop and encourage public interest in the scientific and biological resources of the area. Nothing ~~herein contained in this section~~ prevents the use of the area within the park for biological station purposes whenever it ~~becomes~~ is useful or necessary ~~for such purposes.~~"

**Section 21.** Section 23-2-101, MCA, is amended to read:

**"23-2-101. Legislative findings -- purpose -- definition.** (1) Montana is uniquely endowed with scenic landscapes and areas rich in recreational value. This outdoor heritage enriches the lives of citizens, attracts new residents and businesses to the state, and is of major significance to the expanding tourist industry. It is the purpose of this part to give authority to the ~~department of fish, wildlife, and parks board~~ to plan, and develop, and manage outdoor recreational resources in the state, ~~which authority shall permit receiving and expending~~ The

board may receive and expend funds including federal grants for this purpose.

(2) For the purposes of this part, "board" means the state parks and recreation board established in 2-15-3406."

**Section 22.** Section 23-2-102, MCA, is amended to read:

**"23-2-102. Department of fish, wildlife, and parks Board to implement federal act.** The department of fish, wildlife, and parks board is hereby designated as the state agency to represent and act for the state for the purpose of implementing the Land and Water Conservation Fund Act of 1965."

**Section 23.** Section 23-2-103, MCA, is amended to read:

**"23-2-103. Compliance with federal act authorized -- powers of department board.** The department of fish, wildlife, and parks board shall ~~do those things necessary to~~ comply with the provisions of the Land and Water Conservation Fund Act of 1965. ~~Among other things, the department of fish, wildlife, and parks and~~ may:

(1) prepare a comprehensive statewide outdoor recreational plan ~~which shall contain an evaluation of~~ that evaluates the demand for and supply of outdoor recreational resources and facilities in Montana and establishes a program for implementation of the plan;

(2) accept and administer ~~moneys~~ money paid by the secretary of the interior for approved projects;

(3) contract with other state agencies, cities, counties, and other political subdivisions of the state, private organizations, and agencies of the federal government;

(4) acquire, other than by eminent domain, and develop outdoor recreational areas and facilities ~~and as well as~~ land and waters and interests in land and waters for ~~such~~ those areas and facilities; and

(5) for the purpose of implementing the Land and Water Conservation Fund Act of 1965, coordinate its activities with and represent the interests of all agencies of state, city, county, and other governmental units with outdoor recreational responsibilities."

**Section 24.** Section 23-2-404, MCA, is amended to read:

**"23-2-404. Applicability.** This part applies to that portion of the Smith River waterway located in Meagher and Cascade Counties lying between Camp Baker in Meagher County and the confluence of the Smith River with the Missouri River. This description does not prevent the ~~department~~ board from naming or renaming

areas pursuant to ~~23-1-102~~ 23-1-111."

**Section 25.** Section 23-2-407, MCA, is amended to read:

**"23-2-407. Management responsibility and plan.** The department board has the primary recreational management responsibility for the Smith River waterway described in 23-2-404, except for the Eden Bridge and Camp Baker fishing access sites, consistent with the purpose stated in 23-1-101 and 23-2-402. The Smith River waterway must be administered to:

- (1) allow the continuation of compatible existing recreational and public land uses;
- (2) maintain the opportunity to enjoy the natural scenic beauty and solitude; and
- (3) conserve fish and wildlife and scientific and recreational values."

**Section 26.** Section 23-2-409, MCA, is amended to read:

**"23-2-409. Allocation of user fees -- expenditure of Smith River corridor enhancement account.**

(1) All money collected as recreational and commercial user fees for floating and camping on the Smith River waterway pursuant to 23-2-408 must be deposited in the state treasury in an account in the state special revenue fund to the credit of the department.

(2) Money deposited in the Smith River corridor enhancement account must be expended to:

(a) protect and enhance the integrity of the natural and scenic beauty of the Smith River waterway and its recreational, fisheries, and wildlife values through the lease or acquisition of property, including lease or acquisition of partial interests in property by the department or board within the Smith River corridor;

(b) pursue projects that serve to protect, enhance, and restore fisheries habitat, streambank stabilization, erosion control, and recreational values within the Smith River corridor, including Smith River tributaries; and

(c) pursue projects that serve to maintain and enhance instream flows for recognized recreational and aquatic ecosystem values in the Smith River corridor."

**Section 27.** Section 23-2-502, MCA, is amended to read:

**"23-2-502. Definitions.** As used in this part, unless the context clearly requires a different meaning, the following definitions apply:

- (1) "Board" means the state parks and recreation board established in 2-15-3406.

~~(1)~~(2) "Certificate of number" means the certificate issued by the department of justice, an authorized agent, as defined in 61-1-101, or a county treasurer to the owner of a motorboat or sailboat, assigning the motorboat or sailboat an identifying number and containing other information as required by the department of justice.

~~(2)~~(3) "Department" means the department of fish, wildlife, and parks of the state of Montana.

~~(3)~~(4) "Documented vessel" means a vessel that has and is required to have a valid marine document as a vessel of the United States.

~~(4)~~(5) "Identifying number" means the boat number set forth in the certificate of number and properly displayed on the motorboat or sailboat.

~~(5)~~(6) "Lienholder" means a person holding a security interest.

~~(6)~~(7) "Manufacturer" means a person engaged in the business of manufacturing or importing new and unused vessels or new and unused outboard motors for the purpose of sale or trade.

~~(7)~~(8) (a) "Motorboat" means a vessel, including a personal watercraft or pontoon, propelled by any machinery, motor, or engine of any description, whether or not the machinery, motor, or engine is the principal source of propulsion. The term includes boats temporarily equipped with detachable motors or engines.

(b) The term does not include a vessel that has a valid marine document issued by the U.S. coast guard or any successor federal agency.

~~(8)~~(9) "Operate" means to navigate or otherwise use a motorboat or a vessel.

~~(9)~~(10) "Operator" means the person who navigates, drives, or is otherwise in immediate control of a motorboat or vessel.

~~(10)~~(11) (a) "Owner" means a person, other than a lienholder, having the property in or title to a motorboat or vessel. The term includes a person entitled to the use or possession of a motorboat or vessel subject to an interest in another person, reserved or created by an agreement securing payment or performance of an obligation.

(b) The term does not include a lessee under a lease not intended as security.

~~(11)~~(12) "Passenger" means each person carried on board a vessel other than:

- (a) the owner or the owner's representative;
- (b) the operator;
- (c) bona fide members of the crew engaged in the business of the vessel who have not contributed any

consideration for their carriage and who are paid for their services; or

(d) a guest on board a vessel that is being used exclusively for pleasure purposes who has not contributed any consideration, directly or indirectly, for the guest's carriage.

~~(12)~~(13) "Person" means an individual, partnership, firm, corporation, association, or other entity.

~~(13)~~(14) "Personal watercraft" means a vessel that uses an outboard motor or an inboard engine powering a water jet pump as its primary source of propulsion and that is designed to be operated by a person sitting, standing, or kneeling on the vessel rather than by the conventional method of sitting or standing in the vessel.

~~(14)~~(15) "Registration decal" means an adhesive sticker produced by the department of justice and issued by the department of justice, an authorized agent as defined in 61-1-101, or a county treasurer to the owner of a motorboat, sailboat, or personal watercraft as proof of payment of fees imposed on the motorboat, sailboat, or personal watercraft for the registration period indicated on the decal as recorded by the department of justice under 61-3-101.

~~(15)~~(16) (a) "Sailboat" means a vessel that uses a sail and wind as its primary source of propulsion.

(b) The term does not include a canoe or kayak propelled by wind.

~~(16)~~(17) "Security interest" means an interest that is reserved or created by an agreement that secures payment or performance of an obligation and is valid against third parties generally.

~~(17)~~(18) "Uniform state waterway marking system" means one of two categories:

(a) a system of aids to navigation to supplement the federal system of marking in state waters; or

(b) a system of regulatory markers to warn a vessel operator of dangers or to provide general information and directions.

~~(18)~~(19) "Validation decal" means an adhesive sticker produced by the department and issued by the department or a county treasurer to the owner of a motorboat, sailboat, or personal watercraft verifying the identifying number assigned to the motorboat, sailboat, or personal watercraft and the name and address of the owner to meet requirements of the federal standard numbering system.

~~(19)~~(20) "Vessel" means every description of watercraft, unless otherwise defined by the department, other than a seaplane on the water, used or capable of being used as a means of transportation on water.

~~(20)~~(21) "Waters of this state" means any waters within the territorial limits of this state."

**Section 28.** Section 23-2-519, MCA, is amended to read:

**"23-2-519. Penalty -- disposition.** (1) Failure to pay the registration fee as provided for in 61-3-321(10) is a misdemeanor, punishable by a fine equal to four times the registration fee that is due on the motorboat, sailboat, personal watercraft, or motorized pontoon for the current year of registration.

(2) All fines collected pursuant to subsection (1) must be distributed in the following ratio:

(a) 50% to the general fund of the county in which the motorboat, sailboat, personal watercraft, or motorized pontoon is issued a certification number; and

(b) 50% to the ~~motorboat account of the state special revenue fund for use by the department in~~ for the enforcement of this part."

**Section 29.** Section 23-2-533, MCA, is amended to read:

**"23-2-533. Use Motorboat account -- use of allocated funds for boating facilities.** (1) There is a motorboat account administered by the department in the state special revenue fund established in 17-2-102. Funds allocated to the motorboat account must be used by the ~~department~~ board to:

(a) improve, operate, or maintain boating facilities; and

(b) cover costs associated with the boating advisory council created in 23-2-536.

(2) The ~~department may use the funds~~ may be used to match available federal funds to the extent possible. Expenditure of funds must be made after consideration of recommendations by the boating advisory council."

**Section 30.** Section 23-2-536, MCA, is amended to read:

**"23-2-536. Creation of boating advisory council -- appointment of members -- duties.** (1) The ~~department executive director of state parks and recreation~~ appointed ~~hired~~ under 2-15-3401 2-15-3406 shall appoint a boating advisory council to advise the ~~department~~ board on the expenditure of funds in the motorboat account ~~in the state special revenue fund~~ established in 23-2-533.

(2) The boating advisory council must be composed of at least five members of the public, each of whom must be interested in boating activities and the use of public boating facilities.

(3) The boating advisory council is attached to the department in an advisory capacity only, as defined in 2-15-102.

(4) All costs associated with the boating advisory council must be paid from the motorboat account in the state special revenue fund established in 23-2-533. Council members are not entitled to compensation or travel expenses as provided in 2-15-122."

**Section 31.** Section 23-2-601, MCA, is amended to read:

**"23-2-601. Definition of terms.** As used in this part, unless the context requires otherwise, the following definitions apply:

(1) "Board" means the state parks and recreation board established in 2-15-3406.

(1)(2) "Certificate of registration" means the owner's receipt evidencing payment of fees due in order for the snowmobile to be validly registered.

(2)(3) "Certificate of title" means the document issued by the department of justice as prima facie evidence of ownership.

(3)(4) "dbA" means sound pressure level measured on the "A" weight scale in decibels.

(4)(5) "Department" means the department of fish, wildlife, and parks of the state of Montana.

(5)(6) "Mechanical transport" means any contrivance for moving a person over land that has moving parts and provides a mechanical advantage to the user.

(6)(7) "New snowmobile" means a snowmobile that has not been previously sold to an owner.

(7)(8) "Operator" includes each person who operates or is in actual physical control of the operation of a snowmobile.

(8)(9) "Owner" includes each person, other than a lienholder or person having a security interest in a snowmobile, that holds a certificate of title to a snowmobile and is entitled to the use or possession of the snowmobile.

(9)(10) "Person" means an individual, partnership, association, corporation, and any other body or group of persons, regardless of the degree of formal organization.

(10)(11) "Registration decal" means an adhesive sticker produced and issued by the department of justice, its authorized agent, or a county treasurer to the owner of a snowmobile as proof of payment of all fees imposed for the registration period indicated on the sticker as recorded by the department of justice under 61-3-101.

(11)(12) "Roadway" means only those portions of a highway, road, or street improved, designed, or

ordinarily used for travel or parking of motor vehicles.

~~(12)~~(13) "Snowmobile" means a self-propelled vehicle of an overall width of 48 inches or less, excluding accessories, designed for travel on snow or ice, that may be steered by skis or runners and that is not otherwise registered or licensed under the laws of the state of Montana.

~~(13)~~(14) "Snowmobile area" means those areas designated as snowmobile trails or areas open to the operation of snowmobiles.

~~(14)~~(15) "Snowmobile area operators" means those persons responsible for the maintenance of snowmobile trails and for the designation of open areas or those persons providing rental snowmobile equipment. Operators may include but are not limited to the United States forest service, the Montana department of fish, wildlife, and parks, the Montana snowmobile association, individual snowmobile clubs, landowners or their tenants, persons who offer snowmobile equipment for rent, and private trail grooming contractors.

~~(15)~~(16) "Snowmobiler" means any person operating or riding a snowmobile."

**Section 32.** Section 23-2-615, MCA, is amended to read:

**"23-2-615. Nonresident temporary-use snowmobile permits -- use of fees.** (1) The requirements for a nonresident temporary-use snowmobile permit are as follows:

(a) Application for the issuance of the permit must be made at locations and ~~upon~~ on forms prescribed by the ~~department~~ board. The forms must include but are not limited to:

- (i) the applicant's name and permanent address; and
- (ii) an affidavit declaring the nonresidency of the applicant.

(b) Upon submission of the application and a fee of \$25, of which 50 cents is a search and rescue surcharge, a nonresident temporary-use snowmobile sticker must be issued. The sticker must be permanently affixed in a conspicuous manner on the snowmobile.

(2) The temporary-use snowmobile permit is valid during the fiscal year in which it is issued.

(3) The temporary-use snowmobile permit is not proof of ownership, and a certificate of title may not be issued.

(4) (a) A nonresident temporary-use snowmobile permit is not required for a snowmobile that qualifies as a racing snowmobile under 23-2-622.

(b) A nonresident temporary-use snowmobile permit is not required for a snowmobile that will be used

only on trails that are managed jointly by agreement between Montana and another state.

(5) Except as provided in subsection (1)(b), money collected by payment of fees under this section must be deposited in the state special revenue fund to the credit of the department and used as follows:

(a) \$11 must be expended in areas that are impacted by nonresident snowmobile use to assist in offsetting snowmobile trail grooming costs;

(b) \$2.50 must be used by the department for the enforcement of snowmobile laws pursuant to 23-2-641;

(c) \$1 must be remitted to the license agent who sold the nonresident temporary-use snowmobile permit; and

(d) \$10 must be used by the ~~department~~ board for the statewide snowmobile trail grooming program.

(6) The failure to display the permit as required by this section or the making of false statements in obtaining the permit is a misdemeanor, punishable by a fine of not less than \$25 or more than \$100."

**Section 33.** Section 23-2-633, MCA, is amended to read:

**"23-2-633. Other unlawful operation.** A person while operating a snowmobile may not:

(1) use the snowmobile for the purpose of driving, rallying, or harassing game animals, game birds, or fur-bearing animals of the state or livestock, including ostriches, rheas, and emus. An owner of livestock is not prohibited from managing or driving the owner's livestock by the use of snowmobiles and may direct other persons to manage or drive the owner's livestock by use of snowmobiles. ~~The department of fish, wildlife, and parks,~~ including its duly authorized employees, is not prohibited from managing or driving game animals, game birds, or fur-bearing animals by the use of snowmobiles.

(2) discharge a firearm from or upon a snowmobile; or

(3) operate the snowmobile without a lighted headlight and taillight between the hours of dusk and dawn."

**Section 34.** Section 23-2-636, MCA, is amended to read:

**"23-2-636. Snowmobile trail pass -- fees -- penalties.** (1) Except as provided in subsection (4), to be eligible to operate a snowmobile or use motorized equipment or mechanical transport in snowmobile areas groomed with a grant or funding assistance awarded by the ~~department~~ board, a person shall first purchase a snowmobile trail pass for \$18.

(2) The trail pass is valid for 3 years from the date of purchase and must be affixed in a conspicuous place to each snowmobile, motorized equipment, or mechanical transport used. A trail pass is not transferable between a snowmobile, motorized equipment, or mechanical transport.

(3) Application for the issuance of the trail pass must be made at locations and upon forms prescribed by the department.

(4) A person renting a snowmobile registered pursuant to 61-3-321(11)(b) is not required to purchase a snowmobile trail pass but shall carry proof of rental if operating a snowmobile in a snowmobile area that otherwise requires a trail pass pursuant to subsection (1).

(5) Money collected by payment of fees under this section must be deposited in the state special revenue fund to the credit of the department and used as follows:

(a) \$2 must be remitted to the vendor who sold the trail pass if the vendor is not the department;

(b) \$1 must be used by the department for the enforcement of snowmobile laws pursuant to this part; and

(c) the remainder must be used by the ~~department~~ board to award grants or funding assistance to snowmobile area operators for the grooming of snowmobile areas.

(6) The failure to affix the trail pass as required by this section or the making of false statements in obtaining the trail pass is a misdemeanor, punishable by a fine of not less than \$25 or more than \$100."

**Section 35.** Section 23-2-641, MCA, is amended to read:

**"23-2-641. Enforcement.** (1) With respect to the sale of any new snowmobile that is subject to the provisions of ~~23-2-601, 23-2-602, 23-2-611, 23-2-614 through 23-2-617, 23-2-621, 23-2-622, 23-2-631 through 23-2-635, and 23-2-641 through 23-2-644~~ this part, the attorney general shall, upon the request of the department, sue for the recovery of the penalties provided in 23-2-642 and bring an action for a restraining order or temporary or permanent injunction against a person who sells or offers to sell a new snowmobile that does not satisfy the sound level limitations imposed by ~~23-2-601, 23-2-602, 23-2-611, 23-2-614 through 23-2-617, 23-2-621, 23-2-622, 23-2-631 through 23-2-635, and 23-2-641 through 23-2-644~~ this part.

(2) (a) The department is a criminal justice agency for the purpose of obtaining the technical assistance and support services provided by the board of crime control under the provisions of 44-4-301. Authorized officers of the department are granted peace officer status with the power:

- (i) of search, seizure, and arrest;
  - (ii) to investigate activities in this state regulated by this part and rules of the department, the board, and the fish and wildlife commission; and
  - (iii) to report violations to the county attorney of the county in which they occur.
- (b) Sheriffs and their deputies of the various counties of the state, the Montana highway patrol, authorized officers of the department, and the police of each municipality shall enforce the provisions of this part."

**Section 36.** Section 23-2-657, MCA, is amended to read:

**"23-2-657. Environmental review compliance -- exemption.** (1) Except as provided in subsection (2), the ~~department of fish, wildlife, and parks~~ board shall comply with the provisions of Title 75, chapter 1, parts 1 and 2, when:

- (a) acting as a snowmobile area operator pursuant to this part; or
  - (b) awarding a grant or other funding assistance to a snowmobile area operator.
- (2) The ~~department of fish, wildlife, and parks~~ board is exempt from the provisions of Title 75, chapter 1, parts 1 and 2, when taking actions as a snowmobile area operator pursuant to this part or when awarding a grant or other funding assistance to a snowmobile area operator if the action or award has been previously subject to environmental review under Title 75, chapter 1, parts 1 and 2, and there is no proposed change to the action or the use of the award."

**Section 37.** Section 23-2-801, MCA, is amended to read:

**"23-2-801. Definition. Definitions.** ~~(1)~~ As used in this part, the following definitions apply:

- (1) "Board" means the state parks and recreation board established in 2-15-3406.
  - (2) "Department" means the department of fish, wildlife, and parks established in 2-15-3401.
  - (3) ~~(a)~~ "Off-highway vehicle" means a self-propelled vehicle used for recreation or cross-country travel on public lands, trails, easements, lakes, rivers, or streams. The term includes but is not limited to motorcycles, quadricycles, dune buggies, amphibious vehicles, air cushion vehicles, and any other means of land transportation deriving motive power from any source other than muscle or wind.
- ~~(2)(b)~~ Off-highway vehicle The term does not include:
- ~~(a)~~ (i) vehicles designed primarily for travel on, over, or in the water;

~~(b)~~(ii) snowmobiles; or

~~(c)~~(iii) except as provided in 23-2-804, vehicles otherwise issued a certificate of title and registered under the laws of the state, unless the vehicle is used for off-road recreation on public lands."

**Section 38.** Section 23-2-806, MCA, is amended to read:

**"23-2-806. Enforcement.** (1) The ~~department of fish, wildlife, and parks~~ department's enforcement personnel, park rangers, sheriffs and their deputies, the Montana highway patrol, and the police of each municipality shall enforce the provisions of this part.

(2) The department is a criminal justice agency for the purpose of obtaining the technical assistance and support services provided by the board of crime control under the provisions of 44-4-301. Authorized officers of the department are granted peace officer status with the power:

(a) of search, seizure, and arrest;

(b) to investigate activities in this state regulated by this part and rules of the department, the board, and the fish and wildlife commission; and

(c) to report violations to the county attorney of the county in which they occur.

(3) Park rangers may not carry firearms in the execution of their duties."

**Section 39.** Section 23-2-814, MCA, is amended to read:

**"23-2-814. Nonresident temporary-use permits -- use of fees.** (1) Except as provided in 23-2-802, an off-highway vehicle that is owned by a nonresident may not be operated by a person in Montana unless a nonresident temporary-use permit is obtained.

(2) The requirements pertaining to a nonresident temporary-use permit for an off-highway vehicle are as follows:

(a) Application for the issuance of the permit must be made at locations and ~~upon~~ on forms prescribed by the ~~department of fish, wildlife, and parks~~ board. The forms must include but are not limited to:

(i) the applicant's name and permanent address;

(ii) the make, model, year, and serial number of the off-highway vehicle; and

(iii) an affidavit declaring the nonresidency of the applicant.

(b) Upon submission of the application and a fee of \$27, of which \$1 is a search and rescue surcharge,

a nonresident off-highway vehicle temporary-use sticker must be issued. The sticker must be displayed in a conspicuous manner on the off-highway vehicle. The sticker is the temporary-use permit.

(3) The temporary-use permit is valid for the calendar year designated on the permit.

(4) The permit is not proof of ownership, and a certificate of title may not be issued.

(5) (a) Except as provided in subsection (5)(b), money collected by payment of fees under this section must be deposited in the state special revenue fund to the credit of the department of fish, wildlife, and parks and used as follows:

(i) \$15 must be expended to maintain off-highway vehicle trails;

(ii) \$2.50 must be used by the department for enforcement of off-highway vehicle laws pursuant to 23-2-806;

(iii) \$1 must be remitted to the license agent who sold the nonresident temporary-use permit;

(iv) \$6 must be used by the department for off-highway vehicle safety education; and

(v) \$1.50 must be used by the department to mitigate and eradicate noxious weeds along off-highway vehicle trails.

(b) The \$1 search and rescue surcharge must be deposited in the account established in 10-3-801 for use as provided in that section.

(6) Failure to display the permit as required by this section or making false statements in obtaining the permit is a misdemeanor and is punishable by a fine of not less than \$25 or more than \$100. All fines collected under this section must be transmitted to the department of revenue for deposit in the state general fund."

**Section 40.** Section 23-2-824, MCA, is amended to read:

**"23-2-824. Operation on public roads, streets, and highways.** (1) A person may operate an off-highway vehicle on a controlled-access highway or facility only if the vehicle is registered and licensed under 61-3-301 and the operator possesses a license to drive the vehicle issued under Title 61, chapter 5.

(2) Off-highway vehicle operation is permitted on the roadway or shoulder of any public road or highway, state highway, county road, or city street located within the boundaries of any municipality only if:

(a) the operator has received permission or is otherwise authorized for that travel by the municipality in the case of town or city streets, the board of county commissioners for county roads, or the state highway patrol for all other highways; or

(b) operation is authorized on municipal streets by municipal ordinance.

(3) An off-highway vehicle may not be operated as allowed under subsection (2) unless it is equipped with at least one headlamp and one taillamp, which must be lighted at all times during operation, and unless it is equipped with a suitable braking device operable by either hand or foot.

(4) (a) Except as provided in subsection (4)(b), a person who operates an off-highway vehicle when allowed under subsection (2) must have in the person's possession a license to drive a motor vehicle issued under Title 61, chapter 5.

(b) An operator is exempt from the requirement to possess a license when operating an off-highway vehicle as allowed under subsection (2) if the person:

(i) is under 16 years of age but at least 12 years of age; and

(ii) at the time of operation of the off-highway vehicle, has in the person's possession a certificate showing the successful completion of an off-highway vehicle safety education course approved by the ~~department of fish, wildlife, and parks~~ board and is in the physical presence of a person who possesses a license to drive a motor vehicle."

**Section 41.** Section 45-6-101, MCA, is amended to read:

**"45-6-101. Criminal mischief.** (1) A person commits the offense of criminal mischief if the person knowingly or purposely:

(a) injures, damages, or destroys any property of another or public property without consent;

(b) without consent tampers with property of another or public property so as to endanger or interfere with persons or property or its use;

(c) damages or destroys property with the purpose to defraud an insurer; or

(d) fails to close a gate previously unopened that the person has opened, leading in or out of any enclosed premises. This does not apply to gates located in cities or towns.

(2) A person convicted of criminal mischief must be ordered to make restitution in an amount and manner to be set by the court. The court shall determine the manner and amount of restitution after full consideration of the convicted person's ability to pay the restitution. Upon good cause shown by the convicted person, the court may modify any previous order specifying the amount and manner of restitution. Full payment of the amount of restitution ordered must be made prior to the release of state jurisdiction over the person convicted.

(3) A person convicted of the offense of criminal mischief shall be fined not to exceed \$1,500 or be imprisoned in the county jail for any term not to exceed 6 months, or both. If the offender commits the offense of criminal mischief and causes pecuniary loss in excess of \$1,500, injures or kills a commonly domesticated hoofed animal, or causes a substantial interruption or impairment of public communication, transportation, supply of water, gas, or power, or other public services, the offender shall be fined an amount not to exceed \$50,000 or be imprisoned in the state prison for a term not to exceed 10 years, or both.

(4) Amounts involved in criminal mischiefs committed pursuant to a common scheme or the same transaction, whether against the public or the same person or several persons, may be aggregated in determining pecuniary loss.

(5) A person convicted of or who forfeits bond or bail for committing an act of criminal mischief involving property owned or administered by the department of fish, wildlife, and parks or the state parks and recreation board shall forfeit any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state for at least 24 months from the date of conviction or forfeiture."

**Section 42.** Section 45-6-203, MCA, is amended to read:

**"45-6-203. Criminal trespass to property.** (1) Except as provided in 15-7-139, 70-16-111, and 76-13-116, a person commits the offense of criminal trespass to property if the person knowingly:

- (a) enters or remains unlawfully in an occupied structure; or
- (b) enters or remains unlawfully in or upon the premises of another.

(2) A person convicted of the offense of criminal trespass to property shall be fined not to exceed \$500 or be imprisoned in the county jail for any term not to exceed 6 months, or both.

(3) A person convicted of or who forfeits bond or bail for committing an act of criminal trespass involving property owned or administered by the department of fish, wildlife, and parks or the state parks and recreation board or while hunting, fishing, or trapping may be subject to revocation of the person's privilege to hunt, fish, or trap in this state for up to 24 months from the date of conviction or forfeiture."

**Section 43.** Section 50-53-209, MCA, is amended to read:

**"50-53-209. Cooperative agreements -- inspections.** (1) The department may enter into cooperative agreements with local boards of health to authorize those boards to act as agents of the department and to

conduct inspections of and enforce applicable statutes and department rules relating to public swimming pools and public bathing places within the jurisdictions of the respective boards.

(2) The department or a local board of health, pursuant to a cooperative agreement, shall annually conduct:

(a) at least one full facility inspection and one critical point inspection of each public swimming pool or public bathing place operated throughout the year; and

(b) at least one full facility inspection of each seasonal public swimming pool or public bathing place.

(3) The department shall enter into cooperative agreements with the ~~department of fish, wildlife, and parks~~ state parks and recreation board and other state agencies that operate public swimming pools or public bathing places to address the enforcement of this chapter and rules adopted under this chapter."

**Section 44.** Section 61-3-321, MCA, is amended to read:

**"61-3-321. Registration fees of vehicles and vessels -- certain vehicles exempt from registration fees -- disposition of fees.** (1) Except as otherwise provided in this section, registration fees must be paid upon registration or, if applicable, renewal of registration of motor vehicles, snowmobiles, watercraft, trailers, semitrailers, and pole trailers as provided in subsections (2) through (20).

(2) Unless a light vehicle is permanently registered under 61-3-562, the annual registration fee for light vehicles, trucks and buses under 1 ton, and logging trucks less than 1 ton is as follows:

(a) if the vehicle is 4 or less years old, \$217;

(b) if the vehicle is 5 through 10 years old, \$87; and

(c) if the vehicle is 11 or more years old, \$28.

(3) Except as provided in subsection (15), the one-time registration fee based on the declared weight of a trailer, semitrailer, or pole trailer is as follows:

(a) if the declared weight is less than 6,000 pounds, \$61.25; or

(b) if the declared weight is 6,000 pounds or more, \$148.25.

(4) Except as provided in subsection (15), the one-time registration fee for motor vehicles owned and operated solely as collector's items pursuant to 61-3-411, based on the weight of the vehicle, is as follows:

(a) 2,850 pounds and over, \$10; and

(b) under 2,850 pounds, \$5.

(5) Except as provided in subsection (15), the one-time registration fee for off-highway vehicles other than a quadricycle or motorcycle is \$61.25.

(6) The annual registration fee for heavy trucks, buses, and logging trucks in excess of 1 ton is \$22.75.

(7) (a) The annual registration fee for a motor home, based on the age of the motor home, is as follows:

- (i) less than 2 years old, \$282.50;
- (ii) 2 years old and less than 5 years old, \$224.25;
- (iii) 5 years old and less than 8 years old, \$132.50; and
- (iv) 8 years old and older, \$97.50.

(b) The owner of a motor home that is 11 years old or older and that is subject to the registration fee under this section may permanently register the motor home upon payment of:

- (i) a one-time registration fee of \$237.50;
- (ii) unless a new set of license plates is being issued, an insurance verification fee of \$5, which must be deposited in the account established under 61-6-158;
- (iii) if applicable, five times the renewal fees for personalized license plates under 61-3-406; and
- (iv) if applicable, the donation fee for a generic specialty license plate under 61-3-480 or a collegiate license plate under 61-3-465.

(8) (a) Except as provided in subsection (15), the one-time registration fee for motorcycles and quadricycles registered for use on public highways is \$53.25, and the one-time registration fee for motorcycles and quadricycles registered for both off-road use and for use on the public highways is \$114.50.

(b) An additional fee of \$16 must be collected for the registration of each motorcycle or quadricycle as a safety fee, which must be deposited in the state motorcycle safety account provided for in 20-25-1002.

(9) Except as provided in subsection (15), the one-time registration fee for travel trailers, based on the length of the travel trailer, is as follows:

- (a) under 16 feet in length, \$72; and
- (b) 16 feet in length or longer, \$152.

(10) Except as provided in subsection (15), the one-time registration fee for a motorboat, sailboat, personal watercraft, or motorized pontoon required to be numbered under 23-2-512 is as follows:

- (a) for a personal watercraft or a motorboat, sailboat, or motorized pontoon less than 16 feet in length, \$65.50;

(b) for a motorboat, sailboat, or motorized pontoon at least 16 feet in length but less than 19 feet in length, \$125.50; and

(c) for a motorboat, sailboat, or motorized pontoon 19 feet in length or longer, \$295.50.

(11) (a) Except as provided in subsections (11)(b) and (15), the one-time registration fee for a snowmobile is \$60.50.

(b) (i) A snowmobile that is licensed by a Montana business and is owned exclusively for the purpose of daily rental to customers is assessed:

(A) a fee of \$40.50 in the first year of registration; and

(B) if the business reregisters the snowmobile for a second year, a fee of \$20.

(ii) If the business reregisters the snowmobile for a third year, the snowmobile must be permanently registered and the business is assessed the registration fee imposed in subsection (11)(a).

(12) (a) The one-time registration fee for a low-speed electric vehicle is \$25.

(b) The one-time registration fee for a golf cart that is owned by a person who has or is applying for a low-speed restricted driver's license is \$25.

(c) The one-time registration fee for golf carts authorized to operate on certain public streets and highways pursuant to 61-8-391 is \$25. Upon receipt of the fee, the department shall issue the owner a decal, which must be displayed visibly on the golf cart.

(13) (a) Except as provided in subsection (13)(b), a fee of \$10 must be collected when a new set of standard license plates, a new single standard license plate, or a replacement set of special license plates required under 61-3-332 is issued. The \$10 fee imposed under this subsection does not apply when previously issued license plates are transferred under 61-3-335. All registration fees imposed under this section must be paid if the vehicle to which the plates are transferred is not currently registered.

(b) An additional fee of \$15 must be collected if a vehicle owner elects to keep the same license plate number from license plates issued before January 1, 2010, when replacement of those plates is required under 61-3-332(3).

(c) The fees imposed in this subsection (13) must be deposited in the account established under 61-6-158, except that \$2 of the fee imposed in subsection (13)(a) must be deposited in the state general fund.

(14) The provisions of this part with respect to the payment of registration fees do not apply to and are not binding upon motor vehicles, trailers, semitrailers, snowmobiles, watercraft, or tractors owned or controlled

by the United States of America or any state, county, city, or special district, as defined in 18-8-202, or to a vehicle or vessel that meets the description of property exempt from taxation under 15-6-201(1)(a), (1)(d), (1)(e), (1)(g), (1)(h), (1)(i), (1)(k), (1)(l), (1)(n), or (1)(o), 15-6-203, or 15-6-215, except as provided in 61-3-520.

(15) Whenever ownership of a trailer, semitrailer, pole trailer, off-highway vehicle, motorcycle, quadricycle, travel trailer, motor home, motorboat, sailboat, personal watercraft, motorized pontoon, snowmobile, motor vehicle owned and operated solely as a collector's item pursuant to 61-3-411, or low-speed electric vehicle is transferred, the new owner shall title and register the vehicle or vessel as required by this chapter and pay the fees imposed under this section.

(16) A person eligible for a waiver under 61-3-460 is exempt from the fees required under this section.

(17) Except as otherwise provided in this section, revenue collected under this section must be deposited in the state general fund.

(18) The fees imposed by subsections (2) through (12) are not required to be paid by a dealer for the enumerated vehicles or vessels that constitute inventory of the dealership.

(19) (a) Unless a person exercises the option in either subsection (19)(b) or (19)(c), an additional fee of \$6 must be collected for each light vehicle registered under this part. This fee must be accounted for and transmitted separately from the registration fee. The fee must be deposited in ~~an account~~ accounts in the state special revenue fund ~~to be used for state parks, for fishing access sites, and for the operation of state-owned facilities. Of the \$6 fee, the department of fish, wildlife, and parks shall use~~ and credited and used as follows:

(i) \$5.37 to the department of fish, wildlife, and parks for state parks;

(ii) 25 cents to the department of fish, wildlife, and parks for fishing access sites; and

(iii) 38 cents to the Montana heritage preservation and development commission for the operation of state-owned facilities at Virginia City and Nevada City.

(b) A person who registers a light vehicle may, at the time of annual registration, certify that the person does not intend to use the vehicle to visit state parks and fishing access sites and may make a written election not to pay the additional \$6 fee provided for in subsection (19)(a). If a written election is made, the fee may not be collected.

(c) (i) A person who registers one or more light vehicles may, at the time of annual registration, certify that the person does not intend to use any of the vehicles to visit state parks and fishing access sites and may make a written election not to pay the additional \$6 fee provided for in subsection (19)(a). If a written election is

made, the fee may not be collected at any subsequent annual registration unless the person makes the written election to pay the additional fee on one or more of the light vehicles.

(ii) The written election not to pay the additional fee on a light vehicle expires if the vehicle is registered to a different person.

(20) For each light vehicle, trailer, semitrailer, pole trailer, heavy truck, motor home, motorcycle, quadricycle, and travel trailer subject to a registration fee under this section, an additional fee of \$5 must be collected and forwarded to the state for deposit in the account established in 44-1-504.

(21) This section does not apply to a motor vehicle, trailer, semitrailer, or pole trailer that is governed by 61-3-721."

**Section 45.** Section 61-5-104, MCA, is amended to read:

**"61-5-104. Exemptions.** (1) The following persons are exempt from licensure under this chapter:

(a) a person who is a member of the armed forces of the United States while operating a motor vehicle owned by or leased to the United States government and being operated on official business;

(b) a person who is a member of the armed forces of the United States on active duty in Montana who holds a valid license issued by another state and the spouse of the person who holds a valid license issued by another state and who is not employed in Montana, except as a member of the armed forces. If a spouse of a member of the armed forces becomes gainfully employed in Montana, the spouse must be licensed, as required by 61-5-102, within 90 days of becoming employed.

(c) a person on active duty in the armed forces of the United States and in immediate possession of a valid license issued to that person in a foreign country by the armed forces of the United States, for a period of 45 days from the date of the person's return to the United States;

(d) a person who temporarily drives, operates, or moves a road machine, farm tractor, as defined in 61-9-102, or implement of husbandry for use in intrastate commerce on a highway;

(e) a person who is a locomotive engineer, assistant engineer, conductor, brake tender, railroad utility person, or other member of the crew of a railroad locomotive or train being operated upon rails, including operation on a railroad crossing a public street, road, or highway. A person employed as described in this subsection is not required to display a driver's license to a law enforcement officer in connection with the operation of a railroad train within Montana.

(f) a person who temporarily drives, operates, or moves an off-highway vehicle on a forest development road in this state, as defined in 61-8-110, that has been designated and approved for off-highway vehicle use by the United States forest service if the person:

- (i) is under 16 years of age but at least 12 years of age; and
- (ii) at the time of driving, operating, or moving the off-highway vehicle, has in the person's possession a certificate showing the successful completion of an off-highway vehicle safety education course approved by the ~~department of fish, wildlife, and parks~~ state parks and recreation board and is in the physical presence of a person who possesses a license issued under this chapter.

(2) A nonresident who is at least 15 years of age and who is in immediate possession of a valid operator's license issued to the nonresident by the nonresident's home state or country may operate a motor vehicle, except a commercial motor vehicle, in this state.

(3) (a) A nonresident who is in immediate possession of a valid commercial driver's license issued to the nonresident by the nonresident's home jurisdiction, in accordance with the licensing and testing standards of 49 CFR, part 383, may operate a commercial motor vehicle in this state.

(b) For the purpose of this chapter, "jurisdiction" means a state, territory, or possession of the United States, the District of Columbia, a province or territory of Canada, or the federal district of Mexico.

(4) A nonresident who is at least 18 years of age, whose home state or country does not require the licensing of operators, may operate a motor vehicle as an operator only, for a period of not more than 90 days in any calendar year, if the motor vehicle is registered in the home state or country of the nonresident.

(5) (a) A driver's license issued under this chapter to a person who enters the United States armed forces, if valid and in effect at the time that the person enters the service, continues in effect so long as the service continues, unless the license is suspended, revoked, or canceled for a cause as provided by law, and for up to 30 days following the date on which the licensee is honorably separated from the service.

(b) A person serving in the United States armed forces may renew the person's driver's license at any point of the person's service, and any renewed license continues in effect as long as the service continues, unless the license is suspended, revoked, or canceled for a cause as provided by law, and for up to 30 days following the date on which the licensee is honorably separated from the service.

(c) A person serving in the United States armed forces may apply for a Montana driver's license upon meeting the requirements in 61-5-103, and this license continues in effect as long as the service continues,

unless the license is suspended, revoked, or canceled for a cause as provided by law, and for up to 30 days following the date on which the licensee is honorably separated from the service."

**Section 46.** Section 70-16-302, MCA, is amended to read:

**"70-16-302. (Temporary) Restriction on liability of landowner -- definitions.** (1) A person who uses property, including property owned or leased by a public entity, for recreational purposes, with or without permission, does so without any assurance from the landowner that the property is safe for any purpose if the person does not give a valuable consideration to the landowner in exchange for the recreational use of the property. The landowner owes the person no duty of care with respect to the condition of the property, except that the landowner is liable to the person for any injury to person or property for an act or omission that constitutes willful or wanton misconduct. For purposes of this section, valuable consideration does not include the state land recreational use license fee imposed under 77-1-802 or other funds provided under 77-1-815.

(2) As used in this part, the following definitions apply:

(a) (i) "Airstrip" means improved or unimproved landing areas on private land used by pilots to land, park, take off, unload, load, and taxi aircraft.

(ii) The term does not include municipal airports governed under Title 67, chapter 10, part 1.

(b) "Flying of aircraft" means the operation of aircraft, including but not limited to landing, parking, taking off, unloading, loading, and taxiing of aircraft at an airstrip.

(c) "Landowner" means a person or entity of any nature, whether private, governmental, or quasi-governmental, and includes the landowner's agent, tenant, lessee, occupant, grantee of conservation easement, water users' association, irrigation district, drainage district, and persons or entities in control of the property or with an agreement to use or occupy property.

(d) "Property" means land, roads, airstrips, water, watercourses, and private ways. The term includes any improvements, buildings, structures, machinery, and equipment on property.

(3) ~~The department of fish, wildlife, and parks~~ state parks and recreation board, when operating under an agreement with a landowner or tenant to provide recreational snowmobiling opportunities, including but not limited to a snowmobile area, subject to the provisions of subsection (1), on the landowner's property and when not also acting as a snowmobile area operator on the property, does not extend any assurance that the property is safe for any purpose, and the ~~department~~ board, the landowner, or the landowner's tenant may not be liable

to any person for any injury to person or property resulting from any act or omission of the ~~department~~ board unless the act or omission constitutes willful or wanton misconduct. (Void on occurrence of contingency--sec. 8, Ch. 596, L. 2003.)

**70-16-302. (Effective on occurrence of contingency) Restriction on liability of landowner -- definitions.** (1) A person who uses property, including property owned or leased by a public entity, for recreational purposes, with or without permission, does so without any assurance from the landowner that the property is safe for any purpose if the person does not give a valuable consideration to the landowner in exchange for the recreational use of the property. The landowner owes the person no duty of care with respect to the condition of the property, except that the landowner is liable to the person for any injury to person or property for an act or omission that constitutes willful or wanton misconduct. For purposes of this section, valuable consideration does not include the state land recreational use license fee imposed under 77-1-802.

(2) As used in this part, the following definitions apply:

(a) (i) "Airstrip" means either improved or unimproved landing areas on private land used by pilots to land, park, take off, unload, load, and taxi aircraft.

(ii) The term does not include municipal airports governed under Title 67, chapter 10, part 1.

(b) "Flying of aircraft" means the operation of aircraft, including but not limited to landing, parking, taking off, unloading, loading, and taxiing of aircraft at an airstrip.

(c) "Landowner" means a person or entity of any nature, whether private, governmental, or quasi-governmental, and includes the landowner's agent, tenant, lessee, occupant, grantee of conservation easement, water users' association, irrigation district, drainage district, and persons or entities in control of the property or with an agreement to use or occupy property.

(d) "Property" means land, roads, airstrips, water, watercourses, and private ways. The term includes any improvements, buildings, structures, machinery, and equipment on property.

(3) The ~~department of fish, wildlife, and parks~~ state parks and recreation board, when operating under an agreement with a landowner or tenant to provide recreational snowmobiling opportunities, including but not limited to a snowmobile area, subject to the provisions of subsection (1), on the landowner's property and when not also acting as a snowmobile area operator on the property, does not extend any assurance that the property is safe for any purpose, and the ~~department~~ board, the landowner, or the landowner's tenant may not be liable to any person for any injury to person or property resulting from any act or omission of the ~~department~~ board

unless the act or omission constitutes willful or wanton misconduct."

**Section 47.** Section 70-30-102, MCA, is amended to read:

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

- (1) all public uses authorized by the government of the United States;
- (2) public buildings and grounds for the use of the state and all other public uses authorized by the legislature of the state;
- (3) public buildings and grounds for the use of any county, city, town, or school district;
- (4) canals, aqueducts, flumes, ditches, or pipes conducting water, heat, or gas for the use of the inhabitants of any county, city, or town;
- (5) projects to raise the banks of streams, remove obstructions from streambanks, and widen, deepen, or straighten stream channels;
- (6) water and water supply systems as provided in Title 7, chapter 13, part 44;
- (7) roads, streets, alleys, controlled-access facilities, and other publicly owned buildings and facilities for the benefit of a county, city, or town or the inhabitants of a county, city, or town;
- (8) acquisition of road-building material as provided in 7-14-2123;
- (9) stock lanes as provided in 7-14-2621;
- (10) parking areas as provided in 7-14-4501 and 7-14-4622;
- (11) airport purposes as provided in 7-14-4801, 67-2-301, 67-7-210, and Title 67, chapters 10 and 11;
- (12) urban renewal projects as provided in Title 7, chapter 15, parts 42 and 43, except that private property may be acquired for urban renewal through eminent domain only if the property is determined to be a blighted area, as defined in 7-15-4206(2)(a), (2)(h), (2)(k), or (2)(n), and may not be acquired for urban renewal through eminent domain if the purpose of the project is to increase government tax revenue;
- (13) housing authority purposes as provided in Title 7, chapter 15, part 44;
- (14) county recreational and cultural purposes as provided in 7-16-2105;
- (15) city or town athletic fields and civic stadiums as provided in 7-16-4106;
- (16) county cemetery purposes pursuant to 7-11-1021, cemetery association purposes as provided in 35-20-104, and state veterans' cemetery purposes as provided in 10-2-604;

- (17) preservation of historical or archaeological sites as provided in ~~23-1-102 and 87-1-209(2)~~ [section 16];
- (18) public assistance purposes as provided in 53-2-201;
- (19) highway purposes as provided in 60-4-103 and 60-4-104;
- (20) common carrier pipelines as provided in 69-13-104;
- (21) water supply, water transportation, and water treatment systems as provided in 75-6-313;
- (22) mitigation of the release or threatened release of a hazardous or deleterious substance as provided in 75-10-720;
- (23) the acquisition of nonconforming outdoor advertising as provided in 75-15-123;
- (24) screening for or the relocation or removal of junkyards, motor vehicle graveyards, motor vehicle wrecking facilities, garbage dumps, and sanitary landfills as provided in 75-15-223;
- (25) water conservation and flood control projects as provided in 76-5-1108;
- (26) acquisition of natural areas as provided in 76-12-108;
- (27) acquisition of water rights for the natural flow of water as provided in 85-1-204;
- (28) property and water rights necessary for waterworks as provided in 85-1-209 and 85-7-1904;
- (29) conservancy district purposes as provided in 85-9-410;
- (30) wharves, docks, piers, chutes, booms, ferries, bridges, private roads, plank and turnpike roads, and railroads;
- (31) canals, ditches, flumes, aqueducts, and pipes for:
  - (a) supplying mines, mills, and smelters for the reduction of ores;
  - (b) supplying farming neighborhoods with water and drainage;
  - (c) reclaiming lands; and
  - (d) floating logs and lumber on streams that are not navigable;
- (32) sites for reservoirs necessary for collecting and storing water. However, reservoir sites must possess a public use demonstrable to the district court as the highest and best use of the land.
- (33) roads, tunnels, and dumping places for working mines, mills, or smelters for the reduction of ores;
- (34) outlets, natural or otherwise, for the flow, deposit, or conduct of tailings or refuse matter from mines, mills, and smelters for the reduction of ores;
- (35) an occupancy in common by the owners or the possessors of different mines of any place for the

flow, deposit, or conduct of tailings or refuse matter from their several mines, mills, or smelters for reduction of ores and sites for reservoirs necessary for collecting and storing water for the mines, mills, or smelters. However, the reservoir sites must possess a public use demonstrable to the district court as the highest and best use of the land.

(36) private roads leading from highways to residences or farms;

(37) telephone or electrical energy lines, except that local government entities as defined in 2-7-501, municipal utilities, or competitive electricity suppliers may not use this chapter to acquire existing telephone or electrical energy lines and appurtenant facilities owned by a public utility or cooperative for the purpose of transmitting or distributing electricity or providing telecommunications services;

(38) telegraph lines;

(39) sewerage of any:

(a) county, city, or town or any subdivision of a county, city, or town, whether incorporated or unincorporated;

(b) settlement consisting of not less than 10 families; or

(c) public buildings belonging to the state or to any college or university;

(40) tramway lines;

(41) logging railways;

(42) temporary logging roads and banking grounds for the transportation of logs and timber products to public streams, lakes, mills, railroads, or highways for a time that the court or judge may determine. However, the grounds of state institutions may not be used for this purpose.

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

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

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

**Section 48.** Section 77-2-101, MCA, is amended to read:

**"77-2-101. Easements for specific uses.** (1) Upon proper application as provided in 77-2-102, the board may grant easements on state lands for the following purposes:

- (a) schoolhouse sites and grounds;
- (b) public parks;
- (c) community buildings;
- (d) cemeteries;
- (e) conservation purposes:

(i) to the department of fish, wildlife, and parks for parcels that are surrounded by or adjacent to land owned by the department of fish, wildlife, and parks as of January 1, 2001;

(ii) to the state parks and recreation board for parcels that are surrounded by or adjacent to land administered pursuant to Title 23, chapter 1, and Title 23, chapter 2, parts 1, 4, 6, 8, and 9, after [the effective date of this act];

~~(ii)(iii)~~ to a nonprofit corporation for parcels that are surrounded by or adjacent to land owned by that same nonprofit corporation as of January 1, 2001; and

~~(iii)(iv)~~ to a nonprofit corporation for the Owen Sowerwine natural area located within section 16, township 28 north, range 21 west, in Flathead County; and

(f) for other public uses.

(2) The board may grant easements on state lands for the following purposes:

- (a) right-of-way across or upon any portion of state lands for any public highway or street, any ditch, reservoir, railroad, private road, or telegraph or telephone line, or any other public use as defined in 70-30-102;
- (b) any private building or private sewage system that encroaches on state lands; or
- (c) the use of the bed of a navigable river pursuant to 77-1-1112 or 77-1-1115."

**Section 49.** Section 82-11-127, MCA, is amended to read:

**"82-11-127. (Temporary) Prohibited activity -- Makoshika state park.** (1) A person may not:

(a) cause pollution of any state waters or place or cause to be placed any liquid, gaseous, solid, or other substance in a location where the substance is likely to cause pollution of any state waters;

(b) violate any provision set forth in a permit or stipulation, including but not limited to limitations and conditions contained in it;

(c) violate an order issued pursuant to this chapter; or

(d) violate a provision of this chapter.

(2) A person may not drill, construct, convert, or operate a class II injection well or drill an oil or gas well or stratigraphic test well or core hole as described under 82-11-134 without a valid permit or order from the board.

(3) Except as provided in subsection (5), on lands managed as Makoshika state park; by the state parks and recreation board pursuant to Title 23, chapter 1, ~~and under the control of the department of fish, wildlife, and parks~~, by grant, acquisition, lease, easement, or other means, a person may not:

(a) drill, construct, convert, or operate an oil or gas well, stratigraphic test well, or core hole;

(b) conduct vibroseis, drill a seismic shot hole, or set a surface charge;

(c) explore for oil or gas in a manner that damages the land surface; or

(d) construct or place any surface facility associated with oil or gas exploration or development.

(4) The prohibitions in subsection (3) do not preclude the development of oil or gas resources from beneath Makoshika state park through directional drilling or access from property outside the boundaries of the state park provided that the surface resources of the state park are not disturbed.

(5) The prohibitions listed in subsection (3) do not apply to oil or gas resources within Makoshika state park that are owned by a private person, nor do the prohibitions apply to school trust lands within the boundaries of the park. The state acknowledges the mineral rights of Dawson County and the state school trust and the private property rights of persons owning private mineral rights within Makoshika state park. ~~The department of fish, wildlife, and parks~~ state parks and recreation board is directed to conduct negotiations with the owners of mineral rights within Makoshika state park, with the purpose of acquiring those rights in the name of the state, and to report the results of the negotiations to the legislature no later than January 8, 2001.

**82-11-127. (Effective on occurrence of contingency) Prohibited activity.** (1) A person may not:

(a) cause pollution of any state waters or place or cause to be placed any liquid, gaseous, solid, or other substance in a location where the substance is likely to cause pollution of any state waters;

(b) violate any provision set forth in a permit or stipulation, including but not limited to limitations and conditions contained in it;

(c) violate an order issued pursuant to this chapter; or

(d) violate a provision of this chapter.

(2) A person may not drill, construct, convert, or operate a class II injection well or a carbon dioxide injection well or drill an oil or gas well or stratigraphic test well or core hole as described under 82-11-134 without a valid permit or order from the board."

**Section 50.** Section 82-11-185, MCA, is amended to read:

**"82-11-185. (Effective on occurrence of contingency) Makoshika state park requirements.**

(1) Except as provided in subsection (3), on lands managed as Makoshika state park by the state parks and recreation board pursuant to Title 23, chapter 1, ~~and under the control of the department of fish, wildlife, and parks~~ by grant, acquisition, lease, easement, or other means, a person may not:

- (a) drill, construct, convert, or operate an oil or gas well, stratigraphic test well, or core hole;
- (b) conduct vibroseis, drill a seismic shot hole, or set a surface charge;
- (c) explore for oil or gas in a manner that damages the land surface; or
- (d) construct or place any surface facility associated with oil or gas exploration or development.

(2) The prohibitions in subsection (1) do not preclude the development of geologic storage reservoirs or of oil or gas resources from beneath Makoshika state park through directional drilling or access from property outside the boundaries of the state park provided that the surface resources of the state park are not disturbed.

(3) The prohibitions listed in subsection (1) do not apply to geologic storage reservoirs or to oil or gas resources within Makoshika state park that are owned by a private person, nor do the prohibitions apply to school trust lands within the boundaries of the park. The state acknowledges the mineral rights of Dawson County and the state school trust and the private property rights of persons owning private mineral rights within Makoshika state park. The ~~department of fish, wildlife, and parks~~ state parks and recreation board is directed to conduct negotiations with the owners of mineral rights within Makoshika state park with the purpose of acquiring those rights in the name of the state."

**Section 51.** Section 85-1-802, MCA, is amended to read:

**"85-1-802. Leases authorized.** (1) The department may lease all project lands appurtenant to a state-owned water project for purposes that the department considers appropriate.

(2) A lease of project lands to the department of fish, wildlife, and parks or the state parks and recreation

board for public recreational use may not exceed 30 years. Other leases of project lands may not exceed 10 years."

**Section 52.** Section 87-1-201, MCA, is amended to read:

**"87-1-201. Powers and duties.** (1) Except as provided in subsection (11), the department shall supervise all the wildlife, fish, game, game and nongame birds, waterfowl, and the game and fur-bearing animals of the state and may implement voluntary programs that encourage hunting access on private lands and that promote harmonious relations between landowners and the hunting public. The department possesses all powers necessary to fulfill the duties prescribed by law and to bring actions in the proper courts of this state for the enforcement of the fish and game laws and the rules adopted by the department.

(2) Except as provided in subsection (11), the department shall enforce all the laws of the state regarding the protection, preservation, management, and propagation of fish, game, fur-bearing animals, and game and nongame birds within the state.

(3) The department has the exclusive power to spend for the protection, preservation, management, and propagation of fish, game, fur-bearing animals, and game and nongame birds all state funds collected or acquired for that purpose, whether arising from state appropriation, licenses, fines, gifts, or otherwise. Money collected or received from the sale of hunting and fishing licenses or permits, from the sale of seized game or hides, from fines or damages collected for violations of the fish and game laws, or from appropriations or received by the department from any other sources is under the control of the department and is available for appropriation to the department.

(4) The department may discharge any appointee or employee of the department for cause at any time.

(5) The department may dispose of all property owned by the state used for the protection, preservation, management, and propagation of fish, game, fur-bearing animals, and game and nongame birds that is of no further value or use to the state and shall turn over the proceeds from the sale to the state treasurer to be credited to the fish and game account in the state special revenue fund.

(6) The department may not issue permits to carry firearms within this state to anyone except regularly appointed officers or wardens.

(7) Except as provided in subsection (11), the department is authorized to make, promulgate, and enforce reasonable rules and regulations not inconsistent with the provisions of Title 87, chapter 2, that in its

judgment will accomplish the purpose of chapter 2.

(8) The department is authorized to promulgate rules relative to tagging, possession, or transportation of bear within or outside of the state.

(9) (a) The department shall implement programs that:

(i) manage wildlife, fish, game, and nongame animals in a manner that prevents the need for listing under 87-5-107 or under the federal Endangered Species Act, 16 U.S.C. 1531, et seq.;

(ii) manage listed species, sensitive species, or a species that is a potential candidate for listing under 87-5-107 or under the federal Endangered Species Act, 16 U.S.C. 1531, et seq., in a manner that assists in the maintenance or recovery of those species;

(iii) manage elk, deer, and antelope populations based on habitat estimates determined as provided in 87-1-322 and maintain elk, deer, and antelope population numbers at or below population estimates as provided in 87-1-323. In implementing an elk management plan, the department shall, as necessary to achieve harvest and population objectives, request that land management agencies open public lands and public roads to public access during the big game hunting season.

(iv) in accordance with the forest management plan required by 87-1-622, address fire mitigation, pine beetle infestation, and wildlife habitat enhancement giving priority to forested lands in excess of 50 contiguous acres in any ~~state park~~, fishing access site, or wildlife management area under the department's jurisdiction.

(b) In maintaining or recovering a listed species, a sensitive species, or a species that is a potential candidate for listing, the department shall seek, to the fullest extent possible, to balance maintenance or recovery of those species with the social and economic impacts of species maintenance or recovery.

(c) Any management plan developed by the department pursuant to this subsection (9) is subject to the requirements of Title 75, chapter 1, part 1.

(d) This subsection (9) does not affect the ownership or possession, as authorized under law, of a privately held listed species, a sensitive species, or a species that is a potential candidate for listing.

(10) The department shall publish an annual game count, estimating to the department's best ability the numbers of each species of game animal, as defined in 87-2-101, in the hunting districts and administrative regions of the state. In preparing the publication, the department may incorporate field observations, hunter reporting statistics, or any other suitable method of determining game numbers. The publication must include an explanation of the basis used in determining the game count.

(11) The department may not regulate the use or possession of firearms, firearm accessories, or ammunition, including the chemical elements of ammunition used for hunting. This does not prevent:

(a) the restriction of certain hunting seasons to the use of specified hunting arms, such as the establishment of special archery seasons;

(b) for human safety, the restriction of certain areas to the use of only specified hunting arms, including bows and arrows, traditional handguns, and muzzleloading rifles;

(c) the restriction of the use of shotguns for the hunting of deer and elk pursuant to 87-6-401(1)(f);

(d) the regulation of migratory game bird hunting pursuant to 87-3-403; or

(e) the restriction of the use of rifles for bird hunting pursuant to 87-6-401(1)(g) or (1)(h).

(12) For lands under its control, the department may name or change the name of any area or add, remove, or change the designation of any area or portion of any area."

**Section 53.** Section 87-1-209, MCA, is amended to read:

**"87-1-209. Acquisition and sale of lands or waters.** (1) Subject to 87-1-218 ~~and subsection (8) of this section,~~ the department, with the consent of the commission ~~or the board~~ and, in the case of land acquisition involving more than 100 acres or \$100,000 in value, the approval of the board of land commissioners, may acquire by purchase, lease, agreement, gift, or devise and may acquire easements upon lands or waters for the purposes listed in this subsection. The department may develop, operate, and maintain acquired lands or waters:

(a) for fish hatcheries or nursery ponds;

(b) as lands or water suitable for game, bird, fish, or fur-bearing animal restoration, propagation, or protection;

(c) for public hunting, fishing, or trapping areas;

(d) to capture, propagate, transport, buy, sell, or exchange any game, birds, fish, fish eggs, or fur-bearing animals needed for propagation or stocking purposes or to exercise control measures of undesirable species;

and

~~(e) for state parks and outdoor recreation;~~

~~(f)~~(e) to extend and consolidate by exchange, lands or waters suitable for these purposes.

~~(2) The department, with the consent of the board, may acquire by condemnation, as provided in Title 70, chapter 30, lands or structures for the preservation of historic or archaeological sites that are threatened with~~

~~destruction or alteration:~~

~~(3)(2)~~ (a) Subject to section 2(3), Chapter 560, Laws of 2005, the department, with the consent of the commission ~~or the board~~, may dispose of lands and water rights acquired by it on those terms after public notice as required by subsection ~~(3)(b)~~ (2)(b) of this section, without regard to other laws that provide for sale or disposal of state lands and with or without reservation, as it considers necessary and advisable. The department, with the consent of the commission ~~or the board~~, may convey department lands and water rights for full market value to other governmental entities or to adjacent landowners without regard to the requirements of subsection ~~(3)(b)~~ (2)(b) or ~~(3)(c)~~ (2)(c) if the land is less than 10 acres or if the full market value of the interest to be conveyed is less than \$20,000. When the department conveys land or water rights to another governmental entity or to an adjacent landowner pursuant to this subsection, the department, in addition to giving notice pursuant to subsection ~~(3)(b)~~ (2)(b), shall give notice by mail to the landowners whose property adjoins the department property being conveyed.

(b) Subject to section 2(3), Chapter 560, Laws of 2005, notice of sale describing the lands or waters to be disposed of must be published once a week for 3 successive weeks in a newspaper with general circulation printed and published in the county where the lands or waters are situated or, if a newspaper is not published in that county, then in any newspaper with general circulation in that county.

(c) The notice must advertise for cash bids to be presented to the director within 60 days from the date of the first publication. Each bid must be accompanied by a cashier's check or cash deposit in an amount equal to 10% of the amount bid. The highest bid must be accepted upon payment of the balance due within 10 days after mailing notice by certified mail to the highest bidder. If that bidder defaults on payment of the balance due, then the next highest bidders must be similarly notified in succession until a sale is completed. Deposits must be returned to the unsuccessful bidders except bidders defaulting after notification.

(d) The department shall reserve the right to reject any bids that do not equal or exceed the full market value of the lands and waters as determined by the department. If the department does not receive a bid that equals or exceeds fair market value, it may then sell the lands or water rights at private sale. The price accepted on any private sale must exceed the highest bid rejected in the bid process.

~~(4)(3)~~ When necessary and advisable for the management and use of department property, the director is authorized to grant or acquire from willing sellers right-of-way easements for purposes of utilities, roads, drainage facilities, ditches for water conveyance, and pipelines if the full market value of the interest to be

acquired is less than \$20,000. Whenever possible, easements must include a weed management plan. Approval of the commission ~~or the board~~ is not required for grants and acquisitions made pursuant to this subsection. In granting any right-of-way pursuant to this subsection, the department shall obtain a fair market value, but the department is not otherwise required to follow the disposal requirements of subsection ~~(3)~~ (2). The director shall report any easement grant or acquisition made pursuant to this subsection to the commission ~~or the board~~ at its next regular meeting.

~~(5)~~(4) The department shall convey lands and water rights without covenants of warranty by deed executed by the governor or in the governor's absence or disability by the lieutenant governor, attested by the secretary of state and further countersigned by the director.

~~(6)~~(5) Subject to 87-1-218, the department, with the consent of the commission, is authorized to utilize the installment contract method to facilitate the acquisition of wildlife management areas in which game and nongame fur-bearing animals and game and nongame birds may breed and replenish and areas that provide access to fishing sites for the public. The total cost of installment contracts may not exceed the cost of purchases authorized by the department and appropriated by the legislature.

~~(7)~~(6) The department is authorized to enter into leases of land under its control in exchange for services to be provided by the lessee on the leased land.

~~(8)~~ Approval of the board for the acquisition or disposal of land or water pursuant to this section is required only for land and water administered under Title 23, chapter 1, or Title 23, chapter 2, parts 1 and 4."

**Section 54.** Section 87-1-218, MCA, is amended to read:

**"87-1-218. Notice of proposed land acquisitions.** (1) For all land acquisitions proposed pursuant to 87-1-209, the department shall provide notice to the board of county commissioners in the county where the proposed acquisition is located.

(2) The notice must be provided at least 30 days before the proposed acquisition appears before the commission ~~or the board~~ for its consent.

(3) The notice must include:

(a) a description of the proposed acquisition, including acreage and the use proposed by the department;

(b) an estimate of the measures and costs the department plans to undertake in furtherance of the proposed use, including operating, staffing, and maintenance costs;

(c) an estimate of the property taxes payable on the proposed acquisition and a statement that if the department acquires the land pursuant to 87-1-603, the department would pay a sum equal to the amount of taxes that would be payable on the county assessment of the property if it was taxable to a private citizen; and

(d) a draft agenda of the meeting at which the proposed acquisition will be presented to the commission ~~or the board~~ and information on how the board of county commissioners may provide comment.

(4) For all land acquisitions of 640 acres or more proposed pursuant to 87-1-209, the department shall:

(a) conduct a public scoping process to identify issues and concerns as the initial phase of an environmental review pursuant to Title 75, chapter 1, part 2;

(b) provide the public with sufficient notice of the proposed acquisition and an opportunity to provide input on reasonable alternatives, mitigation alternatives, mitigation measures, issues, and potential impacts to be addressed in the environmental review; and

(c) respond to comments received during the public scoping process as part of the environmental review document."

**Section 55.** Section 87-1-301, MCA, is amended to read:

**"87-1-301. Powers of commission.** (1) Except as provided in subsections (7) and (8), the commission:

(a) shall set the policies for the protection, preservation, management, and propagation of the wildlife, fish, game, furbearers, waterfowl, nongame species, and endangered species of the state and for the fulfillment of all other responsibilities of the department related to fish and wildlife as provided by law;

(b) shall establish the hunting, fishing, and trapping rules of the department;

(c) except as provided in 23-1-111 and 87-1-303(3), shall establish the rules of the department governing the use of lands owned or controlled by the department and waters under the jurisdiction of the department;

(d) must have the power within the department to establish wildlife refuges and bird and game preserves;

(e) shall approve all acquisitions or transfers by the department of interests in land or water, except as provided in 23-1-111 and ~~87-1-209(2) and (4)~~ 87-1-209(3);

(f) except as provided in 23-1-111, shall review and approve the budget of the department prior to its transmittal to the office of budget and program planning;

(g) except as provided in 23-1-111, shall review and approve construction projects that have an estimated cost of more than \$1,000 but less than \$5,000;

(h) shall manage elk, deer, and antelope populations based on habitat estimates determined as provided in 87-1-322 and maintain elk, deer, and antelope population numbers at or below population estimates as provided in 87-1-323. In developing or implementing an elk management plan, the commission shall consider landowner tolerance when deciding whether to restrict elk hunting on surrounding public land in a particular hunting district. As used in this subsection (1)(h), "landowner tolerance" means the written or documented verbal opinion of an affected landowner regarding the impact upon the landowner's property within the particular hunting district where a restriction on elk hunting on public property is proposed.

(i) shall set the policies for the salvage of antelope, deer, elk, or moose pursuant to 87-3-145; and

(j) shall comply with, adopt policies that comply with, and ensure the department implements in each region the provisions of state wildlife management plans adopted following an environmental review conducted pursuant to Title 75, chapter 1, parts 1 through 3.

(2) The commission may adopt rules regarding the use and type of archery equipment that may be employed for hunting and fishing purposes, taking into account applicable standards as technical innovations in archery equipment change.

(3) The commission may adopt rules regarding the establishment of special licenses or permits, seasons, conditions, programs, or other provisions that the commission considers appropriate to promote or enhance hunting by Montana's youth and persons with disabilities.

(4) (a) The commission may adopt rules regarding nonresident big game combination licenses to:

(i) separate deer licenses from nonresident elk combination licenses;

(ii) set the fees for the separated deer combination licenses and the elk combination licenses without the deer tag;

(iii) condition the use of the deer licenses; and

(iv) limit the number of licenses sold.

(b) The commission may exercise the rulemaking authority in subsection (4)(a) when it is necessary and appropriate to regulate the harvest by nonresident big game combination license holders:

(i) for the biologically sound management of big game populations of elk, deer, and antelope;

(ii) to control the impacts of those elk, deer, and antelope populations on uses of private property; and

(iii) to ensure that elk, deer, and antelope populations are at a sustainable level as provided in 87-1-321 through 87-1-325.

(5) (a) Subject to the provisions of 87-2-115, the commission may adopt rules establishing license preference systems to distribute hunting licenses and permits:

(i) giving an applicant who has been unsuccessful for a longer period of time priority over an applicant who has been unsuccessful for a shorter period of time; and

(ii) giving a qualifying landowner a preference in drawings. As used in this subsection (5)(a), "qualifying landowner" means the owner of land that provides some significant habitat benefit for wildlife, as determined by the commission.

(b) The commission shall square the number of points purchased by an applicant per species when conducting drawings for licenses and permits.

(6) (a) The commission may adopt rules to:

(i) limit the number of nonresident mountain lion hunters in designated hunting districts; and

(ii) determine the conditions under which nonresidents may hunt mountain lion in designated hunting districts.

(b) The commission shall consider, but is not limited to consideration of, the following factors:

(i) harvest of lions by resident and nonresident hunters;

(ii) history of quota overruns;

(iii) composition, including age and sex, of the lion harvest;

(iv) historical outfitter use;

(v) conflicts among hunter groups;

(vi) availability of public and private lands; and

(vii) whether restrictions on nonresident hunters are more appropriate than restrictions on all hunters.

(7) The commission may not regulate the use or possession of firearms, firearm accessories, or ammunition, including the chemical elements of ammunition used for hunting. This does not prevent:

(a) the restriction of certain hunting seasons to the use of specified hunting arms, such as the establishment of special archery seasons;

(b) for human safety, the restriction of certain areas to the use of only specified hunting arms, including bows and arrows, traditional handguns, and muzzleloading rifles;

(c) the restriction of the use of shotguns for the hunting of deer and elk pursuant to 87-6-401(1)(f);

(d) the regulation of migratory game bird hunting pursuant to 87-3-403; or

(e) the restriction of the use of rifles for bird hunting pursuant to 87-6-401(1)(g) or (1)(h).

(8) Pursuant to 23-1-111, the commission does not oversee department activities related to the administration of state parks, primitive parks, state recreational areas, public camping grounds, state historic sites, state monuments, and other heritage and recreational resources, land, and water administered pursuant to Title 23, chapter 1, and Title 23, chapter 2, parts 1, 4, 6, 8, and 9."

**Section 56.** Section 87-1-603, MCA, is amended to read:

**"87-1-603. Payments to counties for department-owned land -- exceptions.** (1) Except as provided in [section 18] and subsection (3), before November 30 of each year, the treasurer of each county in which the department owns any land shall describe the land, state the number of acres in each parcel, and request the drawing of a warrant to the county in a sum equal to the amount of taxes that would be payable on county assessment of the property if it was taxable to a private citizen. The director shall approve or disapprove the request. The director may disapprove a request only if the director finds it to be inconsistent with this section. If the director disapproves a request, the director shall return it with an explanation detailing the reasons for the disapproval to the appropriate county treasurer for correction. If the director approves a request, the director shall transmit it to the department of administration, which shall draw a warrant payable to the county in the amount shown on the request and shall send the warrant to the county treasurer. The warrant is payable out of any funds to the credit of the department of fish, wildlife, and parks. A payment may not be made to a county in which the department owns less than 100 acres. A payment may not be made to a county for lands owned by the department for game or bird farms or for fish hatchery purposes ~~or lands acquired and managed for the purposes of Title 23, chapter 4.~~

(2) After May 10, 2009, for every department purchase of land, the department shall notify the treasurer in the county where land was purchased.

(3) (a) After May 10, 2009, and before November 30 of each subsequent year, the treasurer of each county in which the department owns land purchased after May 10, 2009, shall describe the land, state the number of acres in each parcel, and request the drawing of a warrant to the county in a sum equal to the amount of taxes that would be payable on county assessment of the property if it was taxable to a private citizen.

(b) The director shall approve or disapprove the request. The director may disapprove a request only if the director finds it to be inconsistent with this subsection (3). If the director disapproves a request, the director

shall return it with an explanation detailing the reasons for the disapproval to the appropriate county treasurer for correction. If the director approves a request, the director shall transmit it to the department of administration, which shall draw a warrant payable to the county in the amount shown on the request and shall send the warrant to the county treasurer. ~~The~~ Except for funds dedicated to lands administered pursuant to 23-1-111, the warrant is payable out of any funds to the credit of the department of fish, wildlife, and parks.

(c) All land purchased by the department after May 10, 2009, is subject to this subsection (3).

(4) The amount to be paid to each county pursuant to this section is statutorily appropriated, as provided in 17-7-502."

**Section 57.** Section 87-1-604, MCA, is amended to read:

**"87-1-604. Authorization for allocation of funds to school districts.** The county commissioners of any county receiving funds as provided in [section 18] or 87-1-603 may allocate, in such amounts as they determine, any portion of the funds to any school district in the county whenever the school district contains any department lands. Any balance remaining after allocations have been made to school districts shall be credited to the general fund of the county."

**Section 58. Fishing access sites -- fees and charges.** (1) The department may levy and collect reasonable fees or other charges for the use of privileges and conveniences that may be provided at fishing access sites and may grant concessions that it considers advisable, except as provided in subsections (2) and (5). All money derived from the activities of the department must be deposited in the state treasury in a state special revenue fund to the credit of the department.

(2) Overnight camping fees established by the department under subsection (1) must be discounted 50% for a campsite rented by a person who is a resident of Montana, as defined in 87-2-102, and is either 62 years of age or older or certified as disabled in accordance with rules adopted by the department.

(3) For a violation of a fee collection rule involving a vehicle, the registered owner of the vehicle at the time of the violation is personally responsible if an adult is not in the vehicle at the time the violation is discovered by an authorized officer. A defense that the vehicle was driven into the fee area by another person is not allowable unless it is shown that at that time the vehicle was being used without the consent of the registered owner.

(4) Money received from the collection of fees and charges is subject to the deposit requirements of 17-6-105(6) unless the department has submitted and received approval for a modified deposit schedule pursuant to 17-6-105(8).

(5) In recognition of the fact that individuals support fishing access sites through the payment of certain motor vehicle registration fees, persons who pay the fee provided for in 61-3-321(19)(a) may not be required to pay a day-use fee for access to fishing access sites. Other fees for the use of fishing access sites, such as overnight camping fees, are still chargeable and may be collected by the department.

**Section 59. Legislative intent.** It is the intent of the legislature that the department of fish, wildlife, and parks and the state parks and recreation board operate within the appropriation for the department of fish, wildlife, and parks as set forth in House Bill No. 2 for the biennium beginning July 1, 2017.

**Section 60. Directions to code commissioner.** Unless otherwise provided, wherever a reference to the department of fish, wildlife, and parks, meaning the department established in 2-15-3401, appears in legislation enacted by the 2017 legislature that refers to functions of the department related to state parks or other sites and resources managed under Title 23, chapter 1, and Title 23, chapter 2, parts 1, 4, 6, 8, and 9, the code commissioner is directed to change the reference to an appropriate reference to the state parks and recreation board.

**Section 61. Codification instruction.** (1) [Sections 16, 17, and 18] are intended to be codified as an integral part of Title 23, chapter 1, part 1, and the provisions of Title 23, chapter 1, part 1, apply to [sections 16, 17, and 18].

(2) [Section 58] is intended to be codified as an integral part of Title 87, chapter 1, part 6, and the provisions of Title 87, chapter 1, part 6, apply to [section 58].

**Section 62. Saving clause.** [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

**Section 63. Severability.** If a part of [this act] is invalid, all valid parts that are severable from the invalid

part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

**Section 64. Effective date.** [This act] is effective July 1, 2017.

**Section 65. Termination.** [This act] terminates June 30, 2023.

- END -

I hereby certify that the within bill,  
HB 0324, originated in the House.

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Speaker of the House

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2017.

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Chief Clerk of the House

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President of the Senate

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2017.

HOUSE BILL NO. 324

INTRODUCED BY B. HAMLETT, B. BROWN, P. CONNELL, A. HERTZ, G. HERTZ, T. JACOBSON,  
J. KEANE, M. LANG, J. PRICE, D. SALOMON, B. SMITH, S. STEWART-PEREGOY, F. THOMAS,  
B. USHER, C. VINCENT, G. VUCKOVICH, K. WHITE

AN ACT GENERALLY REVISING THE ADMINISTRATION OF RECREATIONAL RESOURCE PROGRAMS; ADMINISTRATIVELY ATTACHING THE STATE PARKS AND RECREATION BOARD TO THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS; CLARIFYING DEPARTMENTAL AND BOARD POWERS AND DUTIES RELATED TO STATE PARKS AND BOATING, SNOWMOBILE, AND OFF-HIGHWAY VEHICLE PROGRAMS; AUTHORIZING THE HIRING OF AN EXECUTIVE DIRECTOR OF STATE PARKS AND RECREATION; PROVIDING A STATUTORY APPROPRIATION; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 2-15-3401, 2-15-3406, 15-35-108, 17-7-502, 18-2-301, 22-3-1002, 22-3-1003, 23-1-101, 23-1-102, 23-1-105, 23-1-108, 23-1-110, 23-1-111, 23-1-126, 23-1-128, 23-1-201, 23-1-202, 23-2-101, 23-2-102, 23-2-103, 23-2-404, 23-2-407, 23-2-409, 23-2-502, 23-2-519, 23-2-533, 23-2-536, 23-2-601, 23-2-615, 23-2-633, 23-2-636, 23-2-641, 23-2-657, 23-2-801, 23-2-806, 23-2-814, 23-2-824, 45-6-101, 45-6-203, 50-53-209, 61-3-321, 61-5-104, 70-16-302, 70-30-102, 77-2-101, 82-11-127, 82-11-185, 85-1-802, 87-1-201, 87-1-209, 87-1-218, 87-1-301, 87-1-603, AND 87-1-604, MCA; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE.