_____ BILL NO. _____

INTRODUCED BY _____
(Primary Sponsor)

A BILL FOR AN ACT ENTITLED: “AN ACT REVISING FUNERAL SERVICES LICENSING AND REPORTING LAWS; REPEALING THE BOARD OF FUNERAL SERVICES; TRANSFERRING THE DUTIES OF THE BOARD OF FUNERAL SERVICES TO THE DEPARTMENT OF LABOR AND INDUSTRY; REVISING DEFINITIONS; CREATING A NEW LICENSE FOR A FUNERAL DIRECTOR; PROVIDING FOR QUALIFICATIONS AND A LICENSING FEE FOR A FUNERAL DIRECTOR; REVISING REQUIREMENTS FOR APPRENTICESHIPS; REMOVING THE REQUIREMENT OF PRENEED FINANCIAL REPORTING TO THE DEPARTMENT OF LABOR AND INDUSTRY; REQUIRING A CERTIFIER OF A DEATH CERTIFICATE TO REGISTER ON THE ELECTRONIC DEATH REGISTRATION SYSTEM; CLARIFYING THE PROCESS TO TRANSFER DEATH CERTIFICATES TO A MORTUARY OR CREMATORY; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 5-11-222, 7-4-2631, 7-4-2901, 7-4-2904, 35-21-812, 37-1-401, 37-3-305, 37-3-307, 37-8-409, 37-19-101, 37-19-204, 37-19-302, 37-19-303, 37-19-304, 37-19-307, 37-19-308, 37-19-315, 37-19-401, 37-19-402, 37-19-403, 37-19-702, 37-19-703, 37-19-705, 37-19-708, 37-19-807, 37-19-808, 37-19-814, 37-19-815, 37-19-816, 37-19-822, 37-19-823, 37-19-827, 37-19-831, 50-15-109, AND 50-15-403, MCA; AND REPEALING SECTIONS 2-15-1743, 37-19-201, AND 37-19-202, MCA.”

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

Section 1. Section 5-11-222, MCA, is amended to read:

"**5-11-222. Reports to legislature.** (1) (a) Except as provided in subsection (1)(b) and (6), a report to the legislature means a biennial report required by the legislature and filed in accordance with 5-11-210 on or before September 1 of each year preceding the convening of a regular session of the legislature.

(b) If otherwise specified in law, a report may be required more or less frequently than the biennial requirement in subsection (1)(a).

(2) Reports to the legislature include:

(a) annual reports on the unified investment program for public funds and public retirement systems

and state compensation insurance fund assets audits from the board of investments in accordance with Article VIII, section 13 of the Montana constitution;

(b) federal mandates requirements from the governor in accordance with 2-1-407;

(c) activities of the state records committee in accordance with 2-6-1108;

(d) revenue studies from the director of revenue, if requested, in accordance with 2-7-104;

(e) legislative audit reports from the legislative audit division in accordance with 2-8-112 and 23-7-410;

(f) progress on gender and racial balance from the governor in accordance with 2-15-108;

(g) a mental health report from the ombudsman in accordance with 2-15-210;

(h) policies related to children and families from the interagency coordinating council for state prevention in accordance with 2-15-225;

(i) watercourse name changes, if any, from the secretary of state in accordance with 2-15-401;

(j) results of programs established in 2-15-3111 through 2-15-3113 from the livestock loss board in accordance with 2-15-3113;

(k) the allocation of space report from the department of administration required in accordance with 2-17-101;

(l) information technology activities in accordance with 2-17-512;

(m) state strategic information technology plan exceptions, if granted, from the department of administration in accordance with 2-17-515;

(n) the state strategic information technology plan and biennial report from the department of administration in accordance with 2-17-521 and 2-17-522;

(o) reports from standing, interim, and administrative committees, if prepared, in accordance with 2-17-825 and 5-5-216;

(p) statistical and other data related to business transacted by the courts from the court administrator, if requested, in accordance with 3-1-702;

(q) the judicial standards commission report in accordance with 3-1-1126;

(r) an annual report on the actual cost of legislation that had a projected fiscal impact from the office of budget and program planning in accordance with 5-4-208;

(s) a link to annual state agency reports on grants awarded in the previous fiscal year established by the legislative finance committee in accordance with 5-12-208;

(t) reports prepared by the legislative fiscal analyst, and as determined by the analyst, in accordance with 5-12-302(4);

(u) a report, if necessary, on administrative policies or rules adopted under 5-11-105 that may impair the independence of the legislative audit division in accordance with 5-13-305;

(v) if a waste of state resources occurs, a report from the legislative state auditor, in accordance with 5-13-311;

(w) school funding commission reports each fifth interim in accordance with 5-20-301;

(x) a report of political committee operations conducted on state-owned property, if required, from a political committee to the legislative services division in accordance with 13-37-404;

(y) a report concerning taxable value from the department of revenue in accordance with 15-1-205;

(z) a report on tax credits from the revenue interim committee in accordance with 15-30-2303;

(aa) semiannual reports on the Montana heritage preservation and development account from the Montana heritage preservation and development commission in accordance with 15-65-121;

(bb) general marijuana regulation reports from the department of revenue in accordance with 16-12-110;

(cc) medical marijuana registry reports from the department of revenue in accordance with 16-12-532(3);

(dd) annual reports on general fund and nongeneral fund encumbrances from the department of administration in accordance with 17-1-102;

(ee) loans or loan extensions authorized for two consecutive fiscal years from the department of administration and office of commissioner of higher education, including negative cash balances from the commissioner of higher education, in accordance with 17-2-107;

(ff) a report of local government entities that have balances contrary to limitations provided for in 17-2-302 or that failed to reduce the charge from the department of administration in accordance with 17-2-304;

(gg) an annual report from the board of investments in accordance with 17-5-1650(2);

(hh) a report on retirement system trust investments and benefits from the board of investments in

accordance with 17-6-230;

(ii) recommendations for reductions in spending and related analysis, if required, from the office of budget and program planning in accordance with 17-7-140;

(jj) a statewide facility inventory and condition assessment from the department of administration in accordance with 17-7-202;

(kk) actuary reports and investigations for public retirement systems from the public employees' retirement board in accordance with 19-2-405;

(ll) a work report from the public employees' retirement board in accordance with 19-2-407;

(mm) annual actuarial reports and evaluations from the teachers' retirement board in accordance with 19-20-201;

(nn) reports from the state director of K-12 career and vocational and technical education, as requested, in accordance with 20-7-308;

(oo) 5-year state plan for career and technical education reports from the board of regents in accordance with 20-7-330;

(pp) a gifted and talented students report from the office of public instruction in accordance with 20-7-904;

(qq) status changes for at-risk students from the office of public instruction in accordance with 20-9-328;

(rr) status changes for American Indian students from the office of public instruction in accordance with 20-9-330;

(ss) reports regarding the Montana Indian language preservation program from the office of public instruction in accordance with 20-9-537;

(tt) proposals for funding community colleges from the board of regents in accordance with 20-15-309;

(uu) expenditures and activities of the Montana agricultural experiment station and extension service, as requested, in accordance with 20-25-236;

(vv) reports, if requested by the legislature, from the president of each of the units of the higher education system in accordance with 20-25-305;

(ww) reports, if prepared by a public postsecondary institution, regarding free expression activities on

campus in accordance with 20-25-1506;

(xx) reports from the Montana historical society trustees in accordance with 22-3-107;

(yy) state lottery reports in accordance with 23-7-202;

(zz) a report from the division of banking and financial institutions, if required, from the department of administration in accordance with 32-11-306;

(aaa) state fund reports, if required, from the commissioner in accordance with 33-1-115;

(bbb) reports from the department of labor and industry in accordance with 39-6-101;

(ccc) victim unemployment benefits reports from the department of labor and industry in accordance with 39-51-2111;

(ddd) state fund business reports in accordance with 39-71-2363;

(eee) risk-based capital reports, if required, from the state fund in accordance with 39-71-2375;

(fff) child custody reports from the office of the court administrator in accordance with 41-3-1004;

(ggg) reports of remission of fine or forfeiture, respite, commutation, or pardon granted from the governor in accordance with 46-23-316;

(hhh) annual statewide public defender reports from the office of state public defender in accordance with 47-1-125;

(iii) a trauma care system report from the department of public health and human services in accordance with 50-6-402;

(jjj) an older Montanans trust fund report from the department of public health and human services in accordance with 52-3-115;

(kkk) Montana criminal justice oversight council reports in accordance with 53-1-216;

(lll) medicaid block grant reports from the department of public health and human services in accordance with 53-1-611;

(mmm) reports on the approval and implementation status of medicaid section 1115 waivers in accordance with 53-2-215;

(nnn) provider rate, medicaid waiver, or medicaid state plan change reports from the department of public health and human services in accordance with 53-6-101;

(ooo) medicaid funding reports from the department of public health and human services in

accordance with 53-6-110;

(ppp) proposals regarding managed care for medicaid recipients, if required, from the department of public health and human services in accordance with 53-6-116;

(qqq) suicide reduction plans from the department of public health and human services in accordance with 53-21-1102;

(rrr) a compliance and inspection report from the department of corrections in accordance with 53-30-604;

(sss) emergency medical services grants from the department of transportation in accordance with 61-2-109;

(ttt) annual financial reports on the environmental contingency account from the department of environmental quality in accordance with 75-1-1101;

(uuu) the Flathead basin commission report in accordance with 75-7-304;

(vvv) a report from the land board, if prepared, in accordance with 76-12-109;

(www) an annual state trust land report from the land board in accordance with 77-1-223;

(xxx) a noxious plant report, if prepared, from the department of agriculture in accordance with 80-7-713;

(yyy) state water plans from the department of natural resources and conservation in accordance with 85-1-203;

(zzz) reports on the allocation of renewable resources grants and loans for emergencies, if required, from the department of natural resources and conservation in accordance with 85-1-605;

(aaaa) water storage projects from the governor's office in accordance with 85-1-704;

(bbbb) upper Clark Fork River basin steering committee reports, if prepared, in accordance with 85-2-338;

(cccc) upland game bird enhancement program reports in accordance with 87-1-250;

(dddd) private land/public wildlife advisory committee reports in accordance with 87-1-269;

(eeee) a future fisheries improvement program report from the department of fish, wildlife, and parks in accordance with 87-1-272;

(ffff) license revenue recommendations from the department of fish, wildlife, and parks in accordance

with 87-1-629;

(gggg) land information data reports from the state library in accordance with 90-1-404;

(hhhh) hydrocarbon and geology investigation reports from the bureau of mines and geology in accordance with 90-2-201;

(iiii) coal ash markets investigation reports from the department of commerce in accordance with 90-2-202;

(jjjj) an annual report from the pacific northwest electric power and conservation planning council in accordance with 90-4-403;

(kkkk) community property-assessed capital enhancements program reports from the Montana facility finance authority in accordance with 90-4-1303;

(llll) veterans' home loan mortgage loan reports from the board of housing in accordance with 90-6-604;

(mmmm) matching infrastructure planning grant awards by the department of commerce in accordance with 90-6-703(3); and

(nnnn) treasure state endowment program reports from the department of commerce in accordance with 90-6-710;

(3) Reports to the legislature include reports made to an interim committee as follows:

(a) reports to the law and justice interim committee, including:

(i) findings of the domestic violence fatality review commission in accordance with 2-15-2017;

(ii) the report from the missing indigenous persons review commission in accordance with 2-15-2018;

(iii) reports from the department of justice and public safety officer standards and training council in accordance with 2-15-2029;

(iv) information on the Montana False Claims Act from the department of justice in accordance with 17-8-416;

(v) annual case status reports from the attorney general in accordance with 41-3-210;

(vi) office of court administrator reports in accordance with 41-5-2003;

(vii) statewide public safety communications system activities from the department of justice in accordance with 44-4-1606;

(viii) reports on the status of the crisis intervention team training program from the board of crime control in accordance with 44-7-110;

(ix) restorative justice grant program status and performance from the board of crime control in accordance with 44-7-302;

(x) reports on offenders under supervision with new offenses or violations from the department of corrections in accordance with 46-23-1016;

(xi) supervision responses grid reports from the department of corrections in accordance with 46-23-1028;

(xii) statewide public defender reports and information from the office of state public defender in accordance with 47-1-125;

(xiii) every 5 years, a percentage change in public defender funding report from the legislative fiscal analyst in accordance with 47-1-125;

(xiv) every 5 years, statewide public defender reports on the percentage change in funding from the office of state public defender in accordance with 47-1-125; and

(xv) a report from the quality assurance unit from the department of corrections in accordance with 53-1-211;

(b) reports to the state administration and veterans' affairs interim committee, including:

(i) a report that includes information technology activities and additional information from the information technology board in accordance with 2-17-512 and 2-17-513;

(ii) a report from the capitol complex advisory council in accordance with 2-17-804;

(iii) a report on the employee incentive award program from the department of administration in accordance with 2-18-1103;

(iv) a board of veterans' affairs report in accordance with 10-2-102;

(v) a report on grants to the Montana civil air patrol from the department of military affairs in accordance with 10-3-802;

(vi) annual reports on statewide election security from the secretary of state in accordance with 13-1-205;

(vii) a report regarding the youth voting program, if requested, from the secretary of state in

accordance with 13-22-108;

(viii) a report from the commissioner of political practices in accordance with 13-37-120;

(ix) a report on retirement system trust investments from the board of investments in accordance with 17-6-230;

(x) actuarial valuations and other reports from the public employees' retirement board in accordance with 19-2-405 and 19-3-117;

(xi) actuarial valuations and other reports from the teachers' retirement board in accordance with 19-20-201 and 19-20-216;

(xii) a report on the reemployment of retired members of the teachers' retirement system from the teachers' retirement board in accordance with 19-20-732; and

(xiii) changes, if any, affecting filing-office rules under the Uniform Commercial Code from the secretary of state in accordance with 30-9A-527;

(c) reports to the children, families, health, and human services interim committee, including:

(i) performance data from the department of public health and human services in accordance with 2-15-2225;

(ii) quarterly reports on data requirements from the department of public health and human services in accordance with 5-12-303;

(iii) prescription drug registry reports from the board of pharmacy in accordance with 37-7-1514;

(iv) Montana HELP Act workforce development reports from the department of public health and human services in accordance with 39-12-103;

(v) annual reports from the child and family ombudsman in accordance with 41-3-1211;

(vi) reports on activities and recommendations on child protective services activities, if required, from the child and family ombudsman in accordance with 41-3-1215;

(vii) reports on the out-of-state placement of high-risk children with multiagency service needs from the department of public health and human services in accordance with 52-2-311;

(viii) private alternative adolescent residential and outdoor programs reports from the department of public health and human services in accordance with 52-2-803;

(ix) an annual Montana parents as scholars program report from the department of public health and

human services in accordance with 53-4-209;

(x) provider rate, medicaid waiver, or medicaid state plan change reports from the department of public health and human services in accordance with 53-6-101;

(xi) a report concerning mental health managed care services, if managed care is in place, from the advisory council in accordance with 53-6-710;

(xii) quarterly medicaid reports related to expansion from the department of public health and human services in accordance with 53-6-1325;

(xiii) annual Montana developmental center reports from the department of public health and human services in accordance with 53-20-225; and

(xiv) annual children's mental health outcomes from the department of public health and human services in accordance with 53-21-508;

(xv) suicide reduction plans from the department of public health and human services in accordance with 53-21-1102;

(d) reports to the economic affairs interim committee, including:

(i) the annual state compensation insurance fund budget from the board of directors in accordance with 5-5-223 and 39-71-2363;

(ii) general marijuana regulation reports from the department of revenue in accordance with 16-12-110(3);

(iii) medical marijuana registry reports from the department of revenue in accordance with 16-12-532(3);

(iv) annual reports on complaints against physicians certifying medical marijuana use from the board of medical examiners in accordance with 16-12-532(4);

(v) an annual report on the administrative rate required from the department of commerce from the Montana heritage preservation and development commission in accordance with 22-3-1002;

(vi) state fund reports from the insurance commissioner, if required, in accordance with 33-1-115;

(vii) risk-based capital reports, if required, from the state fund in accordance with 33-1-115 and 39-71-2375;

(viii) annual reinsurance reports from the Montana reinsurance association board required in

accordance with 33-22-1308;

(ix) reports from the department of labor and industry concerning board attendance in accordance with 37-1-107;

(x) annual reports on physician complaints related to medical marijuana from the board of medical examiners in accordance with 37-3-203;

(xi) prescription drug registry reports from the board of pharmacy in accordance with 37-7-1514;

(xii) status reports on the special revenue account and fees charged as a funding source from death certificate fees for the ~~board of funeral service~~ department of labor and industry in accordance with 37-19-204;

(xiii) unemployment insurance program integrity act reports from the department of labor and industry in accordance with 39-15-706;

(xiv) status reports on the distressed wood products industry revolving loan program from the department of commerce in accordance with 90-1-503;

(e) reports to the education interim committee, including:

(i) reemployment of retired teachers, specialists, and administrators reports from the retirement board in accordance with 19-20-732;

(ii) a report on participation in the interstate compact on educational opportunity for military children in accordance with 20-1-231;

(iii) grow your own grant program reports from the commissioner of higher education in accordance with 20-4-601;

(iv) standards of accreditation proposals and economic impact statements from the board of public education in accordance with 20-7-101;

(v) advanced opportunity program reports from the board of public education in accordance with 20-7-1506;

(vi) progress on transformational learning plans from the board of public education in accordance with 20-7-1602;

(vii) budget amendments, if needed, from school districts in accordance with 20-9-161;

(viii) annual Montana resident student financial aid program reports from the commissioner of higher education in accordance with 20-26-105;

(ix) a historic preservation office report from the historic preservation officer in accordance with 22-3-423; and

(x) interdisciplinary child information agreement reports from the office of public instruction in accordance with 52-2-211;

(f) reports to the energy and telecommunications interim committee, including:

(i) the high-performance building report from the department of administration in accordance with 17-7-214;

(ii) an annual report from the consumer counsel in accordance with 69-1-222;

(iii) annual universal system benefits reports from utilities, electric cooperatives, and the department of revenue in accordance with 69-8-402;

(iv) small-scale hydroelectric power generation reports from the department of natural resources and conservation in accordance with 85-1-501; and

(v) geothermal reports from the Montana bureau of mines and geology in accordance with 90-3-1301;

(g) reports to the revenue interim committee, including:

(i) use of the qualified endowment tax credit report from the department of revenue in accordance with 15-1-230;

(ii) tax rates for the upcoming reappraisal cycle from the department of revenue in accordance with 15-7-111;

(iii) gray water property tax abatement usage reports from the department of revenue in accordance with 15-24-3211;

(iv) information about job growth incentive tax credits from the department of revenue in accordance with 15-30-2361;

(v) student scholarship contributions from the department of revenue in accordance with 15-30-3112;

(vi) tax havens from the department of revenue in accordance with 15-31-322;

(vii) media production tax credit economic impact reports from the department of commerce in accordance with 15-31-1011;

(viii) medical marijuana registry reports from the department of revenue in accordance with 16-12-532(5);

(ix) complaints against physicians certifying use of medical marijuana from the board of medical examiners in accordance with 16-12-532(5); and

(x) reports that actual or projected receipts will result in less revenue than estimated from the office of budget and program planning, if necessary, in accordance with 17-7-140;

(h) reports to the transportation interim committee, including:

(i) biodiesel tax refunds from the department of transportation in accordance with 15-70-433;

(ii) cooperative agreement negotiations from the department of transportation in accordance with 15-70-450;

(iii) an annual alternative project delivery contracting report from the department of transportation in accordance with 60-2-119; and

(iv) a special fuels inspection report from the department of transportation in accordance with 61-10-154;

(i) reports to the environmental quality council, including:

(i) compliance and enforcement reports required in accordance with 75-1-314;

(ii) the state solid waste management and resource recovery plan, every 5 years, from the department of environmental quality in accordance with 75-10-111;

(iii) annual orphan share reports from the department of environmental quality in accordance with 75-10-743;

(iv) Libby asbestos superfund oversight committee reports in accordance with 75-10-1601;

(v) annual subdivision sanitation reports from the department of environmental quality in accordance with 76-4-116;

(vi) state trust land accessibility reports from the department of natural resources and conservation in accordance with 77-1-820;

(vii) biennial land banking reports and annual state land cabin and home site sales reports from the department of natural resources and conservation in accordance with 77-2-366;

(viii) biennially invasive species reports from the departments of fish, wildlife, and parks and natural resources and conservation in accordance with 80-7-1006;

(ix) annual upper Columbia conservation commission reports in accordance with 80-7-1026;

(x) annual invasive species council reports in accordance with 80-7-1203;

(xi) sand and gravel reports, if an investigation is completed, in accordance with 82-2-701;

(xii) annual sage grouse population reports from the department of fish, wildlife, and parks in accordance with 87-1-201;

(xiii) annual gray wolf management reports from the department of fish, wildlife, and parks in accordance with 87-1-901;

(xiv) biennial Tendoy Mountain sheep herd reports from the department of fish, wildlife, and parks in accordance with 87-2-702;

(xv) wildlife habitat improvement project reports from the department of fish, wildlife, and parks in accordance with 87-5-807; and

(xvi) annual sage grouse oversight team activities and staffing reports in accordance with 87-5-918;

(j) reports to the water policy interim committee, including:

(i) drought and water supply advisory committee reports in accordance with 2-15-3308;

(ii) total maximum daily load reports from the department of environmental quality in accordance with 75-5-703;

(iii) state water plans from the department of natural resources and conservation in accordance with 85-1-203;

(iv) small-scale hydroelectric power generation reports from the department of natural resources and conservation in accordance with 85-1-501;

(v) renewable resource grant and loan program reports from the department of natural resources and conservation in accordance with 85-1-621;

(vi) quarterly adjudication reports from the department of natural resources and conservation and the water court in accordance with 85-2-281;

(vii) water reservation reports from the department of natural resources and conservation in accordance with 85-2-316;

(viii) instream flow reports from the department of fish, wildlife, and parks in accordance with 85-2-436; and

(ix) ground water investigation program reports from the bureau of mines and geology in accordance

with 85-2-525;

(k) reports to the local government interim committee, including:

(i) sand and gravel, if an investigation is completed, in accordance with 82-2-701;

(ii) assistance to local governments on federal land management proposals from the department of commerce in accordance with 90-1-182; and

(iii) emergency financial assistance to local government reports from the department of commerce, if requests are made, in accordance with 90-6-703(2);

(l) reports to the state-tribal relations committee, including:

(i) reports from the missing indigenous persons review commission in accordance with 2-15-2018;

(ii) the Montana Indian language preservation program report from the state-tribal economic development commission in accordance with 20-9-537;

(iii) reports from the missing indigenous persons task force in accordance with 44-2-411

(iv) a decennial economic contributions and impacts of Indian reservations report from the department of commerce in accordance with 90-1-105;

(v) state-tribal economic development commission activities reports from the state-tribal economic development commission in accordance with 90-1-132; and

(vi) state-tribal economic development commission reports provided regularly by the state director of Indian affairs in accordance with 90-11-102.

(4) (a) Except as provided in subsections (4)(b) and (6) and unless otherwise required by law, a report made to the legislature in accordance with subsection (3) may be provided orally before September 1 of each year preceding the convening of a regular session of the legislature and in accordance with 5-11-210(1)(b).

(b) After receiving an oral report, an interim or administrative committee responsible for receiving the report may request a written report be filed with the legislature in accordance with 5-11-210(1)(a).

(c) This section may not be interpreted to preclude an interim or administrative committee from requesting additional information.

(5) Reports to the legislature include multistate compact and agreement reports including:

(a) multistate tax compact reports in accordance with 15-1-601;

(b) interstate compact on educational opportunity for military children reports in accordance with 20-1-230 and 20-1-231;

(c) compact for education reports in accordance with 20-2-501;

(d) Western regional higher education compact reports in accordance with 20-25-801;

(e) interstate insurance product regulation compact reports in accordance with 33-39-101;

(f) interstate medical licensure compact reports in accordance with 37-3-356;

(g) interstate compact on juveniles reports in accordance with 41-6-101;

(h) interstate compact for adult offender supervision reports in accordance with 46-23-1115;

(i) vehicle equipment safety compact reports in accordance with 61-2-201;

(j) multistate highway transportation agreement reports in accordance with 61-10-1101; and

(k) western interstate nuclear compact reports in accordance with 90-5-201.

(6) Reports, transfers, statements, assessments, recommendations and changes required under 17-7-138, 17-7-139, 17-7-140, 19-2-405, 19-2-407, 19-3-117, 19-20-201, 19-20-216, 20-7-101, 23-7-202, 33-1-115, and 39-71-2375 must be provided as soon as the report is published and publicly available. Reports required in subsections (2)(a), (2)(gg), (2)(hh), and (3)(b)(ix) must be provided following issuance of reports issued under Title 5, chapter 13."

Section 2. Section 7-4-2631, MCA, is amended to read:

"**7-4-2631. Fees of county clerk.** (1) Except as provided in 7-2-2803(4), 7-4-2632, 7-4-2637, and this section, the county clerks shall charge, for the use of their respective counties:

(a) for filing and indexing each writ of attachment, execution, certificate of sale, lien, or other instrument required by law to be filed and indexed, $5;

(b) for filing of subdivision and townsite plats, $25 plus:

(i) for each lot up to and including 100, 50 cents;

(ii) for each additional lot in excess of 100, 25 cents;

(c) for filing certificates of surveys and amendments thereto, $25 plus 50 cents per tract or lot;

(d) for each page of a document required to be filed with a subdivision, townsite plat, or certificate of survey for which a filing fee is not otherwise set by law, $1;

(e) for a copy of a record or paper:

(i) for the first page of any document, 50 cents, and 25 cents for each subsequent page; and

(ii) for each certification with seal affixed, $2;

(f) for searching an index record of files of the office for each year when required in abstracting or otherwise, 50 cents;

(g) for administering an oath with certificate and seal, no charge;

(h) for taking and certifying an acknowledgment, with seal affixed, for signature to it, no charge;

(i) for filing, indexing, or other services provided for by Title 30, chapter 9A, part 5, the fees prescribed under those sections;

(j) for recording each stock subscription and contract, stock certificate, and articles of incorporation for water users' associations, $3;

(k) for filing a copy of notarial commission and issuing a certificate of official character of such notary public, $2;

(l) for each certified copy of a birth certificate, $8, and for each certified copy of a death certificate, $7;

(m) for electronic storage of minutes of an administrative board, district, or commission pursuant to 7-1-204, 7-11-1030, 7-13-2350, 7-22-2113, 7-33-2112, or 76-15-324, no charge; and

(n) for filing, recording, or indexing any other instrument not expressly provided for in this section or 7-4-2632, the same fee provided in this section or 7-4-2632 for a similar service.

(2) The county clerks shall charge, for the use of their respective counties, the fee as provided in 7-4-2632 for recording and indexing the following:

(a) each certificate of location of a quartz or placer mining claim or millsite claim, including a certificate that the instrument has been recorded with the seal affixed; and

(b) each affidavit of annual labor on a mining claim, including a certificate that the instrument has been recorded with the seal affixed.

(3) State agencies submitting documents to be put of record shall pay the fees provided for in this section. If a state agency or political subdivision has requested an account with the county clerk, any applicable fees must be paid on a periodic basis.

(4) (a) A county shall transfer $2 of each fee collected for a death certificate issued under subsection

(1)(l) to the department of revenue for deposit in the account in the state special revenue fund to the credit of the ~~board of funeral service~~ department of labor and industry.

(b) The fee must be transferred monthly unless the department and the county have agreed to a different transfer schedule."

Section 3. Section 7-4-2901, MCA, is amended to read:

"**7-4-2901. Appointment of deputy coroners.** (1) The coroner, with approval of the county commissioners, may appoint one or more deputy coroners to assist the coroner or act in the coroner's absence.

(2) At the time of appointment, a deputy coroner or acting coroner must meet the qualifications required of a coroner as provided in 7-4-2904(1) ~~and~~ (2)(a), and (2)(b). Within a reasonable time after appointment, the deputy shall successfully complete the basic coroner course, as provided for in 7-4-2905(2)(a). After successfully completing the basic coroner course, the deputy must also meet the requirements for continuing education as provided in 7-4-2905(2)(b).

(3) A deputy coroner may be the coroner or qualified deputy coroner from another county."

Section 4. Section 7-4-2904, MCA, is amended to read:

"**7-4-2904. Qualifications for office of county coroner.** (1) In addition to the qualifications set forth in 7-4-2201, to be eligible for the office of coroner, at the time of election or appointment to office a person must be a high school graduate or holder of an equivalency of completion of secondary education as provided by the superintendent of public instruction under 20-7-131 or of an equivalency issued by another state.

(2) Each coroner, before entering the duties of office, shall:

(a) take and file with the county clerk the constitutional oath of office;

(b) register on the current electronic death registration system; and

~~(b)~~(c) certify to the county clerk that the individual:

(i) ~~the individual~~ has successfully completed the basic coroner course of study as provided for in 7-4-2905 or that the individual has completed the equivalent educational requirements as approved by the public safety officer standards and training council established in 2-15-2029; or

(ii) ~~the individual~~ intends to take the basic coroner course at the next offering of the course if the

coroner has been appointed or was elected by other than a local government general election and, from the date of appointment or election and assumption of the duties as coroner, a basic coroner course was not offered. A coroner forfeits office for failure to take and successfully complete the next offering of the basic coroner course."

Section 5. Section 35-21-812, MCA, is amended to read:

"**35-21-812. Removal of remains -- when removal excepted.** (1) The remains of a deceased person may be removed from a plot in a mausoleum or columbarium with the consent of the mausoleum-columbarium authority and the written consent of one of the following in the order named:

(a) a spouse;

(b) a majority of adult children;

(c) a parent;

(d) the surviving brothers or sisters of the decedent;

(e) a close relative of the decedent; or

(f) in the absence of a person listed in subsections (1)(a) through (1)(e), a personal representative, a public administrator, the decedent through a preneed authorization, or others designated by the ~~board of funeral service~~ <u>department of labor and industry</u> by rule.

(2) If the required consent cannot be obtained, permission by the district court in the county where the mausoleum or columbarium is situated is sufficient if the permission does not violate the terms of a written contract or rules of the mausoleum-columbarium authority.

(3) Notice of application to the court for the permission provided for in subsection (2) must be given at least 15 days prior to a hearing on the application to the mausoleum-columbarium authority and to persons listed in subsections (1)(a) through (1)(e) not consenting and to other persons on whom service of notice may be required by the court."

Section 6. Section 37-1-401, MCA, is amended to read:

"**37-1-401. Uniform regulation for licensing programs without boards -- definitions.** As used in this part, the following definitions apply:

(1) "Complaint" means a written allegation filed with the department that, if true, warrants an injunction, disciplinary action against a licensee, or denial of an application submitted by a license applicant.

(2) "Department" means the department of labor and industry provided for in 2-15-1701.

(3) "Investigation" means the inquiry, analysis, audit, or other pursuit of information by the department, with respect to a complaint or other information before the department, that is carried out for the purpose of determining:

(a) whether a person has violated a provision of law justifying discipline against the person;

(b) the status of compliance with a stipulation or order of the department;

(c) whether a license should be granted, denied, or conditionally issued; or

(d) whether the department should seek an injunction.

(4) "License" means permission in the form of a license, permit, endorsement, certificate, recognition, or registration granted by the state of Montana to engage in a business activity or practice at a specific level in a profession or occupation governed by:

(a) Title 37, chapter 19, 35, 72, or 73; or

(b) Title 50, chapter 39, 74, or 76.

(5) "Profession" or "occupation" means a profession or occupation regulated by the department under the provisions of:

(a) Title 37, chapter 19, 35, 49, 72, or 73; or

(b) Title 50, chapter 39, 74, or 76."

Section 7. Section 37-3-305, MCA, is amended to read:

"**37-3-305. Qualifications for licensure.** (1) Except as provided in subsection (2), the board shall grant a physician's license to practice medicine in this state to an applicant who:

(a) is of good moral character as determined by the board;

(b) is a graduate of an approved medical school as defined in 37-3-102;

(c) has completed an approved residency program or, for an applicant who graduated from medical school prior to 2000, has had experience or training that the board has determined is at least the equivalent of an approved residency program;

(d) has passed all of the steps of the United States medical licensing examination, the federation of state medical boards' federation licensing examination, or an examination offered by any of the following entities:

(i) the national board of medical examiners or its successors;

(ii) the national board of osteopathic medical examiners or its successors;

(iii) the medical council of Canada or its successors if the applicant is a graduate of a Canadian medical school approved by the medical council of Canada or its successors; or

(iv) the educational commission for foreign medical graduates or its successors if the applicant is a graduate of a foreign medical school outside of the United States and Canada;

(e) has submitted a completed application with the required nonrefundable fee; ~~and~~

(f) is able to communicate in the English language as determined by the board; and

(g) is registered on the current electronic death registration system.

(2) The board may authorize the department to issue the license subject to terms of probation or other conditions or limitations set by the board or may refuse a license if the applicant has committed unprofessional conduct or is otherwise unqualified.

(3) A physician applying for expedited licensure in another state as allowed under 37-3-356 shall submit fingerprints to the board to facilitate a fingerprint-based criminal record background check by the Montana department of justice and the federal bureau of investigation. The board may not disseminate criminal history record information resulting from the background check across state lines.

(4) The board may by rule impose additional requirements for licensure to protect the health and safety of the public or to enter into a mutual recognition licensing agreement with another state.

(5) The board may adopt rules that provide conditions for short-term nondisciplinary licenses."

Section 8. Section 37-3-307, MCA, is amended to read:

"**37-3-307. Qualifications for licensure -- resident license.** (1) The board may authorize the department to issue a resident license to practice medicine to an applicant who:

(a) is in good standing:

(i) in a Montana residency program and is seeing patients under the supervision of a physician who

possesses a current, unrestricted license to practice medicine in this state; or

(ii) with an approved residency and who, in the course of an approved rotation of the applicant's residency program, is seeing patients under the supervision of a physician who possesses a current, unrestricted license to practice medicine in this state; ~~and~~

(b) submits an application to the department on an approved form and submits the fee set by the board, as provided in 37-3-308; and

(c) is registered on the current electronic death registration system.

(2) A resident license may not be issued for a period that exceeds 1 year. A resident license may be renewed, at the board's discretion, for additional 1-year periods as long as the resident is in good standing in an approved residency program."

Section 9. Section 37-8-409, MCA, is amended to read:

"**37-8-409. Advanced practice registered nursing -- when professional nurse may practice.** (1) A person licensed under this chapter who holds a certificate in a field of advanced practice registered nursing may practice in the specified field of advanced practice registered nursing upon approval by the board of an amendment to the person's license granting a certificate in a field of advanced practice registered nursing. The board shall grant a certificate in a field of advanced practice registered nursing to a person who submits written verification of certification by a board-approved national certifying body appropriate to the specific field of advanced practice registered nursing, who is registered on the current electronic death registration system, and who meets any other qualification requirements that the board prescribes.

(2) The board may give temporary approval to practice in a specific field of advanced practice registered nursing to a person who:

(a) intends to apply for approval under subsection (1); and

(b) has completed the advanced practice registered nursing education required in order for the person to apply to take the first national certification examination available from a board-approved national certifying body appropriate to the specific field of advanced practice registered nursing.

(3) If the person fails to obtain certification upon the person's first examination, the temporary approval provided for in subsection (2) expires on receipt of the examination results. The temporary approval

may not be extended.

(4) In order to protect the public, the board may, in consultation with persons in the specific field of advanced practice registered nursing, adopt specific rules for each field of advanced practice registered nursing for the granting of temporary approval to practice and for determining the supervision of the licensee with temporary approval."

Section 10. Section 37-19-101, MCA, is amended to read:

"**37-19-101. Definitions.** Unless the context requires otherwise, in this chapter, the following definitions apply:

(1) (a) "Apprentice" means a person who has met the educational and testing requirements for a license to practice mortuary science in Montana, has been licensed by the board as an apprentice, and is engaged in the practice of mortuary science under the supervision of a licensed mortician.

(b) For the purposes of this subsection (1), "supervision" means the extent of oversight that a mortician believes an apprentice requires based on the training, experience, judgment, and professional development of the apprentice.

~~(1)~~(2) "Arrangements" includes:

(a) planning the details of funeral service, including time of service, type of service, and, if requested, acquiring the services of clergy;

(b) obtaining the necessary information for filing death certificates;

(c) comparing or discussing prices, including merchandise prices and financial arrangements; and

(d) providing for onsite direction and coordination of participants and onsite direction, coordination, and facilitation at funeral, graveside, or memorial services or rites.

~~(2)~~(3) "At-need arrangements" means arrangements made by an authorized person on behalf of a deceased.

~~(3)~~(4) "Authorizing agent" means a person legally entitled to order the final disposition of human remains, including burial, cremation, entombment, donation to medical science, or other means. The order of preference for an authorizing agent is subject to the priority of rights of disposition established in 37-19-904.

~~(4) "Board" means the board of funeral service provided for in 2-15-1743.~~

(5) "Branch establishment" means a separate facility that may or may not have a suitable visitation room or preparation room and that is owned by, a subsidiary of, or otherwise financially connected to or controlled by a licensed mortuary.

(6) "Cemetery" means any land or structure in this state dedicated to and used or intended to be used for interment of cremated remains or human remains. It may be any one or a combination of a burial park for earth interments, a mausoleum for crypt or niche interments, or a columbarium.

(7) "Cemetery company" means an individual, partnership, corporation, or association that:

(a) owns or controls cemetery lands or property and conducts the business of a cemetery; or

(b) applies to the ~~board~~ department to own or control cemetery lands or property and conduct the business of a cemetery.

(8) "Closed container" means a container in which cremated remains can be placed and enclosed in a manner that prevents leakage or spillage of cremated remains or entrance of foreign material.

(9) "Columbarium" means a room or space in a building or structure used or intended to be used for the interment of cremated remains.

(10) "Cremated remains" means all human remains recovered after the completion of the cremation, including pulverization that leaves only bone fragments reduced to unidentifiable dimensions.

(11) "Cremation" means the technical process, using heat, that reduces human remains to bone fragments. The reduction takes place through heat and evaporation.

(12) "Cremation chamber" means the enclosed space within which the cremation process takes place. Cremation chambers of crematoriums licensed by this chapter must be used exclusively for the cremation of human remains.

(13) "Cremation container" means the container in which the human remains are placed in the cremation chamber for a cremation. A cremation container must meet substantially all of the following standards:

(a) be composed of readily combustible materials suitable for cremation;

(b) be able to be closed in order to provide a complete covering for the human remains;

(c) be resistant to leakage and spillage;

(d) be rigid enough for handling with ease; and

(e) be able to provide protection for the health, safety, and integrity of crematory personnel.

(14) "Crematory" means the building or portion of a building that houses the cremation chamber and the holding facility.

(15) "Crematory operator" means the person in charge of the licensed crematory facility.

(16) "Crematory technician" means an employee of a crematory facility who is trained to perform cremations and is licensed by the ~~board~~ department.

(17) "Crypt" means a chamber of sufficient size to inter the remains of a deceased person.

(18) "Department" means the department of labor and industry provided for in Title 2, chapter 15, part 17.

(19) "Embalming" means:

(a) obtaining burial or removal permits or assuming other duties incidental to the practice of embalming;

(b) disinfecting and preserving or attempting to preserve dead human bodies in their entirety or in parts by the use of chemical substances, fluids, or gases ordinarily intended for that use by introducing the chemical substances, fluids, or gases into the body by vascular or hypodermic injection or by direct introduction into the organs or cavities; and

(c) restorative art.

(20) "Funeral directing" includes:

(a) supervising funerals;

(b) the making of preneed or at-need contractual arrangements for funerals;

(c) preparing dead bodies for burial, other than by embalming;

(d) maintaining a mortuary for the preparation, disposition, or care of dead human bodies; and

(e) representing to the public that one is a funeral director.

(21) "Holding facility" means an area within or adjacent to the crematory facility designated for the retention of human remains prior to cremation that must:

(a) comply with any applicable public health law;

(b) preserve the dignity of the human remains;

(c) recognize the health, safety, and integrity of the crematory operator and crematory personnel; and

(d) be secure from access by anyone other than authorized personnel.

(22) "Human remains" means the body of a deceased person or part of a body or limb that has been removed from a living person, including the body, part of a body, or limb in any stage of decomposition.

(23) "Interment" means any lawful disposition of cremated remains or human remains.

~~(24) (a) "Intern" means a person who has met the educational and testing requirements for a license to practice mortuary science in Montana, has been licensed by the board as an intern, and is engaged in the practice of mortuary science under the supervision of a licensed mortician.~~

~~(b) For the purposes of this subsection (24), "supervision" means the extent of oversight that a mortician believes an intern requires based on the training, experience, judgment, and professional development of the intern.~~

~~(25)~~(24) "Lot" or "grave space" means a space in a cemetery used or intended to be used for interment.

~~(26)~~(25) "Mausoleum" means a community-type room or space in a building or structure used or intended to be used for the interment of human remains in crypts or niches.

~~(27)~~(26) "Mortician" means a person licensed under this chapter to practice mortuary science.

~~(28)~~(27) (a) "Mortuary" means a place of business licensed by the ~~board~~ department, located in a building or portion of a building having a specific street address or location, containing but not limited to a suitable room for viewing or visitation and a preparation room, and devoted exclusively to activities that are related to the preparation and arrangements for funerals, transportation, burial, or other disposition of dead human bodies.

(b) The term includes conducting activities from the place of business referred to in subsection ~~(28)(a)~~ (27)(a) that are incidental, convenient, or related to the preparation of funeral or memorial services or rites or the transportation, burial, cremation, or other disposition of dead human bodies in any area where those activities may be conducted.

~~(29)~~(28) "Mortuary science" means the profession or practice of funeral directing and embalming.

~~(30)~~(29) "Niche" means a space in a columbarium or mausoleum used or intended to be used for the interment of the cremated remains or human remains of one or more deceased persons.

~~(31)~~(30) "Perpetual care and maintenance" means continual and proper maintenance of cemetery

buildings, grounds, and lots or grave spaces.

~~(32)~~(31) "Preneed arrangements" means arrangements made with a licensed mortician by a person on the person's own behalf or by an authorized individual on the person's behalf prior to the death of the person.

~~(33)~~(32) "Temporary container" means a receptacle for cremated remains that is usually made of cardboard, plastic film, or similar material designed to hold the cremated remains until an urn or other permanent container is acquired.

~~(34)~~(33) "Urn" means a receptacle designed to permanently encase the cremated remains."

Section 11. Section 37-19-204, MCA, is amended to read:

"**37-19-204. Special revenue account -- use of funds -- reporting requirement.** (1) The department shall deposit in the state special revenue fund for use by the ~~board~~ department the death certificate fees transferred to the department pursuant to 7-4-2631 and 50-15-111.

(2) The revenue received by the ~~board~~ department under subsection (1) must be used by the ~~board~~ department for the general administration of the ~~board~~ department program.

(3) The ~~board~~ department may not reduce license fees to offset revenue raised by the death certificate fee.

(4) Any money in excess of the amount allowed for ~~board~~ department program costs under 37-1-134 must be deposited in the state general fund.

(5) The ~~board~~ department shall report to the economic affairs interim committee as provided in 5-11-210 on the status of the special revenue account and fees charged as a funding source for the ~~board~~ department program."

Section 12. Section 37-19-302, MCA, is amended to read:

"**37-19-302. License required for practice of mortuary science -- qualifications of applicants.** (1) The practice of mortuary science is limited to:

(a) licensed morticians;

(b) licensed funeral directors;

~~(b)~~(c) licensed ~~interns~~ apprentices; and

~~(c)~~(d) students exempted under 37-19-308.

(2) A person 18 years of age or older wishing to practice mortuary science in this state must apply to the ~~board~~ department on the form and in the manner prescribed by the ~~board~~ department.

(3) To qualify for a mortician's license, a person must:

(a) be of good moral character;

(b) have graduated from an accredited college or university with an associate degree in mortuary science;

(c) pass ~~an~~ the national boards examination and state rules examination prescribed by the ~~board~~ department and pay the application fee set by the ~~board~~ department by rule; and

(d) serve a 1-year ~~internship~~ apprenticeship under the supervision of a licensed mortician in a licensed mortuary after passing the ~~examination~~ examinations provided for in subsection (3)(c).

(4) To qualify for a funeral director's license, a person must:

(a) be of good moral character;

(b) pass a state rules examination prescribed by the department and pay the application fee set by the department by rule; and

(c) serve under the supervision of a licensed mortician in a licensed mortuary after passing the examination provided for in subsection (4)(b).

~~(4)~~(5) A person who fails ~~the~~ an examination required in ~~subsection (3)(c)~~ subsection (3)(c) or (4)(b) may retake the examination under conditions prescribed by rule of the ~~board~~ department."

Section 13. Section 37-19-303, MCA, is amended to read:

"**37-19-303. Mortician's license -- funeral director's license -- renewals -- fees.** A person licensed to practice mortuary science under a mortician's license or funeral director's license may renew the license on payment of the renewal license fee set by the ~~board~~ department by rule."

Section 14. Section 37-19-304, MCA, is amended to read:

"**37-19-304. Issuance of ~~intern's~~ apprentice license -- license fee -- issuance of mortician's license on completion of ~~internship~~ apprenticeship.** An applicant ~~who passes the examination provided for~~

~~in 37-19-302~~ currently enrolled in or having already graduated from a program qualifying under 37-19-302(3)(b) shall, upon payment of a license fee prescribed by the ~~board~~ department, be granted an ~~intern~~ apprentice mortician's license to practice mortuary science under the supervision of a licensed mortician in a licensed mortuary in Montana and, upon completion of ~~1 year's internship~~ a 2-year apprenticeship or assisting in 50 embalmings and payment of the license fee, may apply for and receive a mortician's license."

Section 15. Section 37-19-307, MCA, is amended to read:

"**37-19-307. Deposit of money received.** Money collected by the department under this chapter ~~shall~~ must be deposited for the use of the ~~board~~ department, subject to 37-1-101(6)."

Section 16. Section 37-19-308, MCA, is amended to read:

"**37-19-308. Student exemption -- rulemaking.** (1) A student currently enrolled in an accredited or approved funeral service or mortuary science degree program may engage in the practice of mortuary science without a license under this chapter if practicing:

(a) as part of a required student clinical practicum associated with the educational program; and

(b) under the supervision of a licensed mortician who operates from a licensed mortuary or branch establishment.

(2) The ~~board~~ department may adopt rules pertaining to the requirements for supervision and for mortuary and branch establishments. The rules must be limited to implementing only the purposes outlined in subsection (1)."

Section 17. Section 37-19-315, MCA, is amended to read:

"**37-19-315. Funeral costs -- rules on disclosure.** The ~~board~~ department shall adopt rules requiring mortuaries to disclose in writing to all customers a complete itemized list of all funeral costs and complete information regarding the need for embalming."

Section 18. Section 37-19-401, MCA, is amended to read:

"**37-19-401. License required -- display of license.** An operating mortuary must be licensed by the

~~board~~ department. The license must be displayed in a conspicuous place."

Section 19. Section 37-19-402, MCA, is amended to read:

"**37-19-402. Operator's license requirements -- facility inspections -- transfer of license to new facility.** (1) The operation of a mortuary is prohibited by anyone not holding a mortician's license.

(2) A license to operate a new mortuary facility in Montana may be issued only if the proposed mortuary facility meets standards for operating mortuaries adopted by the ~~board~~ department.

(3) (a) An applicant for a license to operate a new mortuary shall send to the department a written and verified application on a form prescribed by the ~~board~~ department. The application must be accompanied by an initial inspection fee.

(b) The department shall inspect the proposed new mortuary ~~and report its findings to the board~~.

(4) The ~~board~~ department shall grant a license if the department determines that the proposed new facility meets the standards adopted by the ~~board~~ department and will be operated by a person who has been issued a mortician's license.

(5) The ~~board~~ department may grant a temporary license to a mortuary until the initial inspection is completed.

(6) A mortuary license may be transferred from one facility to another only when the proprietor of a licensed facility terminates services at the licensed facility and commences services at a new facility. The new facility must be inspected and must meet standards for operating mortuaries.

(7) A mortuary may be inspected by ~~members of the board or their representatives~~ the department during business hours."

Section 20. Section 37-19-403, MCA, is amended to read:

"**37-19-403. Power of ~~board~~ department to set facility standards -- inspection -- fees.** (1) The ~~board~~ department may adopt rules prescribing reasonable standards for operating mortuaries, including minimum requirements for drainage, ventilation, and instruments. The ~~board~~ department may inspect the premises of a mortuary establishment to determine if rules are complied with. Inspections are at the discretion of the ~~board~~ department and may be without notice. An initial inspection is mandatory.

(2) The ~~board~~ department may charge the operator an inspection fee, including an initial inspection fee, to be set at the discretion of the ~~board~~ department. Fees must be commensurate with costs."

Section 21. Section 37-19-702, MCA, is amended to read:

"**37-19-702. Licenses required -- display of licenses -- renewal -- penalty for late renewal.** (1) A person doing business in this state or a cemetery, mortuary, corporation, partnership, joint venture, voluntary organization, or other entity that erects, maintains, or provides the necessary appliances and facilities for the cremation of human remains and that conducts cremations must be licensed by the ~~board~~ department. The license must be displayed in a conspicuous place in the crematory facility.

(2) A crematory license expires on the date set by department rule and may be renewed upon payment of a fee set by the ~~board~~ department. The fee must include the cost of annual inspection. If a crematory facility is attached to a licensed mortuary, only one inspection fee may be charged for inspection of both a mortuary facility under 37-19-403 and a crematory facility.

(3) A person in charge of a licensed crematory facility must be licensed as a crematory operator by the ~~board~~ department. A person employed by a licensed crematory facility must be licensed as a crematory technician by the ~~board~~ department. The license must be displayed in a conspicuous place in the crematory facility.

(4) Crematory operator and crematory technician licenses expire on the date set by department rule and may be renewed upon payment of a fee set by the ~~board~~ department. On-the-job training must be provided to a crematory technician at the time of employment."

Section 22. Section 37-19-703, MCA, is amended to read:

"**37-19-703. Application -- power of ~~board~~ department to set standards -- inspection -- fees.** (1) Application for a crematory, crematory operator, or crematory technician license must be on forms prescribed by the ~~board~~ department and must include the name of the applicant, name of the crematory facility, location of the crematory facility and its mailing address, and any further information the ~~board~~ department requires. To be eligible for licensure:

(a) as a crematory facility, an application must include a description of the type of structure and

equipment to be used in the operation of the crematory facility;

(b) as a crematory operator, an applicant must be at least 18 years of age, must be a high school graduate or have an equivalent degree, and must be of good moral character.

(2) The application must be accompanied by an application fee set by the ~~board~~ department.

(3) The ~~board~~ department must be notified of any change of ownership of a crematory within 30 days of the change.

(4) A license to operate a crematory in Montana may be issued only upon inspection of the crematory facility and upon a finding of compliance with standards for operation set by the ~~board~~ department.

(5) A temporary permit may be issued to operate a crematory facility, as prescribed by ~~board~~ department rule, that is effective until the initial inspection is completed to the ~~board's~~ department's satisfaction.

(6) A crematory facility may be inspected by ~~a board member or the board's designated representative~~ the department during business hours.

(7) The ~~board~~ department shall adopt rules governing the cremation of human remains, the transportation of human remains, sanitation, equipment, fire protection, building construction, and recordkeeping.

(8) A crematory facility shall comply with all local building codes, environmental standards, and applicable state and local regulations.

(9) A new crematory facility shall pay an initial inspection fee, set by the ~~board~~ department, that must accompany the application."

Section 23. Section 37-19-705, MCA, is amended to read:

"**37-19-705. Cremation procedures -- cremation containers.** (1) Human remains may not be cremated except in a licensed crematory.

(2) Human remains may not be cremated within 24 hours after the time of death.

(3) A body may not be cremated with a pacemaker or other potentially hazardous implant, as defined by the ~~board~~ department, including any toxic or explosive-type sealed implants, in place. The authorizing agent is responsible for disclosing the existence of any pacemakers or other hazardous implants.

(4) A crematory shall hold human remains, prior to their cremation, under the following conditions:

(a) In the event the crematory is unable to perform cremation upon receipt of the human remains, it shall place the human remains in a holding facility.

(b) If the human remains are not embalmed, they may not be held longer than 48 hours after the time of death outside of a refrigerated facility.

(5) Human remains delivered to a crematory may not be removed from the cremation container, and the cremation container must be cremated with the human remains.

(6) Unauthorized persons may not be permitted in the retort area while any human remains are awaiting cremation, being cremated, or being removed from the cremation chamber.

(7) The unauthorized, simultaneous cremation of human remains of more than one person within the same cremation chamber is prohibited unless the crematory has received express written authorization from all appropriate authorizing agents for the human remains to be cremated simultaneously. A written authorization exempts the crematory from liability for commingling of the product of the cremation process provided the authorization is complied with.

(8) The identification of the human remains, as indicated on the cremation container, must be verified by the crematory operator or crematory technician immediately prior to the cremation container being placed within the cremation chamber. The identification must be removed from the cremation container and be placed near the cremation chamber control panel where it must remain until the cremation process is complete.

(9) Upon completion of the cremation process, all recoverable residue must be removed from the cremation chamber. All residue of the cremation process must be separated from material other than bone fragments, which must be processed ~~so as to~~ to reduce the bone fragments to unidentifiable particles.

(10) Cremated remains, with proper identification, must be packed and placed in a temporary container or urn ordered by the authorizing agent.

(11) If the cremated remains will not fit within the dimensions of the temporary container or urn, the remainder of the cremated remains must be returned to the authorizing agent in a separate container.

(12) If the cremated remains are to be shipped, the temporary container or designated receptacle ordered by the authorizing agent must be packed securely in a suitable, sturdy, pressure resistant, and properly sealed container.

(13) Cremated remains may be shipped only by a method that has an internal tracing system available

and that provides a receipt signed by the person accepting delivery."

Section 24. Section 37-19-708, MCA, is amended to read:

"**37-19-708. Preneed cremation authorizations.** (1) Preneed cremation authorizations may be made with a cemetery, funeral establishment, crematory, or any other party. Preneed authorizations must specify the ultimate disposition of the cremated remains, be signed by the authorizing agent, and meet other requirements established by ~~board~~ department rule.

(2) A crematory operator or crematory technician shall comply with the terms of the preneed authorization in releasing or disposing of the cremated remains at the time of death.

(3) Upon payment for cremation and disposition, a crematory, crematory operator, or crematory technician in possession of a cremation authorization form and the deceased's human remains is not liable for the actual cremation and the disposition of the cremated remains if the terms of the preneed authorization have been complied with."

Section 25. Section 37-19-807, MCA, is amended to read:

"**37-19-807. Powers and duties of ~~board~~ department -- rulemaking.** (1) In administering this part, the ~~board~~ department may conduct reasonable periodic, special, or other examinations of a cemetery or cemetery company, mortuary, branch establishment, or crematory.

(2) The examination may include but is not limited to:

(a) an inspection of the physical condition or appearance of the cemetery;

(b) an audit of the financial condition of the cemetery company, mortuary, branch establishment, or crematory and any trust funds maintained by those entities; and

(c) any other examinations the ~~board~~ department considers necessary or appropriate in the public interest, including inspections in response to public complaints.

(3) The examinations must be made by ~~members or representatives of the board~~ the department and may include a certified or registered public accountant or any other person designated by the ~~board~~ department. The cost of the examination may be charged to the cemetery company, mortuary, branch establishment, or crematory.

(4) The ~~board~~ department may issue or amend permits to operate a cemetery in accordance with the provisions of this part.

(5) The ~~board~~ department may require a cemetery company, a mortuary, a branch establishment, or a crematory to observe minimum accounting principles and practices and to keep books and records in accordance with the principles and practices for a period that the ~~board~~ department may by rule prescribe.

(6) The ~~board~~ department may require a cemetery company to provide additional contributions to the perpetual care and maintenance fund of the cemetery as provided in this part, including but not limited to contributions not to exceed $1,000 whenever a cemetery company fails to properly care for, maintain, or preserve a cemetery.

(7) The ~~board~~ department may adopt rules to enforce the provisions of this part."

Section 26. Section 37-19-808, MCA, is amended to read:

"**37-19-808. Inspection of cemeteries and audit of cemetery companies.** (1) For each cemetery examined or each cemetery company audited as provided in 37-19-807 and in accordance with this part, the cemetery company shall pay to the ~~board~~ department a fee for each examination or audit as the ~~board~~ department prescribes by rule. When an examination or inspection is ordered by the ~~board~~ department, the cemetery company shall pay, at the state per diem rate, travel expenses, meals, and lodging for each day that ~~a member of the board or~~ a representative of the department or an authorized examiner spends in examining the physical condition or appearance of a cemetery. Once audited, a cemetery company may not be required to submit to an audit at the request of the ~~board~~ department for a period of 5 years unless complaints have resulted in a formal notice of disciplinary action by the department against the cemetery company.

(2) (a) In lieu of any financial examination that the ~~board~~ department is authorized to make, the ~~board~~ department may accept the audit of an independent certified or registered public accountant if the ~~board~~ department has notified the cemetery company that the audit would be acceptable and the cemetery company has notified the ~~board~~ department in writing that the audit will be prepared.

(b) The scope of the audit allowed under subsection (2)(a) must be at least equal to the scope of the examination required by the ~~board~~ department."

Section 27. Section 37-19-814, MCA, is amended to read:

"**37-19-814. Permit -- application.** (1) ~~By January 1, 1998, a~~ A person operating a cemetery or a cemetery company governed by this part must have a permit issued by the ~~board~~ department. The permit must be displayed in a conspicuous place at the cemetery.

(2) A cemetery permit expires on the date set by ~~board~~ department rule and may be renewed for a 5-year period upon payment of a fee set by the ~~board~~ department. An application for a permit or renewal of a permit must designate a responsible person, including that person's address and telephone number, who is available to act on behalf of the cemetery company with regard to the requirements of this part. A cemetery company may designate a different person with ~~board~~ department approval. An application for renewal of a permit must contain:

(a) the name of the cemetery company, the location of the cemetery, the name of the person in charge of the records of the cemetery company, and the telephone number of the cemetery company;

(b) the number and dollar amount of sales of cemetery lots, grave spaces, mausoleums, crypts, niches, and burial rights for which payment has been made in full and the number of certificates or deeds of conveyance issued during the preceding 5 calendar years;

(c) an accounting of the amounts paid into the perpetual care and maintenance fund and the income received from the fund during the preceding 5 calendar or fiscal years, including the total amount due to the fund whether paid in or not, the amount due to the fund at the date of the report, and the amount expended for maintenance of the cemetery;

(d) the names and addresses of the owners of the cemetery company or the officers and directors of the cemetery company, any change in control of the cemetery company that has occurred during the past 5 calendar or fiscal years, the date of incorporation, if applicable, and the resident agent and address of the registered agent's office if the cemetery company is a corporation; and

(e) any other information that the ~~board~~ department requires by rule.

(3) The ~~board~~ department may set a penalty fee for late renewal of a permit."

Section 28. Section 37-19-815, MCA, is amended to read:

"**37-19-815. Permit -- amendment.** (1) Whenever a cemetery company that is subject to the

provisions of this part proposes to amend its present permit for construction of a mausoleum, reduction or increase in percentage of gross sales proceeds to be placed in the perpetual care and maintenance fund, expansion of a cemetery, or other changes in its operation, the cemetery company shall file an application for amendment of the permit with the ~~board~~ department.

(2) The application must be accompanied by a fee and other information that the ~~board~~ department requires by rule."

Section 29. Section 37-19-816, MCA, is amended to read:

"**37-19-816. Permit -- transfer of ownership.** (1) If a cemetery company that is subject to the provisions of this part is to be sold, if the ownership is to be otherwise transferred, or if a controlling interest in the company is to be sold or otherwise transferred, the proposed purchaser or transferee shall file an application for the issuance of a new permit with the ~~board~~ department.

(2) The application must be accompanied by a fee and other information that the ~~board~~ department requires by rule."

Section 30. Section 37-19-822, MCA, is amended to read:

"**37-19-822. Cemetery perpetual care and maintenance fund.** (1) A perpetual care and maintenance fund established pursuant to the provisions of this part for the purpose of administration, care, and maintenance of a cemetery, including lots, grave spaces, crypts, niches, burial rights, or other land or buildings, is a trust fund.

(2) The net income from the fund must be used by the owners, managers, or officers and directors of a cemetery company exclusively for the care and maintenance of the cemetery and may not be used for any other purpose.

(3) The principal of a perpetual care and maintenance fund must in all cases remain intact and inviolate and must be administered with the same care, skill, prudence, and diligence, under the circumstances then prevailing, that a prudent person would use to accomplish the purpose of the trust as required by this section and reflected in the trust document.

(4) Each cemetery company shall maintain at a minimum the following:

(a) a general ledger and general journal or comparable books of entry showing all receipts, disbursements, assets, liabilities, and income of the perpetual care and maintenance fund;

(b) documents supporting and verifying each asset of the fund; and

(c) a trust agreement.

(5) The ~~board~~ department may require a cemetery company to provide an accounting or audit of its perpetual care and maintenance fund.

(6) Each cemetery company shall deposit not less than 15% of the gross proceeds of each sale of a lot, grave space, crypt, niche, or burial right, as determined by the ~~board~~ department, into the perpetual care and maintenance fund.

(7) In establishing a perpetual care and maintenance fund, a cemetery company may from time to time adopt plans for the general care and maintenance of its cemetery.

(8) A perpetual care and maintenance fund may receive, take, and hold any real or personal property that is bequeathed, devised, granted, given, or otherwise contributed to it."

Section 31. Section 37-19-823, MCA, is amended to read:

"**37-19-823. Records required.** (1) A cemetery company shall make and keep accounts and records confirming that the cemetery company has made the required contributions to its perpetual care and maintenance fund. The burden is on the cemetery company to maintain the accounts and records.

(2) All sales contracts and deeds, unless otherwise authorized by the ~~board~~ department, issued by a cemetery company must be numbered prior to their execution by the cemetery company and must contain those items the ~~board~~ department prescribes by rule.

(3) A mortuary, branch establishment, or crematory shall make and keep accounts and records confirming that the money paid pursuant to a contract for a prearranged funeral or related service has been put in trust for the purposes for which the money was paid."

Section 32. Section 37-19-827, MCA, is amended to read:

"**37-19-827. Contract for prearranged funeral plan or related services -- trust requirement -- interest -- exception.** (1) Prearranged funeral or related services may be presented, negotiated, and sold to

the public only by a licensed mortician.

(2) Except as provided in subsection (5), all money paid pursuant to a contract for a prearranged funeral or related services must be held in trust for the purposes for which the money was furnished until the obligations of a mortuary, a branch establishment, a crematory, a cemetery firm, or a mausoleum-columbarium corporation have been:

(a) fulfilled according to the terms of the contract; or

(b) terminated, by mutual consent of the parties, and the money is refunded to the proper party.

(3) Any interest accrued by money in a trust must be held in the trust and is subject to the terms of the trust agreement and the rules of the ~~board~~ department.

~~(4) The board may require a mortuary, a branch establishment, or a crematory to provide an accounting or audit of the funds held in trust.~~

~~(5)~~(4) Money paid for the purchase of a lot, grave space, mausoleum, crypt, niche, or burial right or part of a lot or grave space is not subject to the trust requirements of this section if title passes to the purchaser at the time that the payment is made."

Section 33. Section 37-19-831, MCA, is amended to read:

"**37-19-831. Penalty -- injunction.** (1) A person who violates a provision of this part is guilty of a misdemeanor and upon conviction shall be fined not more than $500 or imprisoned for not more than 90 days, or both.

(2) The ~~board~~ department may enforce any provision of this part by injunction or any other appropriate proceeding."

Section 34. Section 50-15-109, MCA, is amended to read:

"**50-15-109. Certificates.** (1) All certificates must include information required by the department.

(2) Local registrars shall forward original certificates to the department, file a duplicate copy with the county clerk and recorder, and, unless the certificate is filed electronically, retain a triplicate copy.

(3) A death certificate received electronically must be transferred upon contact by a licensed mortician, licensed funeral director, or licensed crematory operator to the appropriate crematory or mortuary.

~~(3)~~(4) Local registrars may not issue certified copies of certificates.

~~(4)~~(5) Certificates filed within 1 year after the time prescribed by the department are prima facie evidence of the facts stated in the certificates. Data pertaining to the father of a child is prima facie evidence only if the alleged father is the husband of the mother. If the alleged father is not the husband of the mother, data pertaining to the alleged father is not evidence in any proceedings adverse to the alleged father's interests, heirs, next of kin, devisees, legatees, or other successors in interest."

Section 35. Section 50-15-403, MCA, is amended to read:

"**50-15-403. Preparation and filing of death or fetal death certificate.** (1) A person in charge of disposition of a dead body or fetus that weighs at least 350 grams at death or, if the weight is unknown, has reached 20 completed weeks of gestation at death shall obtain personal data on the deceased, including the deceased's date of birth, name, and social security number, if any, or, in the case of a fetal death, personal data on the parents that is required by the department from persons best qualified to supply the data and enter it on the death or fetal death certificate.

(2) The person in charge of disposition of the dead body or fetus shall present the death certificate to the certifying physician, the certifying advanced practice registered nurse, or the coroner having jurisdiction for medical certification of the cause of death. The medical certification must be completed by the physician, the advanced practice registered nurse, or the coroner within ~~the timeframe established by the department by rule~~ 72 hours of receiving the certificate. ~~The person in charge of disposition shall obtain the completed certification of the cause of death from the~~ The physician, ~~the~~ advanced practice registered nurse, or ~~the~~ coroner ~~and~~ shall~~,~~ ~~within the time that the department may prescribe by rule,~~ include the deceased's date of birth, name, if any, and social security number, if any, on the certificate. ~~file the~~ The death or fetal death certificate must be transferred via the current state electronic death registration system ~~with~~ to the local registrar in the registration area where the death occurred or, if the place of death is unknown, where the dead body was discovered.

(3) If a dead body is found in this state but the place of death is unknown, the place where the body is found must be shown as the place of death on the death certificate. If the date of death is unknown, then the approximate date must be entered on the certificate. If the date cannot be approximated, the date that the body was found must be entered as the date of death, and the certificate must indicate that fact.

(4) When a death occurs in a moving vehicle, as defined in 45-2-101, in the United States and the body is first removed from the vehicle in this state, the death must be registered in this state and the place where the body is first removed is considered the place of death. When a death occurs in a moving vehicle while in international air space or in a foreign country or its air space and the body is first removed from the vehicle in this state, the death must be registered in this state, but the actual place of death, insofar as it can be determined, must be entered on the death certificate.

(5) The department shall make rules establishing a fine for any physician, advanced practice registered nurse, or coroner who does not complete a medical certification within 72 hours of receiving a death certificate."

NEW SECTION. **Section 36. Repealer.** The following sections of the Montana Code Annotated are repealed:

2-15-1743. Board of funeral service.

37-19-201. Organization -- compensation and expenses of members.

37-19-202. Meetings -- rulemaking power.

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